

1 A bill to be entitled

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

29 | and maintain liability insurance for directors and  
30 | officers, insurance for the benefit of association  
31 | employees, and flood insurance for common elements,  
32 | association property, and units; requiring that every  
33 | hazard insurance policy issued or renewed on or after a  
34 | specified date for the purpose of protecting the  
35 | condominium provide certain coverage; requiring that such  
36 | policies contain certain provisions; providing that such  
37 | policies issued to individual unit owners do not provide  
38 | rights of subrogation against the condominium association;  
39 | providing for the insurance of improvements or additions  
40 | benefiting fewer than all unit owners; requiring that an  
41 | association require each owner to provide evidence of a  
42 | current policy of hazard and liability insurance upon  
43 | request; limiting the frequency with which an association  
44 | may make such a request; authorizing an association to  
45 | purchase coverage on behalf of an owner under certain  
46 | circumstances; providing for the collection of the costs  
47 | of such a policy; providing responsibilities of the unit  
48 | owner and association with regard to reconstruction work  
49 | and associated costs after a casualty loss; authorizing a  
50 | multicondominium association to operate such condominiums  
51 | as a single condominium for certain purposes by majority  
52 | vote of the members of all applicable condominiums;  
53 | providing that such election constitutes an amendment to  
54 | the declaration of all applicable condominiums; requiring  
55 | that an association maintain insurance or fidelity bonding  
56 | for all persons who control or disburse association funds;

57 requiring that such insurance policy or fidelity bond  
58 cover the maximum funds in the custody of the association  
59 or its management agent at any one time; defining the term  
60 "persons who control or disburse funds of the  
61 association"; authorizing an association to amend the  
62 declaration of condominium without regard to any  
63 requirement for approval by mortgagees of amendments  
64 affecting insurance requirements for the purpose of  
65 conforming the declaration of condominium to certain  
66 coverage requirements; providing that any portion of the  
67 condominium property required to be insured by the  
68 association against casualty loss which is damaged be  
69 reconstructed, repaired, or replaced as necessary by the  
70 association as a common expense; providing that all hazard  
71 insurance deductibles, uninsured losses, and other damages  
72 in excess of hazard insurance coverage under the hazard  
73 insurance policies maintained by the association are a  
74 common expense of the condominium; providing exceptions;  
75 allocating responsibility for certain costs of repair or  
76 reconstruction; authorizing an association to opt out of  
77 certain requirements related to such allocation of  
78 responsibility by majority vote; providing a procedure by  
79 which a multicondominium association that has not  
80 consolidated its financial operations may opt out of such  
81 allocation of responsibility; requiring that a decision to  
82 opt out be recorded; providing that such decision takes  
83 effect on the date on which it is recorded; authorizing  
84 the reversal of such decision; providing a procedure for

85 reversal; providing that an association is not obligated  
86 to pay for any reconstruction or repair expenses for  
87 improvements made by an owner or the development if an  
88 improvement benefits only the unit for which it was  
89 installed; amending s. 718.115, F.S.; requiring that  
90 certain expenses be designated as common expenses;  
91 amending s. 718.116, F.S.; authorizing the designee of a  
92 unit owner or mortgagee to request a certificate of  
93 assessment; requiring that the fee for preparation of such  
94 certificate be stated on the certificate; providing for  
95 the establishment of such fees; providing for payment of  
96 the fee; requiring that the fee be refunded if a planned  
97 sale or mortgage does not occur; providing that any such  
98 refund is the obligation of the unit owner and is  
99 collectable in the same manner as an assessment; amending  
100 s. 718.117, F.S.; prohibiting the distribution of proceeds  
101 from the sale of a condominium unit to a lienholder from  
102 exceeding a unit owner's share of the proceeds; creating  
103 s. 720.30851, F.S.; requiring that the association provide  
104 a certificate signed by an officer or agent of the  
105 association stating all assessments and other moneys owed  
106 to the association by the parcel owner or mortgagee with  
107 respect to the parcel within a specified period after the  
108 association's receipt of a request for an estoppel  
109 certificate by an owner or mortgagee; providing that any  
110 person other than a parcel owner who relies upon a  
111 certificate receives the benefits and protection thereof;  
112 providing that a summary proceeding may be brought to

113 |       compel the association to comply with the requirement to  
114 |       provide a certificate; providing that the prevailing party  
115 |       is entitled to recover reasonable attorney's fees;  
116 |       requiring that the fee for preparation of such certificate  
117 |       be stated on the certificate; providing for the  
118 |       establishment of such fees; providing for payment of the  
119 |       fee; requiring that the fee be refunded if a planned sale  
120 |       or mortgage does not occur; providing that any such refund  
121 |       is the obligation of the parcel owner and is collectable  
122 |       in the same manner as an assessment; amending s. 489.1425,  
123 |       F.S.; providing an exemption from the written notice  
124 |       requirement; amending s. 20.165, F.S.; changing the name  
125 |       of the Division of Florida Land Sales, Condominiums, and  
126 |       Mobile Homes to the Division of Florida Condominiums,  
127 |       Timeshares, and Mobile Homes and the Division of  
128 |       Technology, Licensure, and Testing to the Division of  
129 |       Technology; amending s. 215.20, F.S.; conforming the name  
130 |       of the division's trust fund to correspond to the name  
131 |       change of the division; amending s. 450.33, F.S.; removing  
132 |       the requirement for a farm labor contractor to file a set  
133 |       of fingerprints with the department; amending s. 455.203,  
134 |       F.S.; authorizing the department to close and terminate  
135 |       deficient license applications and to approve professional  
136 |       license applications meeting certain criteria; amending s.  
137 |       455.217, F.S.; conforming terminology to changes made by  
138 |       the act; amending s. 455.2273, F.S.; authorizing the  
139 |       section to apply to disciplinary guidelines adopted by all  
140 |       boards and divisions; amending s. 468.841, F.S.;

141 clarifying exemption provisions for license provisions  
142 governing mold-related services; amending s. 475.17, F.S.;  
143 revising requirements for licensure as a real estate  
144 broker; amending s. 475.451, F.S.; deleting requirements  
145 relating to the submission of certain real estate course  
146 rosters to the department; amending s. 477.019, F.S.,  
147 relating to cosmetologists; allowing a student to apply  
148 for licensure examination prior to graduation and to  
149 practice prior to licensure; amending s. 489.105, F.S.;  
150 clarifying that individuals and business entities that  
151 sell manufactured and factory-built buildings can legally  
152 enter into contracts for those sales; amending s. 489.511,  
153 F.S.; revising requirements for taking the electrical or  
154 alarm system contractor certification examination;  
155 providing requirements for certification; amending s.  
156 489.515, F.S.; revising requirements for certification as  
157 a certified contractor by the Electrical Contractors'  
158 Licensing Board to reflect changes made to s. 489.511,  
159 F.S., by this act; renumbering s. 498.009, F.S., relating  
160 to the location of the division's offices; amending and  
161 renumbering s. 498.011, F.S., relating to payment of per  
162 diem, mileage, and other expenses for division employees;  
163 providing for reimbursement of expenses for on-site  
164 review; deleting the expense reimbursement for inspection  
165 of subdivided lands; renumbering s. 498.013, F.S.,  
166 relating to the authentication of records; amending and  
167 renumbering s. 498.057, F.S., relating to service of  
168 process; deleting provision that service may be made by

169 delivering a copy of the process to the division director;  
170 providing that the division can be the petitioner or the  
171 plaintiff; repealing ss. 498.001, 498.003, 498.005,  
172 498.007, 498.017, 498.021, 498.022, 498.023, 498.024,  
173 498.025, 498.027, 498.028, 498.029, 498.031, 498.033,  
174 498.035, 498.037, 498.039, 498.041, 498.047, 498.049,  
175 498.051, 498.053, 498.059, 498.061, and 498.063, F.S.,  
176 relating to regulation of land sales practices; amending  
177 s. 548.0065, F.S.; including amateur mixed martial arts in  
178 a provision relating to the authority of the Florida State  
179 Boxing Commission to suspend amateur matches for violation  
180 of certain health and safety standards; amending s.  
181 548.008, F.S.; removing prohibition against holding  
182 amateur mixed martial arts matches in this state; amending  
183 s. 548.041, F.S.; providing additional licensure  
184 requirements for boxing participants; amending s. 718.501,  
185 F.S.; providing additional powers and duties of the  
186 division; providing for additional enforcement proceedings  
187 for carrying out the purposes of ch. 718, F.S.; deleting  
188 the payment of money by a developer to a condominium  
189 association as a permissible affirmative action; providing  
190 for actions of conservator or receiver; providing for  
191 application to circuit court for an order of restitution;  
192 providing for imposition of civil penalties and award of  
193 court costs, attorney's fees, and costs of investigation  
194 under certain circumstances; providing for contracting for  
195 investigative services; providing for acceptance of  
196 grants-in-aid; requiring the cooperation with similar

197 agencies on establishment of certain procedures,  
 198 standards, and forms; providing what constitutes  
 199 completeness of notice; authorizing the division to issue  
 200 a notice to show cause; providing conforming changes;  
 201 amending s. 718.509, F.S., and transferring, renumbering,  
 202 and amending s. 498.019, F.S.; consolidating and revising  
 203 provisions relating to the creation, purposes, and sources  
 204 of funds of the Division of Florida Condominiums,  
 205 Timeshares, and Mobile Homes Trust Fund; revising  
 206 provisions to conform to the change in division name;  
 207 providing for the deposit of moneys resulting from an  
 208 administrative final order; amending s. 721.03, F.S.;  
 209 clarifying that timeshare plan includes a nonspecific  
 210 multisite timeshare plan; amending ss. 73.073, 190.009,  
 211 192.037, 213.053, 326.002, 326.006, 380.05, 380.06,  
 212 380.0651, 381.0065, 455.116, 475.455, 494.008, 509.512,  
 213 517.301, 559.935, 718.103, 718.105, 718.1255, 718.5011,  
 214 718.502, 718.504, 718.508, 718.608, 719.103, 719.1255,  
 215 719.501, 719.502, 719.504, 719.508, 719.608, 720.301,  
 216 720.401, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301,  
 217 721.50, 723.003, 723.006, 723.009, and 723.0611, F.S., to  
 218 conform; providing effective dates.

219

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

221

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

224 718.111 The association.--



225 (11) INSURANCE.--In order to protect the safety, health,  
 226 and welfare of the people of the State of Florida and to ensure  
 227 consistency in the provision of insurance coverage to  
 228 condominiums and their unit owners, this subsection applies  
 229 ~~paragraphs (a), (b), and (c) are deemed to apply~~ to every  
 230 residential condominium in the state, regardless of the date of  
 231 its declaration of condominium. It is the intent of the  
 232 Legislature to encourage lower or stable insurance premiums for  
 233 associations described in this subsection ~~section~~.

234 (a) Adequate hazard insurance, regardless of any  
 235 requirement in the declaration of condominium for coverage by  
 236 the association for full insurable value, replacement cost, or  
 237 similar coverage, shall be based upon the replacement cost of  
 238 the property to be insured as determined by an independent  
 239 insurance appraisal or update of a prior appraisal. The full  
 240 insurable value shall be determined at least once every 36  
 241 months.

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

245 2. The association may also provide adequate hazard  
 246 insurance coverage for a group of no fewer than three  
 247 communities created and operating under this chapter, chapter  
 248 719, chapter 720, or chapter 721 by obtaining and maintaining  
 249 for such communities insurance coverage sufficient to cover an  
 250 amount equal to the probable maximum loss for the communities  
 251 for a 250-year windstorm event. Such probable maximum loss must  
 252 be determined through the use of a competent model that has been

253 accepted by the Florida Commission on Hurricane Loss Projection  
254 Methodology. No policy or program providing such coverage shall  
255 be issued or renewed after July 1, 2008, unless it has been  
256 reviewed and approved by the Office of Insurance Regulation.

257 The review and approval shall include approval of the policy  
258 and related forms pursuant to ss. 627.410 and 627.411, approval  
259 of the rates pursuant to s. 627.062, a determination that the  
260 loss model approved by the Commission was accurately and  
261 appropriately applied to the insured structures to determine the  
262 250-year probable maximum loss, and a determination that  
263 complete and accurate disclosure of all material provisions is  
264 provided to condominium unit owners prior to execution of the  
265 agreement by a condominium association.

266 3. When determining the adequate amount of hazard  
267 insurance coverage, the association may consider deductibles as  
268 determined by this subsection.

269 (b) If an association is a developer-controlled  
270 association, the association shall exercise its best efforts to  
271 obtain and maintain insurance as described in paragraph (a).  
272 Failure to obtain and maintain adequate hazard insurance during  
273 any period of developer control constitutes a breach of  
274 fiduciary responsibility by the developer-appointed members of  
275 the board of directors of the association, unless the members  
276 can show that despite such failure, they have made their best  
277 efforts to maintain the required coverage.

278 (c) Policies may include deductibles as determined by the  
279 board.

280           1. The deductibles shall be consistent with industry  
 281 standards and prevailing practice for communities of similar  
 282 size and age, and having similar construction and facilities in  
 283 the locale where the condominium property is situated.

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

287           3. The board shall establish the amount of deductibles  
 288 based upon the level of available funds and predetermined  
 289 assessment authority at a meeting of the board. Such meeting  
 290 shall be open to all unit owners in the manner set forth in s.  
 291 718.112(2)(e). The notice of such meeting must state the  
 292 proposed deductible and the available funds and the assessment  
 293 authority relied upon by the board and estimate any potential  
 294 assessment amount against each unit, if any. The meeting  
 295 described in this paragraph may be held in conjunction with a  
 296 meeting to consider the proposed budget or an amendment thereto.

297           (d) An association controlled by unit owners operating as  
 298 a residential condominium shall use its best efforts to obtain  
 299 and maintain adequate insurance to protect the association, the  
 300 association property, the common elements, and the condominium  
 301 property that is required to be insured by the association  
 302 pursuant to this subsection.

303           (e) The declaration of condominium as originally recorded,  
 304 or as amended pursuant to procedures provided therein, may  
 305 provide that condominium property consisting of freestanding  
 306 buildings comprised of no more than one building in or on such  
 307 unit need not be insured by the association if the declaration

308 requires the unit owner to obtain adequate insurance for the  
309 condominium property. An association may also obtain and  
310 maintain liability insurance for directors and officers,  
311 insurance for the benefit of association employees, and flood  
312 insurance for common elements, association property, and units.

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

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

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

321 3. The coverage shall exclude all personal property within  
322 the unit or limited common elements, and floor, wall, and  
323 ceiling coverings, electrical fixtures, appliances, water  
324 heaters, water filters, built-in cabinets and countertops, and  
325 window treatments, including curtains, drapes, blinds, hardware,  
326 and similar window treatment components, or replacements of any  
327 of the foregoing.

328 (g) Every hazard insurance policy issued or renewed on or  
329 after January 1, 2009, to an individual unit owner must contain  
330 a provision stating that the coverage afforded by such policy is  
331 excess coverage over the amount recoverable under any other  
332 policy covering the same property. Such policies must include  
333 special assessment coverage of no less than \$2,000 per  
334 occurrence. An insurance policy issued to an individual unit  
335 owner providing such coverage does not provide rights of

336 subrogation against the condominium association operating the  
337 condominium in which such individual's unit is located.

338 1. All improvements or additions to the condominium  
339 property that benefit fewer than all unit owners shall be  
340 insured by the unit owner or owners having the use thereof, or  
341 may be insured by the association at the cost and expense of the  
342 unit owners having the use thereof.

343 2. The association shall require each owner to provide  
344 evidence of a currently effective policy of hazard and liability  
345 insurance upon request, but not more than once per year. Upon  
346 the failure of an owner to provide a certificate of insurance  
347 issued by an insurer approved to write such insurance in this  
348 state within 30 days after the date on which a written request  
349 is delivered, the association may purchase a policy of insurance  
350 on behalf of an owner. The cost of such a policy, together with  
351 reconstruction costs undertaken by the association but which are  
352 the responsibility of the unit owner, may be collected in the  
353 manner provided for the collection of assessments in s. 718.116.

354 3. All reconstruction work after a casualty loss shall be  
355 undertaken by the association except as otherwise authorized in  
356 this section. A unit owner may undertake reconstruction work on  
357 portions of the unit with the prior written consent of the board  
358 of administration. However, such work may be conditioned upon  
359 the approval of the repair methods, the qualifications of the  
360 proposed contractor, or the contract that is used for that  
361 purpose. A unit owner shall obtain all required governmental  
362 permits and approvals prior to commencing reconstruction.

363       4. Unit owners are responsible for the cost of  
364 reconstruction of any portions of the condominium property for  
365 which the unit owner is required to carry casualty insurance,  
366 and any such reconstruction work undertaken by the association  
367 shall be chargeable to the unit owner and enforceable as an  
368 assessment pursuant to s. 718.116. The association must be an  
369 additional named insured and loss payee on all casualty  
370 insurance policies issued to unit owners in the condominium  
371 operated by the association.

372       5. A multicondominium association may elect, by a majority  
373 vote of the collective members of the condominiums operated by  
374 the association, to operate such condominiums as a single  
375 condominium for purposes of insurance matters, including, but  
376 not limited to, the purchase of the hazard insurance required by  
377 this section and the apportionment of deductibles and damages in  
378 excess of coverage. The election to aggregate the treatment of  
379 insurance premiums, deductibles, and excess damages constitutes  
380 an amendment to the declaration of all condominiums operated by  
381 the association, and the costs of insurance shall be stated in  
382 the association budget. The amendments shall be recorded as  
383 required by s. 718.110.

384       (h) The association shall maintain insurance or fidelity  
385 bonding of all persons who control or disburse funds of the  
386 association. The insurance policy or fidelity bond must cover  
387 the maximum funds that will be in the custody of the association  
388 or its management agent at any one time. As used in this  
389 paragraph, the term "persons who control or disburse funds of  
390 the association" includes, but is not limited to, those

391 individuals authorized to sign checks on behalf of the  
392 association, and the president, secretary, and treasurer of the  
393 association. The association shall bear the cost of any such  
394 bonding.

395 (i) The association may amend the declaration of  
396 condominium without regard to any requirement for approval by  
397 mortgagees of amendments affecting insurance requirements for  
398 the purpose of conforming the declaration of condominium to the  
399 coverage requirements of this subsection.

400 (j) Any portion of the condominium property required to be  
401 insured by the association against casualty loss pursuant to  
402 paragraph (f) which is damaged by casualty shall be  
403 reconstructed, repaired, or replaced as necessary by the  
404 association as a common expense. All hazard insurance  
405 deductibles, uninsured losses, and other damages in excess of  
406 hazard insurance coverage under the hazard insurance policies  
407 maintained by the association are a common expense of the  
408 condominium, except that:

409 1. A unit owner is responsible for the costs of repair or  
410 replacement of any portion of the condominium property not paid  
411 by insurance proceeds, if such damage is caused by intentional  
412 conduct, negligence, or failure to comply with the terms of the  
413 declaration or the rules of the association by a unit owner, the  
414 members of his or her family, unit occupants, tenants, guests,  
415 or invitees, without compromise of the subrogation rights of any  
416 insurer as set forth in paragraph (g).

417 2. The provisions of subparagraph 1. regarding the  
418 financial responsibility of a unit owner for the costs of

419 repairing or replacing other portions of the condominium  
420 property also applies to the costs of repair or replacement of  
421 personal property of other unit owners or the association, as  
422 well as other property, whether real or personal, which the unit  
423 owners are required to insure under paragraph (g).

424 3. To the extent the cost of repair or reconstruction for  
425 which the unit owner is responsible under this paragraph is  
426 reimbursed to the association by insurance proceeds, and, to the  
427 extent the association has collected the cost of such repair or  
428 reconstruction from the unit owner, the association shall  
429 reimburse the unit owner without the waiver of any rights of  
430 subrogation.

431 4. The association is not obligated to pay for repair or  
432 reconstruction or repairs of casualty losses as a common expense  
433 if the casualty losses were known or should have been known to a  
434 unit owner and were not reported to the association until after  
435 the insurance claim of the association for that casualty was  
436 settled or resolved with finality, or denied on the basis that  
437 it was untimely filed.

438 (k) An association may, upon the approval of a majority of  
439 the total voting interests in the association, opt out of the  
440 provisions of paragraph (j) for the allocation of repair or  
441 reconstruction expenses and allocate repair or reconstruction  
442 expenses in the manner provided in the declaration as originally  
443 recorded or as amended. Such vote may be approved by the voting  
444 interests of the association without regard to any mortgagee  
445 consent requirements.



446       (l) In a multicondominium association that has not  
447 consolidated its financial operations under s. 718.111(6), any  
448 condominium operated by the association may opt out of the  
449 provisions of paragraph (j) with the approval of a majority of  
450 the total voting interests in that condominium. Such vote may be  
451 approved by the voting interests without regard to any mortgagee  
452 consent requirements.

453       (m) Any association or condominium voting to opt out of  
454 the guidelines for repair or reconstruction expenses as  
455 described in paragraph (j) must record a notice setting forth  
456 the date of the opt-out vote and the page of the official  
457 records book on which the declaration is recorded. The decision  
458 to opt out is effective upon the date of recording of the notice  
459 in the public records by the association. An association that  
460 has voted to opt out of paragraph (j) may reverse that decision  
461 by the same vote required in paragraphs (k) and (l), and notice  
462 thereof shall be recorded in the official records.

463       (n) The association is not obligated to pay for any  
464 reconstruction or repair expenses due to casualty loss to any  
465 improvements installed by a current or former owner of the unit  
466 or by the developer if the improvement benefits only the unit  
467 for which it was installed and is not part of the standard  
468 improvements installed by the developer on all units as part of  
469 original construction, whether or not such improvement is  
470 located within the unit. This paragraph does not relieve any  
471 party of its obligations regarding recovery due under any  
472 insurance implemented specifically for any such improvements.

473        (o) The provisions of this subsection shall not apply to  
474 timeshare condominium associations. Insurance for timeshare  
475 condominium associations shall be maintained pursuant to s.  
476 721.165. Therefore, the Legislature requires a report to be  
477 prepared by the Office of Insurance Regulation of the Department  
478 of Financial Services for publication 18 months from the  
479 effective date of this act, evaluating premium increases or  
480 decreases for associations, unit owner premium increases or  
481 decreases, recommended changes to better define common areas, or  
482 any other information the Office of Insurance Regulation deems  
483 appropriate.

484        ~~(a) A unit owner controlled association operating a~~  
485 ~~residential condominium shall use its best efforts to obtain and~~  
486 ~~maintain adequate insurance to protect the association, the~~  
487 ~~association property, the common elements, and the condominium~~  
488 ~~property required to be insured by the association pursuant to~~  
489 ~~paragraph (b). If the association is developer controlled, the~~  
490 ~~association shall exercise due diligence to obtain and maintain~~  
491 ~~such insurance. Failure to obtain and maintain adequate~~  
492 ~~insurance during any period of developer control shall~~  
493 ~~constitute a breach of fiduciary responsibility by the~~  
494 ~~developer appointed members of the board of directors of the~~  
495 ~~association, unless said members can show that despite such~~  
496 ~~failure, they have exercised due diligence. The declaration of~~  
497 ~~condominium as originally recorded, or amended pursuant to~~  
498 ~~procedures provided therein, may require that condominium~~  
499 ~~property consisting of freestanding buildings where there is no~~  
500 ~~more than one building in or on such unit need not be insured by~~

501 ~~the association if the declaration requires the unit owner to~~  
502 ~~obtain adequate insurance for the condominium property. An~~  
503 ~~association may also obtain and maintain liability insurance for~~  
504 ~~directors and officers, insurance for the benefit of association~~  
505 ~~employees, and flood insurance for common elements, association~~  
506 ~~property, and units. Adequate insurance, regardless of any~~  
507 ~~requirement in the declaration of condominium for coverage by~~  
508 ~~the association for "full insurable value," "replacement cost,"~~  
509 ~~or the like, may include reasonable deductibles as determined by~~  
510 ~~the board based upon available funds or predetermined assessment~~  
511 ~~authority at the time that the insurance is obtained.~~

512 ~~1. Windstorm insurance coverage for a group of no fewer~~  
513 ~~than three communities created and operating under this chapter,~~  
514 ~~chapter 719, chapter 720, or chapter 721 may be obtained and~~  
515 ~~maintained for the communities if the insurance coverage is~~  
516 ~~sufficient to cover an amount equal to the probable maximum loss~~  
517 ~~for the communities for a 250 year windstorm event. Such~~  
518 ~~probable maximum loss must be determined through the use of a~~  
519 ~~competent model that has been accepted by the Florida Commission~~  
520 ~~on Hurricane Loss Projection Methodology. Such insurance~~  
521 ~~coverage is deemed adequate windstorm insurance for the purposes~~  
522 ~~of this section.~~

523 ~~2. An association or group of associations may self insure~~  
524 ~~against claims against the association, the association~~  
525 ~~property, and the condominium property required to be insured by~~  
526 ~~an association, upon compliance with the applicable provisions~~  
527 ~~of ss. 624.460-624.488, which shall be considered adequate~~  
528 ~~insurance for the purposes of this section. A copy of each~~

529 ~~policy of insurance in effect shall be made available for~~  
530 ~~inspection by unit owners at reasonable times.~~

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

534 ~~1. All portions of the condominium property located~~  
535 ~~outside the units;~~

536 ~~2. The condominium property located inside the units as~~  
537 ~~such property was initially installed, or replacements thereof~~  
538 ~~of like kind and quality and in accordance with the original~~  
539 ~~plans and specifications or, if the original plans and~~  
540 ~~specifications are not available, as they existed at the time~~  
541 ~~the unit was initially conveyed; and~~

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

544  
545 ~~Anything to the contrary notwithstanding, the terms "condominium~~  
546 ~~property," "building," "improvements," "insurable improvements,"~~  
547 ~~"common elements," "association property," or any other term~~  
548 ~~found in the declaration of condominium which defines the scope~~  
549 ~~of property or casualty insurance that a condominium association~~  
550 ~~must obtain shall exclude all floor, wall, and ceiling~~  
551 ~~coverings, electrical fixtures, appliances, air conditioner or~~  
552 ~~heating equipment, water heaters, water filters, built-in~~  
553 ~~cabinets and countertops, and window treatments, including~~  
554 ~~curtains, drapes, blinds, hardware, and similar window treatment~~  
555 ~~components, or replacements of any of the foregoing which are~~  
556 ~~located within the boundaries of a unit and serve only one unit~~

557 ~~and all air conditioning compressors that service only an~~  
558 ~~individual unit, whether or not located within the unit~~  
559 ~~boundaries. The foregoing is intended to establish the property~~  
560 ~~or casualty insuring responsibilities of the association and~~  
561 ~~those of the individual unit owner and do not serve to broaden~~  
562 ~~or extend the perils of coverage afforded by any insurance~~  
563 ~~contract provided to the individual unit owner. Beginning~~  
564 ~~January 1, 2004, the association shall have the authority to~~  
565 ~~amend the declaration of condominium, without regard to any~~  
566 ~~requirement for mortgagee approval of amendments affecting~~  
567 ~~insurance requirements, to conform the declaration of~~  
568 ~~condominium to the coverage requirements of this section.~~

569 ~~(c) Every hazard insurance policy issued or renewed on or~~  
570 ~~after January 1, 2004, to an individual unit owner shall provide~~  
571 ~~that the coverage afforded by such policy is excess over the~~  
572 ~~amount recoverable under any other policy covering the same~~  
573 ~~property. Each insurance policy issued to an individual unit~~  
574 ~~owner providing such coverage shall be without rights of~~  
575 ~~subrogation against the condominium association that operates~~  
576 ~~the condominium in which such unit owner's unit is located. All~~  
577 ~~real or personal property located within the boundaries of the~~  
578 ~~unit owner's unit which is excluded from the coverage to be~~  
579 ~~provided by the association as set forth in paragraph (b) shall~~  
580 ~~be insured by the individual unit owner.~~

581 ~~(d) The association shall obtain and maintain adequate~~  
582 ~~insurance or fidelity bonding of all persons who control or~~  
583 ~~disburse funds of the association. The insurance policy or~~  
584 ~~fidelity bond must cover the maximum funds that will be in the~~

585 ~~eustody of the association or its management agent at any one~~  
586 ~~time. As used in this paragraph, the term "persons who control~~  
587 ~~or disburse funds of the association" includes, but is not~~  
588 ~~limited to, those individuals authorized to sign checks and the~~  
589 ~~president, secretary, and treasurer of the association. The~~  
590 ~~association shall bear the cost of bonding.~~

591 Section 2. Paragraph (a) of subsection (1) of section  
592 718.115, Florida Statutes, is amended to read:

593 718.115 Common expenses and common surplus.--

594 (1) (a) Common expenses include the expenses of the  
595 operation, maintenance, repair, replacement, or protection of  
596 the common elements and association property, costs of carrying  
597 out the powers and duties of the association, and any other  
598 expense, whether or not included in the foregoing, designated as  
599 common expense by this chapter, the declaration, the documents  
600 creating the association, or the bylaws. Common expenses also  
601 include reasonable transportation services, insurance for  
602 directors and officers, road maintenance and operation expenses,  
603 in-house communications, and security services, which are  
604 reasonably related to the general benefit of the unit owners  
605 even if such expenses do not attach to the common elements or  
606 property of the condominium. However, such common expenses must  
607 either have been services or items provided on or after the date  
608 control of the association is transferred from the developer to  
609 the unit owners or must be services or items provided for in the  
610 condominium documents or bylaws. Unless the manner of payment or  
611 allocation of expenses is otherwise addressed in the declaration  
612 of condominium, the expenses of any items or services required

613 by any federal, state, or local governmental entity to be  
 614 installed, maintained, or supplied to the condominium property  
 615 by the association, including, but not limited to, fire safety  
 616 equipment or water and sewer service where a master meter serves  
 617 the condominium, shall be common expenses whether or not such  
 618 items or services are specifically identified as common expenses  
 619 in the declaration of condominium, articles of incorporation, or  
 620 bylaws of the association.

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

623 718.116 Assessments; liability; lien and priority;  
 624 interest; collection.--

625 (8) Within 15 days after receiving a written request  
 626 therefor from a unit owner or his or her designee  ~~purchaser~~, or  
 627 a unit mortgagee or his or her designee, the association shall  
 628 provide a certificate signed by an officer or agent of the  
 629 association stating all assessments and other moneys owed to the  
 630 association by the unit owner with respect to the condominium  
 631 parcel.

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

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

638 (c) Notwithstanding any limitation on transfer fees  
 639 contained in s. 718.112(2)(i), the association or its authorized  
 640 agent may charge a reasonable fee for the preparation of the

641 certificate. The amount of the fee must be included on the  
642 certificate.

643 (d) The authority to charge a fee for the certificate  
644 shall be established by a written resolution adopted by the  
645 board or provided by a written management, bookkeeping, or  
646 maintenance contract and is payable upon the preparation of the  
647 certificate. If the certificate is requested in conjunction with  
648 the sale or mortgage of a unit but the closing does not occur  
649 and no later than 30 days after the closing date for which the  
650 certificate was sought the preparer receives a written request,  
651 accompanied by reasonable documentation, that the sale did not  
652 occur from a payer that is not the unit owner, the fee shall be  
653 refunded to that payer within 30 days after receipt of the  
654 request. The refund is the obligation of the unit owner, and the  
655 association may collect it from that owner in the same manner as  
656 an assessment as provided in this section.

657 Section 4. Paragraph (c) of subsection (17) of section  
658 718.117, Florida Statutes, is amended to read:

659 718.117 Termination of condominium.--

660 (17) DISTRIBUTION.--

661 (c) The proceeds from any sale of condominium property or  
662 association property and any remaining condominium property or  
663 association property, common surplus, and other assets shall be  
664 distributed in the following priority:

665 1. To pay the reasonable termination trustee's fees and  
666 costs and accounting fees and costs.

667 2. To lienholders of liens recorded prior to the recording  
668 of the declaration.



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

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

674 5. To creditors of the association, as their interests  
 675 appear.

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

681 7. To unit owners, the remaining condominium property,  
 682 subject to satisfaction of liens on each unit in their order of  
 683 priority, in shares specified in the plan of termination, unless  
 684 objected to by a unit owner or a lienor as provided in paragraph  
 685 (b).

686 8. To unit owners, the proceeds of any sale of association  
 687 property, the remaining association property, common surplus,  
 688 and other assets of the association, subject to satisfaction of  
 689 liens on each unit in their order of priority, in shares  
 690 specified in the plan of termination, unless objected to by a  
 691 unit owner or a lienor as provided in paragraph (b).

692 Section 5. Section 720.30851, Florida Statutes, is created  
 693 to read:

694 720.30851 Estoppel certificates.--Within 15 days after the  
 695 date on which a request for an estoppel certificate is received  
 696 from a parcel owner or mortgagee, or his or her designee, the

697 association shall provide a certificate signed by an officer or  
698 authorized agent of the association stating all assessments and  
699 other moneys owed to the association by the parcel owner or  
700 mortgagee with respect to the parcel. An association may charge  
701 a fee for the preparation of such certificate, and the amount of  
702 such fee must be stated on the certificate.

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

705 (2) A summary proceeding pursuant to s. 51.011 may be  
706 brought to compel compliance with this section, and the  
707 prevailing party is entitled to recover reasonable attorney's  
708 fees.

709 (3) The authority to charge a fee for the certificate  
710 shall be established by a written resolution adopted by the  
711 board or provided by a written management, bookkeeping, or  
712 maintenance contract and is payable upon the preparation of the  
713 certificate. If the certificate is requested in conjunction with  
714 the sale or mortgage of a parcel but the closing does not occur  
715 and no later than 30 days after the closing date for which the  
716 certificate was sought the preparer receives a written request,  
717 accompanied by reasonable documentation, that the sale did not  
718 occur from a payer that is not the parcel owner, the fee shall  
719 be refunded to that payer within 30 days after receipt of the  
720 request. The refund is the obligation of the parcel owner, and  
721 the association may collect it from that owner in the same  
722 manner as an assessment as provided in this section.

723 Section 6. Subsection (3) is added to section 489.1425,  
724 Florida Statutes, to read:

725 489.1425 Duty of contractor to notify residential property  
 726 owner of recovery fund.--

727 (3) A business organization is exempt from the written  
 728 statement in this section if the business organization, or its  
 729 parent entity if the business organization is a wholly owned  
 730 subsidiary, maintains a minimum net worth of \$20 million.

731 Section 7. Paragraphs (d) and (j) of subsection (2) of  
 732 section 20.165, Florida Statutes, are amended to read:

733 20.165 Department of Business and Professional  
 734 Regulation.--There is created a Department of Business and  
 735 Professional Regulation.

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

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

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

741 Section 8. Subsection (2) of section 73.073, Florida  
 742 Statutes, is amended to read:

743 73.073 Eminent domain procedure with respect to  
 744 condominium common elements.--

745 (2) With respect to the exercise of eminent domain or a  
 746 negotiated sale for the purchase or taking of a portion of the  
 747 common elements of a condominium, the condemning authority shall  
 748 have the responsibility of contacting the condominium  
 749 association and acquiring the most recent rolls indicating the  
 750 names of the unit owners or contacting the appropriate taxing  
 751 authority to obtain the names of the owners of record on the tax  
 752 rolls. Notification shall ~~thereupon~~ be sent by certified mail,

753 return receipt requested, to the unit owners of record of the  
 754 condominium units by the condemning authority indicating the  
 755 intent to purchase or take the required property and requesting  
 756 a response from the unit owner. The condemning authority shall  
 757 be responsible for the expense of sending notification pursuant  
 758 to this section. Such notice shall, at a minimum, include:

- 759 (a) The name and address of the condemning authority.
- 760 (b) A written or visual description of the property.
- 761 (c) The public purpose for which the property is needed.
- 762 (d) The appraisal value of the property.
- 763 (e) A clear, concise statement relating to the unit  
 764 owner's right to object to the taking or appraisal value and the  
 765 procedures and effects of exercising that right.
- 766 (f) A clear, concise statement relating to the power of  
 767 the association to convey the property on behalf of the unit  
 768 owners if no objection to the taking or appraisal value is  
 769 raised, and the effects of this alternative on the unit owner.

770  
 771 The Division of Florida ~~Land Sales~~, Condominiums, Timeshares,  
 772 and Mobile Homes of the Department of Business and Professional  
 773 Regulation may adopt, by rule, a standard form for such notice  
 774 and may require the notice to include any additional relevant  
 775 information.

776 Section 9. Subsections (2) and (3) of section 190.009,  
 777 Florida Statutes, are amended to read:

778 190.009 Disclosure of public financing.--

779 ~~(2) The Division of Florida Land Sales, Condominiums, and~~  
 780 ~~Mobile Homes of the Department of Business and Professional~~

781 ~~Regulation shall ensure that disclosures made by developers~~  
 782 ~~pursuant to chapter 498 meet the requirements of subsection (1).~~

783 (2)~~(3)~~ The Department of Community Affairs shall keep a  
 784 current list of districts and their disclosures pursuant to this  
 785 act and shall make such studies and reports and take such  
 786 actions as it deems necessary.

787 Section 10. Paragraph (e) of subsection (6) of section  
 788 192.037, Florida Statutes, is amended to read:

789 192.037 Fee timeshare real property; taxes and  
 790 assessments; escrow.--

791 (6)

792 (e) On or before May 1 of each year, a statement of  
 793 receipts and disbursements of the escrow account must be filed  
 794 with the Division of Florida ~~Land Sales~~, Condominiums,  
 795 Timeshares, and Mobile Homes of the Department of Business and  
 796 Professional Regulation, which may enforce this paragraph  
 797 pursuant to s. 721.26. This statement must appropriately show  
 798 the amount of principal and interest in such account.

799 Section 11. Paragraph (i) of subsection (8) of section  
 800 213.053, Florida Statutes, is amended to read:

801 213.053 Confidentiality and information sharing.--

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

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

808

809 Disclosure of information under this subsection shall be  
 810 pursuant to a written agreement between the executive director  
 811 and the agency. Such agencies, governmental or nongovernmental,  
 812 shall be bound by the same requirements of confidentiality as  
 813 the Department of Revenue. Breach of confidentiality is a  
 814 misdemeanor of the first degree, punishable as provided by s.  
 815 775.082 or s. 775.083.

816 Section 12. Paragraph (d) of subsection (4) of section  
 817 215.20, Florida Statutes, is amended to read:

818 215.20 Certain income and certain trust funds to  
 819 contribute to the General Revenue Fund.--

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

824 (d) Within the Department of Business and Professional  
 825 Regulation:

- 826 1. The Administrative Trust Fund.
- 827 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 828 3. The Cigarette Tax Collection Trust Fund.
- 829 4. The Division of Florida ~~Land Sales~~, Condominiums,  
 830 Timeshares, and Mobile Homes Trust Fund.
- 831 5. The Hotel and Restaurant Trust Fund, with the exception  
 832 of those fees collected for the purpose of funding of the  
 833 hospitality education program as stated in s. 509.302.
- 834 6. The Professional Regulation Trust Fund.
- 835 7. The trust funds administered by the Division of Pari-  
 836 mutuel Wagering.

837  
 838 The enumeration of the foregoing moneys or trust funds shall not  
 839 prohibit the applicability ~~thereto~~ of s. 215.24 should the  
 840 Governor determine that for the reasons mentioned in s. 215.24  
 841 the money or trust funds should be exempt herefrom, as it is the  
 842 purpose of this law to exempt income from its force and effect  
 843 when, by the operation of this law, federal matching funds or  
 844 contributions or private grants to any trust fund would be lost  
 845 to the state.

846 Section 13. Subsection (2) of section 326.002, Florida  
 847 Statutes, is amended to read:

848 326.002 Definitions.--As used in ss. 326.001-326.006, the  
 849 term:

850 (2) "Division" means the Division of Florida ~~Land Sales,~~  
 851 Condominiums, Timeshares, and Mobile Homes of the Department of  
 852 Business and Professional Regulation.

853 Section 14. Paragraph (d) of subsection (2) and subsection  
 854 (3) of section 326.006, Florida Statutes, are amended to read:

855 326.006 Powers and duties of division.--

856 (2) The division has the power to enforce and ensure  
 857 compliance with the provisions of this chapter and rules adopted  
 858 under this chapter relating to the sale and ownership of yachts  
 859 and ships. In performing its duties, the division has the  
 860 following powers and duties:

861 (d) Notwithstanding any remedies available to a yacht or  
 862 ship purchaser, if the division has reasonable cause to believe  
 863 that a violation of any provision of this chapter or rule  
 864 adopted under this chapter has occurred, the division may

865 institute enforcement proceedings in its own name against any  
866 broker or salesperson or any of his or her assignees or agents,  
867 or against any unlicensed person or any of his or her assignees  
868 or agents, as follows:

869 1. The division may permit a person whose conduct or  
870 actions are under investigation to waive formal proceedings and  
871 enter into a consent proceeding whereby orders, rules, or  
872 letters of censure or warning, whether formal or informal, may  
873 be entered against the person.

874 2. The division may issue an order requiring the broker or  
875 salesperson or any of his or her assignees or agents, or  
876 requiring any unlicensed person or any of his or her assignees  
877 or agents, to cease and desist from the unlawful practice and  
878 take such affirmative action as in the judgment of the division  
879 will carry out the purposes of this chapter.

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

883 4. The division may impose a civil penalty against a  
884 broker or salesperson or any of his or her assignees or agents,  
885 or against an unlicensed person or any of his or her assignees  
886 or agents, for any violation of this chapter or a rule adopted  
887 under this chapter. A penalty may be imposed for each day of  
888 continuing violation, but in no event may the penalty for any  
889 offense exceed \$10,000. All amounts collected must be deposited  
890 with the Chief Financial Officer to the credit of the Division  
891 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile  
892 Homes Trust Fund. If a broker, salesperson, or unlicensed person



893 working for a broker, fails to pay the civil penalty, the  
 894 division shall ~~thereupon~~ issue an order suspending the broker's  
 895 license until such time as the civil penalty is paid or may  
 896 pursue enforcement of the penalty in a court of competent  
 897 jurisdiction. The order imposing the civil penalty or the order  
 898 of suspension may not become effective until 20 days after the  
 899 date of such order. Any action commenced by the division must be  
 900 brought in the county in which the division has its executive  
 901 offices or in the county where the violation occurred.

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

905 Section 15. Subsection (18) of section 380.05, Florida  
 906 Statutes, is amended to read:

907 380.05 Areas of critical state concern.--

908 (18) Neither the designation of an area of critical state  
 909 concern nor the adoption of any regulations for such an area  
 910 shall in any way limit or modify the rights of any person to  
 911 complete any development that was ~~has been~~ authorized by  
 912 registration of a subdivision pursuant to former chapter 498 or  
 913 former chapter 478, by recordation pursuant to local subdivision  
 914 plat law, or by a building permit or other authorization to  
 915 commence development on which there has been reliance and a  
 916 change of position, and which registration or recordation was  
 917 accomplished, or which permit or authorization was issued, prior  
 918 to the approval under subsection (6), or the adoption under  
 919 subsection (8), of land development regulations for the area of  
 920 critical state concern. If a developer has by his or her actions

921 in reliance on prior regulations obtained vested or other legal  
922 rights that in law would have prevented a local government from  
923 changing those regulations in a way adverse to the developer's  
924 interests, nothing in this chapter authorizes any governmental  
925 agency to abridge those rights.

926 Section 16. Subsection (20) of section 380.06, Florida  
927 Statutes, is amended to read:

928 380.06 Developments of regional impact.--

929 (20) VESTED RIGHTS.--Nothing in this section shall limit  
930 or modify the rights of any person to complete any development  
931 that was ~~has been~~ authorized by registration of a subdivision  
932 pursuant to former chapter 498, by recordation pursuant to local  
933 subdivision plat law, or by a building permit or other  
934 authorization to commence development on which there has been  
935 reliance and a change of position and which registration or  
936 recordation was accomplished, or which permit or authorization  
937 was issued, prior to July 1, 1973. If a developer has, by his or  
938 her actions in reliance on prior regulations, obtained vested or  
939 other legal rights that in law would have prevented a local  
940 government from changing those regulations in a way adverse to  
941 the developer's interests, nothing in this chapter authorizes  
942 any governmental agency to abridge those rights.

943 (a) For the purpose of determining the vesting of rights  
944 under this subsection, approval pursuant to local subdivision  
945 plat law, ordinances, or regulations of a subdivision plat by  
946 formal vote of a county or municipal governmental body having  
947 jurisdiction after August 1, 1967, and prior to July 1, 1973, is  
948 sufficient to vest all property rights for the purposes of this

949 subsection; and no action in reliance on, or change of position  
950 concerning, such local governmental approval is required for  
951 vesting to take place. Anyone claiming vested rights under this  
952 paragraph must ~~se~~ notify the department in writing by January 1,  
953 1986. Such notification shall include information adequate to  
954 document the rights established by this subsection. When such  
955 notification requirements are met, in order for the vested  
956 rights authorized pursuant to this paragraph to remain valid  
957 after June 30, 1990, development of the vested plan must be  
958 commenced prior to that date upon the property that the state  
959 land planning agency has determined to have acquired vested  
960 rights following the notification or in a binding letter of  
961 interpretation. When the notification requirements have not been  
962 met, the vested rights authorized by this paragraph shall expire  
963 June 30, 1986, unless development commenced prior to that date.

964 (b) For the purpose of this act, the conveyance of, or the  
965 agreement to convey, property to the county, state, or local  
966 government as a prerequisite to zoning change approval shall be  
967 construed as an act of reliance to vest rights as determined  
968 under this subsection, provided such zoning change is actually  
969 granted by such government.

970 Section 17. Paragraph (a) of subsection (4) of section  
971 380.0651, Florida Statutes, is amended to read:

972 380.0651 Statewide guidelines and standards.--

973 (4) Two or more developments, represented by their owners  
974 or developers to be separate developments, shall be aggregated  
975 and treated as a single development under this chapter when they

976 are determined to be part of a unified plan of development and  
 977 are physically proximate to one other.

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

981 1.a. The same person has retained or shared control of the  
 982 developments;

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

985 c. There is common management of the developments  
 986 controlling the form of physical development or disposition of  
 987 parcels of the development.

988 2. There is a reasonable closeness in time between the  
 989 completion of 80 percent or less of one development and the  
 990 submission to a governmental agency of a master plan or series  
 991 of plans or drawings for the other development which is  
 992 indicative of a common development effort.

993 3. A master plan or series of plans or drawings exists  
 994 covering the developments sought to be aggregated which have  
 995 been submitted to a local general-purpose government, water  
 996 management district, the Florida Department of Environmental  
 997 Protection, or the Division of Florida ~~Land Sales~~, Condominiums,  
 998 Timeshares, and Mobile Homes for authorization to commence  
 999 development. The existence or implementation of a utility's  
 1000 master utility plan required by the Public Service Commission or  
 1001 general-purpose local government or a master drainage plan shall  
 1002 not be the sole determinant of the existence of a master plan.

1003           4. The voluntary sharing of infrastructure that is  
 1004 indicative of a common development effort or is designated  
 1005 specifically to accommodate the developments sought to be  
 1006 aggregated, except that which was implemented because it was  
 1007 required by a local general-purpose government; water management  
 1008 district; the Department of Environmental Protection; the  
 1009 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
 1010 Mobile Homes; or the Public Service Commission.

1011           5. There is a common advertising scheme or promotional  
 1012 plan in effect for the developments sought to be aggregated.

1013           Section 18. Paragraph (c) of subsection (4) of section  
 1014 381.0065, Florida Statutes, is amended to read:

1015           381.0065 Onsite sewage treatment and disposal systems;  
 1016 regulation.--

1017           (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may  
 1018 not construct, repair, modify, abandon, or operate an onsite  
 1019 sewage treatment and disposal system without first obtaining a  
 1020 permit approved by the department. The department may issue  
 1021 permits to carry out this section, but shall not make the  
 1022 issuance of such permits contingent upon prior approval by the  
 1023 Department of Environmental Protection, except that the issuance  
 1024 of a permit for work seaward of the coastal construction control  
 1025 line established under s. 161.053 shall be contingent upon  
 1026 receipt of any required coastal construction control line permit  
 1027 from the Department of Environmental Protection. A construction  
 1028 permit is valid for 18 months from the issuance date and may be  
 1029 extended by the department for one 90-day period under rules  
 1030 adopted by the department. A repair permit is valid for 90 days

1031 from the date of issuance. An operating permit must be obtained  
1032 prior to the use of any aerobic treatment unit or if the  
1033 establishment generates commercial waste. Buildings or  
1034 establishments that use an aerobic treatment unit or generate  
1035 commercial waste shall be inspected by the department at least  
1036 annually to assure compliance with the terms of the operating  
1037 permit. The operating permit for a commercial wastewater system  
1038 is valid for 1 year from the date of issuance and must be  
1039 renewed annually. The operating permit for an aerobic treatment  
1040 unit is valid for 2 years from the date of issuance and must be  
1041 renewed every 2 years. If all information pertaining to the  
1042 siting, location, and installation conditions or repair of an  
1043 onsite sewage treatment and disposal system remains the same, a  
1044 construction or repair permit for the onsite sewage treatment  
1045 and disposal system may be transferred to another person, if the  
1046 transferee files, within 60 days after the transfer of  
1047 ownership, an amended application providing all corrected  
1048 information and proof of ownership of the property. There is no  
1049 fee associated with the processing of this supplemental  
1050 information. A person may not contract to construct, modify,  
1051 alter, repair, service, abandon, or maintain any portion of an  
1052 onsite sewage treatment and disposal system without being  
1053 registered under part III of chapter 489. A property owner who  
1054 personally performs construction, maintenance, or repairs to a  
1055 system serving his or her own owner-occupied single-family  
1056 residence is exempt from registration requirements for  
1057 performing such construction, maintenance, or repairs on that  
1058 residence, but is subject to all permitting requirements. A

1059 municipality or political subdivision of the state may not issue  
 1060 a building or plumbing permit for any building that requires the  
 1061 use of an onsite sewage treatment and disposal system unless the  
 1062 owner or builder has received a construction permit for such  
 1063 system from the department. A building or structure may not be  
 1064 occupied and a municipality, political subdivision, or any state  
 1065 or federal agency may not authorize occupancy until the  
 1066 department approves the final installation of the onsite sewage  
 1067 treatment and disposal system. A municipality or political  
 1068 subdivision of the state may not approve any change in occupancy  
 1069 or tenancy of a building that uses an onsite sewage treatment  
 1070 and disposal system until the department has reviewed the use of  
 1071 the system with the proposed change, approved the change, and  
 1072 amended the operating permit.

1073 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and  
 1074 (b), for subdivisions platted of record on or before October 1,  
 1075 1991, when a developer or other appropriate entity has  
 1076 previously made or makes provisions, including financial  
 1077 assurances or other commitments, acceptable to the Department of  
 1078 Health, that a central water system will be installed by a  
 1079 regulated public utility based on a density formula, private  
 1080 potable wells may be used with onsite sewage treatment and  
 1081 disposal systems until the agreed-upon densities are reached.  
 1082 ~~The department may consider assurances filed with the Department~~  
 1083 ~~of Business and Professional Regulation under chapter 498 in~~  
 1084 ~~determining the adequacy of the financial assurance required by~~  
 1085 ~~this paragraph.~~ In a subdivision regulated by this paragraph,  
 1086 the average daily sewage flow may not exceed 2,500 gallons per

1087 acre per day. This section does not affect the validity of  
 1088 existing prior agreements. After October 1, 1991, the exception  
 1089 provided under this paragraph is not available to a developer or  
 1090 other appropriate entity.

1091 Section 19. Subsections (8) through (12) of section  
 1092 450.33, Florida Statutes, are amended to read:

1093 450.33 Duties of farm labor contractor.--Every farm labor  
 1094 contractor must:

1095 ~~(8) File, within such time as the department may~~  
 1096 ~~prescribe, a set of his or her fingerprints.~~

1097 (8) ~~(9)~~ Produce evidence to the department that each  
 1098 vehicle he or she uses for the transportation of employees  
 1099 complies with the requirements and specifications established in  
 1100 chapter 316, s. 316.622, or Pub. L. No. 93-518 as amended by  
 1101 Pub. L. No. 97-470 meeting Department of Transportation  
 1102 requirements or, in lieu thereof, bears a valid inspection  
 1103 sticker showing that the vehicle has passed the inspection in  
 1104 the state in which the vehicle is registered.

1105 (9) ~~(10)~~ Comply with all applicable statutes, rules, and  
 1106 regulations of the United States and of the State of Florida for  
 1107 the protection or benefit of labor, including, but not limited  
 1108 to, those providing for wages, hours, fair labor standards,  
 1109 social security, workers' compensation, unemployment  
 1110 compensation, child labor, and transportation.

1111 (10) ~~(11)~~ Maintain accurate daily field records for each  
 1112 employee actually paid by the farm labor contractor reflecting  
 1113 the hours worked for the farm labor contractor and, if paid by



1114 unit, the number of units harvested and the amount paid per  
 1115 unit.

1116 (11)~~(12)~~ Clearly display on each vehicle used to transport  
 1117 migrant or seasonal farm workers a display sticker issued by the  
 1118 department, which states that the vehicle is authorized by the  
 1119 department to transport farm workers and the expiration date of  
 1120 the authorization.

1121 Section 20. Subsection (10) is added to section 455.203,  
 1122 Florida Statutes, to read:

1123 455.203 Department; powers and duties.--The department,  
 1124 for the boards under its jurisdiction, shall:

1125 (10) Have authority to:

1126 (a) Close and terminate deficient license application  
 1127 files 2 years after the board or the department notifies the  
 1128 applicant of the deficiency; and

1129 (b) Approve applications for professional licenses that  
 1130 meet all statutory and rule requirements for licensure.

1131 Section 21. Subsection (5) of section 455.116, Florida  
 1132 Statutes, is amended to read:

1133 455.116 Regulation trust funds.--The following trust funds  
 1134 shall be placed in the department:

1135 (5) Division of Florida ~~Land Sales~~, Condominiums,  
 1136 Timeshares, and Mobile Homes Trust Fund.

1137 Section 22. Subsection (1) of section 455.217, Florida  
 1138 Statutes, is amended to read:

1139 455.217 Examinations.--This section shall be read in  
 1140 conjunction with the appropriate practice act associated with  
 1141 each regulated profession under this chapter.

1142 (1) The Division of Technology, ~~Licensure, and Testing~~ of  
1143 the Department of Business and Professional Regulation shall  
1144 provide, contract, or approve services for the development,  
1145 preparation, administration, scoring, score reporting, and  
1146 evaluation of all examinations. The division shall seek the  
1147 advice of the appropriate board in providing such services.

1148 (a) The department, acting in conjunction with the  
1149 Division of Technology, ~~Licensure, and Testing~~ and the Division  
1150 of Real Estate, as appropriate, shall ensure that examinations  
1151 adequately and reliably measure an applicant's ability to  
1152 practice the profession regulated by the department. After an  
1153 examination developed or approved by the department has been  
1154 administered, the board or department may reject any question  
1155 which does not reliably measure the general areas of competency  
1156 specified in the rules of the board or department, when there is  
1157 no board. The department shall use professional testing services  
1158 for the development, preparation, and evaluation of  
1159 examinations, when such services are available and approved by  
1160 the board.

1161 (b) For each examination developed by the department or  
1162 contracted vendor, to the extent not otherwise specified by  
1163 statute, the board or the department when there is no board,  
1164 shall by rule specify the general areas of competency to be  
1165 covered by the examination, the relative weight to be assigned  
1166 in grading each area tested, the score necessary to achieve a  
1167 passing grade, and the fees, where applicable, to cover the  
1168 actual cost for any purchase, development, and administration of  
1169 the required examination. However, statutory fee caps in each

1170 practice act shall apply. This subsection does not apply to  
1171 national examinations approved and administered pursuant to  
1172 paragraph (d).

1173 (c) If a practical examination is deemed to be necessary,  
1174 rules shall specify the criteria by which examiners are to be  
1175 selected, the grading criteria to be used by the examiner, the  
1176 relative weight to be assigned in grading each criterion, and  
1177 the score necessary to achieve a passing grade. When a mandatory  
1178 standardization exercise for a practical examination is required  
1179 by law, the board may conduct such exercise. Therefore, board  
1180 members may serve as examiners at a practical examination with  
1181 the consent of the board.

1182 (d) A board, or the department when there is no board, may  
1183 approve by rule the use of any national examination which the  
1184 department has certified as meeting requirements of national  
1185 examinations and generally accepted testing standards pursuant  
1186 to department rules. Providers of examinations, which may be  
1187 either profit or nonprofit entities, seeking certification by  
1188 the department shall pay the actual costs incurred by the  
1189 department in making a determination regarding the  
1190 certification. The department shall use any national examination  
1191 which is available, certified by the department, and approved by  
1192 the board. The name and number of a candidate may be provided to  
1193 a national contractor for the limited purpose of preparing the  
1194 grade tape and information to be returned to the board or  
1195 department or, to the extent otherwise specified by rule, the  
1196 candidate may apply directly to the vendor of the national  
1197 examination. The department may delegate to the board the duty

1198 | to provide and administer the examination. Any national  
1199 | examination approved by a board, or the department when there is  
1200 | no board, prior to October 1, 1997, is deemed certified under  
1201 | this paragraph. Any licensing or certification examination that  
1202 | is not developed or administered by the department in-house or  
1203 | provided as a national examination shall be competitively bid.

1204 |       (e) The department shall adopt rules regarding the  
1205 | security and monitoring of examinations. In order to maintain  
1206 | the security of examinations, the department may employ the  
1207 | procedures set forth in s. 455.228 to seek fines and injunctive  
1208 | relief against an examinee who violates the provisions of s.  
1209 | 455.2175 or the rules adopted pursuant to this paragraph. The  
1210 | department, or any agent thereof, may, for the purposes of  
1211 | investigation, confiscate any written, photographic, or  
1212 | recording material or device in the possession of the examinee  
1213 | at the examination site which the department deems necessary to  
1214 | enforce such provisions or rules.

1215 |       (f) If the professional board with jurisdiction over an  
1216 | examination concurs, the department may, for a fee, share with  
1217 | any other state's licensing authority an examination developed  
1218 | by or for the department unless prohibited by a contract entered  
1219 | into by the department for development or purchase of the  
1220 | examination. The department, with the concurrence of the  
1221 | appropriate board, shall establish guidelines that ensure  
1222 | security of a shared exam and shall require that any other  
1223 | state's licensing authority comply with those guidelines. Those  
1224 | guidelines shall be approved by the appropriate professional  
1225 | board. All fees paid by the user shall be applied to the

1226 department's examination and development program for professions  
 1227 regulated by this chapter. All fees paid by the user for  
 1228 professions not regulated by this chapter shall be applied to  
 1229 offset the fees for the development and administration of that  
 1230 profession's examination. If both a written and a practical  
 1231 examination are given, an applicant shall be required to retake  
 1232 only the portion of the examination for which he or she failed  
 1233 to achieve a passing grade, if he or she successfully passes  
 1234 that portion within a reasonable time of his or her passing the  
 1235 other portion.

1236 Section 23. Subsection (6) is added to section 455.2273,  
 1237 Florida Statutes, to read:

1238 455.2273 Disciplinary guidelines.--

1239 (6) Notwithstanding s. 455.017, this section applies to  
 1240 disciplinary guidelines adopted by all boards or divisions  
 1241 within the department.

1242 Section 24. Effective July 1, 2010, paragraph (d) of  
 1243 subsection (1) and paragraph (d) of subsection (2) of section  
 1244 468.841, Florida Statutes, are amended to read:

1245 468.841 Exemptions.--

1246 (1) The following persons are not required to comply with  
 1247 any provisions of this part relating to mold assessment:

1248 (d) Persons or business organizations acting within the  
 1249 scope of the respective licenses required under chapter 471,  
 1250 part I of chapter 481, chapter 482, ~~or~~ chapter 489, or part XV  
 1251 of this chapter, are acting on behalf of an insurer under part  
 1252 VI of chapter 626, or are persons in the manufactured housing  
 1253 industry who are licensed under chapter 320, except when any

1254 such persons or business organizations hold themselves out for  
 1255 hire to the public as a "certified mold assessor ~~remediator~~,"  
 1256 "registered mold assessor ~~remediator~~," "licensed mold assessor  
 1257 ~~remediator~~," "mold assessor ~~remediator~~," "professional mold  
 1258 assessor ~~remediator~~," or any combination thereof stating or  
 1259 implying licensure under this part.

1260 (2) The following persons are not required to comply with  
 1261 any provisions of this part relating to mold remediation:

1262 (d) Persons or business organizations that are acting  
 1263 within the scope of the respective licenses required under  
 1264 chapter 471, part I of chapter 481, chapter 482, ~~or~~ chapter 489,  
 1265 or part XV of this chapter, are acting on behalf of an insurer  
 1266 under part VI of chapter 626, or are persons in the manufactured  
 1267 housing industry who are licensed under chapter 320, except when  
 1268 any such persons or business organizations hold themselves out  
 1269 for hire to the public as a "certified mold remediator  
 1270 ~~assessor~~," "registered mold remediator ~~assessor~~," "licensed mold  
 1271 remediator ~~assessor~~," "mold remediator ~~assessor~~," "professional  
 1272 mold remediator ~~assessor~~," or any combination thereof stating or  
 1273 implying licensure under this part.

1274 Section 25. Paragraph (b) of subsection (2) of section  
 1275 475.17, Florida Statutes, is amended to read:

1276 475.17 Qualifications for practice.--

1277 (2)

1278 (b) A person may not be licensed as a real estate broker  
 1279 unless, in addition to the other requirements of law, the person  
 1280 has held:

1281           1. An active real estate sales associate's license for at  
 1282 least 24 ~~12~~ months during the preceding 5 years in the office of  
 1283 one or more real estate brokers licensed in this state or any  
 1284 other state, territory, or jurisdiction of the United States or  
 1285 in any foreign national jurisdiction;

1286           2. A current and valid real estate sales associate's  
 1287 license for at least 24 ~~12~~ months during the preceding 5 years  
 1288 in the employ of a governmental agency for a salary and  
 1289 performing the duties authorized in this part for real estate  
 1290 licensees; or

1291           3. A current and valid real estate broker's license for at  
 1292 least 24 ~~12~~ months during the preceding 5 years in any other  
 1293 state, territory, or jurisdiction of the United States or in any  
 1294 foreign national jurisdiction.

1295  
 1296 ~~This paragraph does not apply to a person employed as a real~~  
 1297 ~~estate investigator by the Division of Real Estate, provided the~~  
 1298 ~~person has been employed as a real estate investigator for at~~  
 1299 ~~least 24 months. The person must be currently employed as a real~~  
 1300 ~~estate investigator to sit for the real estate broker's~~  
 1301 ~~examination and have held a valid and current sales associate's~~  
 1302 ~~license for at least 12 months.~~

1303           Section 26. Subsection (9) of section 475.451, Florida  
 1304 Statutes, is amended to read:

1305           475.451 Schools teaching real estate practice.--

1306           ~~(9) (a) Each school permitholder of a proprietary real~~  
 1307 ~~estate school, each chief administrative person of such an~~  
 1308 ~~institution, or each course sponsor shall deliver to the~~

1309 ~~department, in a format acceptable to the department, a copy of~~  
1310 ~~the classroom course roster of courses that require satisfactory~~  
1311 ~~completion of an examination no later than 30 days beyond the~~  
1312 ~~end of the calendar month in which the course was completed.~~

1313 ~~(b) The course roster shall consist of the institution or~~  
1314 ~~school name and permit number, if applicable, the instructor's~~  
1315 ~~name and permit number, if applicable, course title, beginning~~  
1316 ~~and ending dates of the course, number of course hours, course~~  
1317 ~~location, if applicable, each student's full name and license~~  
1318 ~~number, if applicable, each student's mailing address, and the~~  
1319 ~~numerical grade each student achieved. The course roster shall~~  
1320 ~~also include the signature of the school permitholder, the chief~~  
1321 ~~administrative person, or the course sponsor.~~

1322 Section 27. Section 475.455, Florida Statutes, is amended  
1323 to read:

1324 475.455 Exchange of disciplinary information.--The  
1325 commission shall inform the Division of Florida ~~Land Sales,~~  
1326 Condominiums, Timeshares, and Mobile Homes of the Department of  
1327 Business and Professional Regulation of any disciplinary action  
1328 the commission has taken against any of its licensees. The  
1329 division shall inform the commission of any disciplinary action  
1330 the division has taken against any broker or sales associate  
1331 registered with the division.

1332 Section 28. Paragraph (d) is added to subsection (2) of  
1333 section 477.019, Florida Statutes, and subsection (4) of that  
1334 section is amended, to read:



1335 477.019 Cosmetologists; qualifications; licensure;  
1336 supervised practice; license renewal; endorsement; continuing  
1337 education.--

1338 (2) An applicant shall be eligible for licensure by  
1339 examination to practice cosmetology if the applicant:

1340 (d) Has submitted for examination approval in the last 100  
1341 hours of training by a pregraduate of a licensed cosmetology  
1342 school or a program within the public school system, if such  
1343 school or program is certified by the Department of Education  
1344 and the applicant pays the application fee as required in  
1345 paragraph (b). Upon approval and the completion of all required  
1346 training, the applicant may schedule an examination. An  
1347 applicant must take the examination within 6 months from the  
1348 date on which he or she receives approval. If the applicant  
1349 fails to take the examination within the 6-month period, he or  
1350 she must reapply for examination approval. The board shall  
1351 establish by rule procedures for the pregraduate application  
1352 process.

1353 (4) If an applicant passes all parts of the examination  
1354 for licensure as a cosmetologist, he or she may practice in the  
1355 time between passing the examination and receiving a physical  
1356 copy of his or her license if he or she practices under the  
1357 supervision of a licensed cosmetologist in a licensed salon. An  
1358 applicant who fails any part of the examination may not practice  
1359 as a cosmetologist and may immediately apply for reexamination.  
1360 ~~Following the completion of the first licensing examination and~~  
1361 ~~pending the results of that examination and issuance of a~~  
1362 ~~license to practice cosmetology, graduates of licensed~~

1363 ~~cosmetology schools or cosmetology programs offered in public~~  
 1364 ~~school systems, which schools or programs are certified by the~~  
 1365 ~~Department of Education, are eligible to practice cosmetology,~~  
 1366 ~~provided such graduates practice under the supervision of a~~  
 1367 ~~licensed cosmetologist in a licensed cosmetology salon. A~~  
 1368 ~~graduate who fails the first examination may continue to~~  
 1369 ~~practice under the supervision of a licensed cosmetologist in a~~  
 1370 ~~licensed cosmetology salon if the graduate applies for the next~~  
 1371 ~~available examination and until the graduate receives the~~  
 1372 ~~results of that examination. No graduate may continue to~~  
 1373 ~~practice under this subsection if the graduate fails the~~  
 1374 ~~examination twice.~~

1375 Section 29. Subsection (6) of section 489.105, Florida  
 1376 Statutes, is amended to read:

1377 489.105 Definitions.--As used in this part:

1378 (6) "Contracting" means, except as exempted in this part,  
 1379 engaging in business as a contractor and includes, but is not  
 1380 limited to, performance of any of the acts as set forth in  
 1381 subsection (3) which define types of contractors. The attempted  
 1382 sale of contracting services and the negotiation or bid for a  
 1383 contract on these services also constitutes contracting. If the  
 1384 services offered require licensure or agent qualification, the  
 1385 offering, negotiation for a bid, or attempted sale of these  
 1386 services requires the corresponding licensure. However, the term  
 1387 "contracting" shall not extend to an individual, partnership,  
 1388 corporation, trust, or other legal entity that offers to sell or  
 1389 sells completed residences on property on which the individual  
 1390 or business entity has any legal or equitable interest, or to

1391 the individual or business entity that offers to sell or sells  
 1392 manufactured or factory-built buildings that will be completed  
 1393 on site on property on which either party to a contract has any  
 1394 legal or equitable interest, if the services of a qualified  
 1395 contractor certified or registered pursuant to the requirements  
 1396 of this chapter have been or will be retained for the purpose of  
 1397 constructing or completing such residences.

1398 Section 30. Section 489.511, Florida Statutes, is amended  
 1399 to read:

1400 489.511 Certification; application; examinations;  
 1401 endorsement.--

1402 (1) (a) Any person who is at least 18 years of age may take  
 1403 the certification examination.

1404 (b) Any person desiring to be certified as a contractor  
 1405 shall apply to the department in writing and must meet the  
 1406 following criteria: to take the certification examination.

1407 ~~(2) (a) A person shall be entitled to take the~~  
 1408 ~~certification examination for the purpose of determining whether~~  
 1409 ~~he or she is qualified to engage in contracting throughout the~~  
 1410 ~~state as a contractor if the person:~~

1411 ~~1. Is at least 18 years of age;~~

1412 ~~1.2. Be~~ Is of good moral character;

1413 2. Pass the certification examination, achieving a passing  
 1414 grade as established by board rule; and

1415 3. Meet ~~Meets~~ eligibility requirements according to one of  
 1416 the following criteria:

1417 a. Has, within the 6 years immediately preceding the  
 1418 filing of the application, at least 3 years' proven management

1419 | experience in the trade or education equivalent thereto, or a  
 1420 | combination thereof, but not more than one-half of such  
 1421 | experience may be educational equivalent;

1422 |         b. Has, within the 8 years immediately preceding the  
 1423 | filing of the application, at least 4 years' experience as a  
 1424 | supervisor or contractor in the trade for which he or she is  
 1425 | making application;

1426 |         c. Has, within the 12 years immediately preceding the  
 1427 | filing of the application, at least 6 years of comprehensive  
 1428 | training, technical education, or supervisory experience  
 1429 | associated with an electrical or alarm system contracting  
 1430 | business, or at least 6 years of technical experience in  
 1431 | electrical or alarm system work with the Armed Forces or a  
 1432 | governmental entity;

1433 |         d. Has, within the 12 years immediately preceding the  
 1434 | filing of the application, been licensed for 3 years as a  
 1435 | professional engineer who is qualified by education, training,  
 1436 | or experience to practice electrical engineering; or

1437 |         e. Has any combination of qualifications under sub-  
 1438 | subparagraphs a.-c. totaling 6 years of experience.

1439 |         (c) ~~(b)~~ For purposes of this subsection, "supervisor" means  
 1440 | a person having the experience gained while having the general  
 1441 | duty of overseeing the technical duties of the trade, provided  
 1442 | that such experience is gained by a person who is able to  
 1443 | perform the technical duties of the trade without supervision.

1444 |         (d) ~~(e)~~ For purposes of this subsection, at least 40  
 1445 | percent of the work experience for an alarm system contractor I

1446 must be in the types of fire alarm systems typically used in a  
1447 commercial setting.

1448 (2)-(3) The board may determine by rule the number of times  
1449 per year the applicant may take the examination and after three  
1450 unsuccessful attempts may ~~On or after October 1, 1998, every~~  
1451 ~~applicant who is qualified shall be allowed to take the~~  
1452 ~~examination three times, notwithstanding the number of times the~~  
1453 ~~applicant has previously failed the examination. If an applicant~~  
1454 ~~fails the examination three times after October 1, 1998, the~~  
1455 ~~board shall~~ require the applicant to complete additional  
1456 college-level or technical education courses in the areas of  
1457 deficiency, as determined by the board, as a condition of future  
1458 eligibility to take the examination. ~~The applicant must also~~  
1459 ~~submit a new application that meets all certification~~  
1460 ~~requirements at the time of its submission and must pay all~~  
1461 ~~appropriate fees.~~

1462 (3)-(4)(a) "Good moral character" means a personal history  
1463 of honesty, fairness, and respect for the rights of others and  
1464 for laws of this state and nation.

1465 (b) The board may determine that an individual applying  
1466 for certification is ineligible ~~to take the examination~~ for  
1467 failure to satisfy the requirement of good moral character only  
1468 if:

1469 1. There is a substantial connection between the lack of  
1470 good moral character of the individual and the professional  
1471 responsibilities of a certified contractor; and

1472 2. The finding by the board of lack of good moral  
1473 character is supported by clear and convincing evidence.

1474 (c) When an individual is found to be unqualified for  
1475 certification ~~examination~~ because of a lack of good moral  
1476 character, the board shall furnish such individual a statement  
1477 containing the findings of the board, a complete record of the  
1478 evidence upon which the determination was based, and a notice of  
1479 the rights of the individual to a rehearing and appeal.

1480 ~~(4)(5)~~ The board shall, by rule, designate those types of  
1481 specialty electrical or alarm system contractors who may be  
1482 certified under this part. The limit of the scope of work and  
1483 responsibility of a certified specialty contractor shall be  
1484 established by board rule. A certified specialty contractor  
1485 category exists as an optional statewide licensing category.  
1486 Qualification for certification in a specialty category created  
1487 by rule shall be the same as set forth in paragraph (1)(b)  
1488 ~~(2)(a)~~. The existence of a specialty category created by rule  
1489 does not itself create any licensing requirement; however,  
1490 neither does its optional nature remove any licensure  
1491 requirement established elsewhere in this part.

1492 ~~(5)(6)~~ The board shall certify as qualified for  
1493 certification by endorsement any individual applying for  
1494 certification who:

1495 (a) Meets the requirements for certification as set forth  
1496 in this section; has passed a national, regional, state, or  
1497 United States territorial licensing examination that is  
1498 substantially equivalent to the examination required by this  
1499 part; and has satisfied the requirements set forth in s.  
1500 489.521; or

1501 (b) Holds a valid license to practice electrical or alarm  
 1502 system contracting issued by another state or territory of the  
 1503 United States, if the criteria for issuance of such license was  
 1504 substantially equivalent to the certification criteria that  
 1505 existed in this state at the time the certificate was issued.

1506 (6)~~(7)~~ Upon the issuance of a certificate, any previously  
 1507 issued registered licenses for the classification in which the  
 1508 certification is issued are rendered void.

1509 Section 31. Paragraph (b) of subsection (1) of section  
 1510 489.515, Florida Statutes, is amended to read:

1511 489.515 Issuance of certificates; registrations.--

1512 (1)

1513 (b) The board shall certify as qualified for certification  
 1514 any person who satisfies the requirements of s. 489.511, ~~who~~  
 1515 ~~successfully passes the certification examination administered~~  
 1516 ~~by the department, achieving a passing grade as established by~~  
 1517 ~~board rule,~~ and who submits satisfactory evidence that he or she  
 1518 has obtained both workers' compensation insurance or an  
 1519 acceptable exemption certificate issued by the department and  
 1520 public liability and property damage insurance for the health,  
 1521 safety, and welfare of the public in amounts determined by rule  
 1522 of the board, and furnishes evidence of financial  
 1523 responsibility, credit, and business reputation of either  
 1524 himself or herself or the business organization he or she  
 1525 desires to qualify.

1526 Section 32. Section 494.008, Florida Statutes, is amended  
 1527 to read:

1528           494.008 Mortgages offered by land developers ~~licensed~~  
 1529 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~  
 1530 requirements; prohibitions.--No mortgage loan which has a face  
 1531 amount of \$35,000 or less and is secured by vacant land  
 1532 ~~registered under the Florida Uniform Land Sales Practices Law,~~  
 1533 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial  
 1534 institution, by any person unless all of the following  
 1535 requirements are met:

1536           (1) Each mortgage securing a note or other obligation sold  
 1537 or offered for sale shall be eligible for a recordation as a  
 1538 first mortgage.

1539           (2) Each mortgage negotiated pursuant to this section must  
 1540 include a mortgagee's title insurance policy or an opinion of  
 1541 title, from an attorney who is licensed to practice law in this  
 1542 state, on each parcel of land which is described in the  
 1543 mortgage. The policy or opinion shall reflect that there are no  
 1544 other mortgages on the property. A notice stating the priority  
 1545 of the mortgage shall be placed on the face of each mortgage in  
 1546 an amount over \$35,000 issued pursuant to this section.

1547           (3) Contracts to purchase a mortgage loan shall contain,  
 1548 immediately above the purchaser's signature line, the statement  
 1549 in 10-point boldfaced type: "This mortgage is secured by vacant  
 1550 land subject to development at a future time." This statement  
 1551 shall also be typed or printed in 10-point type on the face of  
 1552 the note and mortgage sold.

1553           (4) The most recent assessment for tax purposes made by  
 1554 the county property appraiser of each parcel of land described  
 1555 in the mortgage shall be furnished to each mortgagee.



1556 (5) The mortgage broker shall record or cause to be  
 1557 recorded all mortgages or other similar documents prior to  
 1558 delivery of the note and mortgage to the mortgagee.

1559 (6) All funds received by the mortgage broker pursuant to  
 1560 this section shall promptly be deposited in the broker's trust  
 1561 account where they shall remain until the note and mortgage are  
 1562 fully executed and recorded.

1563 (7) Willful failure to comply with any of the above  
 1564 provisions shall subject the person to the penalties of s.  
 1565 494.05.

1566 Section 33. Section 498.009, Florida Statutes, is  
 1567 renumbered as section 718.50152, Florida Statutes.

1568 Section 34. Section 498.011, Florida Statutes, is  
 1569 renumbered as section 718.50153, Florida Statutes, and amended  
 1570 to read:

1571 718.50153 ~~498.011~~ Payment of per diem, mileage, and other  
 1572 expenses to division employees.--The amount of per diem and  
 1573 mileage and expense money paid to employees shall be as provided  
 1574 in s. 112.061, except that the division shall establish by rule  
 1575 the standards for reimbursement of actual verified expenses  
 1576 incurred in connection with an on-site review ~~inspection~~ or  
 1577 investigation of ~~subdivided lands~~.

1578 Section 35. Section 498.013, Florida Statutes, is  
 1579 renumbered as section 718.50154, Florida Statutes.

1580 Section 36. Section 498.057, Florida Statutes, is  
 1581 renumbered as section 718.50155, Florida Statutes, and amended,  
 1582 to read:

1583 718.50155 ~~498.057~~ Service of process.--

1584 (1) In addition to the methods of service provided for in  
 1585 the Florida Rules of Civil Procedure and the Florida Statutes,  
 1586 service may be made and by delivering a copy of the process to  
 1587 ~~the director of the division, which~~ shall be binding upon the  
 1588 defendant or respondent if:

1589 (a) The division plaintiff, which is acting as the  
 1590 petitioner or plaintiff ~~may be the division~~, immediately sends a  
 1591 copy of the process and of the pleading by certified mail to the  
 1592 defendant or respondent at his or her last known address;7 and

1593 (b) The division plaintiff files an affidavit of  
 1594 compliance with this section on or before the return date of the  
 1595 process or within the time set by the court.

1596 (2) If any person, including any nonresident of this  
 1597 state, allegedly engages in conduct prohibited by this chapter,  
 1598 or any rule or order of the division, and has not filed a  
 1599 consent to service of process, and personal jurisdiction over  
 1600 him or her cannot otherwise be obtained in this state, the  
 1601 director shall be authorized to receive service of process in  
 1602 any noncriminal proceeding against that person or his or her  
 1603 successor which grows out of the conduct and which is brought by  
 1604 the division under this chapter or any rule or order of the  
 1605 division. The process shall have the same force and validity as  
 1606 if personally served. Notice shall be given as provided in  
 1607 subsection (1).

1608 Section 37. Sections 498.001, 498.003, 498.005, 498.007,  
 1609 498.017, 498.021, 498.022, 498.023, 498.024, 498.025, 498.027,  
 1610 498.028, 498.029, 498.031, 498.033, 498.035, 498.037, 498.039,

1611 498.041, 498.047, 498.049, 498.051, 498.053, 498.059, 498.061,  
 1612 and 498.063, Florida Statutes, are repealed.

1613 Section 38. Section 509.512, Florida Statutes, is amended  
 1614 to read:

1615 509.512 Timeshare plan developer and exchange company  
 1616 exemption.--Sections 509.501-509.511 do not apply to a developer  
 1617 of a timeshare plan or an exchange company approved by the  
 1618 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
 1619 Mobile Homes pursuant to chapter 721, but only to the extent  
 1620 that the developer or exchange company engages in conduct  
 1621 regulated under chapter 721.

1622 Section 39. Subsection (2) of section 517.301, Florida  
 1623 Statutes, is amended to read:

1624 517.301 Fraudulent transactions; falsification or  
 1625 concealment of facts.--

1626 (2) For purposes of ss. 517.311 and 517.312 and this  
 1627 section, the term "investment" means any commitment of money or  
 1628 property principally induced by a representation that an  
 1629 economic benefit may be derived from such commitment, except  
 1630 that the term "~~investment~~" does not include a commitment of  
 1631 money or property for:

1632 (a) The purchase of a business opportunity, business  
 1633 enterprise, or real property through a person licensed under  
 1634 chapter 475 or registered under former chapter 498; or

1635 (b) The purchase of tangible personal property through a  
 1636 person not engaged in telephone solicitation, where said  
 1637 property is offered and sold in accordance with the following  
 1638 conditions:

1639 1. There are no specific representations or guarantees  
 1640 made by the offeror or seller as to the economic benefit to be  
 1641 derived from the purchase;

1642 2. The tangible property is delivered to the purchaser  
 1643 within 30 days after sale, except that such 30-day period may be  
 1644 extended by the office if market conditions so warrant; and

1645 3. The seller has offered the purchaser a full refund  
 1646 policy in writing, exercisable by the purchaser within 10 days  
 1647 of the date of delivery of such tangible personal property,  
 1648 except that the amount of such refund may not ~~in no event shall~~  
 1649 exceed the bid price in effect at the time the property is  
 1650 returned to the seller. If the applicable sellers' market is  
 1651 closed at the time the property is returned to the seller for a  
 1652 refund, the amount of such refund shall be based on the bid  
 1653 price for such property at the next opening of such market.

1654 Section 40. Subsection (4) of section 548.0065, Florida  
 1655 Statutes, is amended to read:

1656 548.0065 Amateur matches; sanctioning and supervision;  
 1657 health and safety standards; compliance checks; continuation,  
 1658 suspension, and revocation of sanctioning approval.--

1659 (4) Any member of the commission or the executive director  
 1660 of the commission may suspend the approval of an amateur  
 1661 sanctioning organization for failure to supervise amateur  
 1662 matches or to enforce the approved health and safety standards  
 1663 required under this chapter, provided that the suspension  
 1664 complies with the procedures for summary suspensions in s.  
 1665 120.60(6). At any amateur boxing, ~~or~~ kickboxing, or mixed  
 1666 martial arts contest, any member of the commission or a

1667 representative of the commission may immediately suspend one or  
 1668 more matches in an event whenever it appears that the match or  
 1669 matches violate the health and safety standards established by  
 1670 rule as required by this chapter. A law enforcement officer may  
 1671 assist any member of the commission or a representative of the  
 1672 commission to enforce an order to stop a contest if called upon  
 1673 to do so by a member of the commission or a representative of  
 1674 the commission.

1675 Section 41. Subsections (2), (3), and (4) of section  
 1676 548.008, Florida Statutes, are amended to read:

1677 548.008 Prohibited competitions.--

1678 ~~(2) No amateur mixed martial arts match may be held in~~  
 1679 ~~this state.~~

1680 (2)~~(3)~~ No professional match may be held in this state  
 1681 unless it meets the requirements for holding the match as  
 1682 provided in this chapter and the rules adopted by the  
 1683 commission.

1684 (3)~~(4)~~(a) Any person participating in a match prohibited  
 1685 under this section, knowing the match to be prohibited, commits  
 1686 a misdemeanor of the second degree, punishable as provided in s.  
 1687 775.082 or s. 775.083.

1688 (b) Any person holding, promoting, or sponsoring a match  
 1689 prohibited under this section commits a felony of the third  
 1690 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1691 775.084.

1692 Section 42. Subsection (1) of section 548.041, Florida  
 1693 Statutes, is amended to read:

1694 548.041 Age, condition, and suspension of participants.--

1695 (1) A person may ~~shall~~ not be licensed as a participant,  
 1696 and the license of a ~~any~~ participant shall be suspended or  
 1697 revoked, if such person:

1698 (a) Is under the age of 18;

1699 (b) Has participated in a match in this state which was  
 1700 not sanctioned by the commission or by a Native American  
 1701 commission properly constituted under federal law; ~~or~~

1702 (c) Does not meet certain health and medical examination  
 1703 conditions as required by rule of the commission; ~~or~~

1704 (d) Has not competed in a minimum number of amateur boxing  
 1705 events as determined by commission rule prior to licensure; or

1706 (e) Has not participated in a minimum number of amateur  
 1707 mixed martial arts events as determined by commission rule prior  
 1708 to licensure.

1709 Section 43. Subsection (1) of section 559.935, Florida  
 1710 Statutes, is amended to read:

1711 559.935 Exemptions.--

1712 (1) This part does not apply to:

1713 (a) A bona fide employee of a seller of travel who is  
 1714 engaged solely in the business of her or his employer;

1715 (b) Any direct common carrier of passengers or property  
 1716 regulated by an agency of the Federal Government or employees of  
 1717 such carrier when engaged solely in the transportation business  
 1718 of the carrier as identified in the carrier's certificate;

1719 (c) An intrastate common carrier of passengers or property  
 1720 selling only transportation as defined in the applicable state  
 1721 or local registration or certification, or employees of such

1722 carrier when engaged solely in the transportation business of  
 1723 the carrier;

1724 (d) Hotels, motels, or other places of public  
 1725 accommodation selling public accommodations, or employees of  
 1726 such hotels, motels, or other places of public accommodation,  
 1727 when engaged solely in making arrangements for lodging,  
 1728 accommodations, or sightseeing tours within the state, or taking  
 1729 reservations for the traveler with times, dates, locations, and  
 1730 accommodations certain at the time the reservations are made,  
 1731 provided that hotels and motels registered with the Department  
 1732 of Business and Professional Regulation pursuant to chapter 509  
 1733 are excluded from the provisions of this chapter;

1734 (e) Persons involved solely in the rental, leasing, or  
 1735 sale of residential property;

1736 (f) Persons involved solely in the rental, leasing, or  
 1737 sale of transportation vehicles;

1738 (g) Persons who make travel arrangements for themselves;  
 1739 for their employees or agents; for distributors, franchisees, or  
 1740 dealers of the persons' products or services; for entities which  
 1741 are financially related to the persons; or for the employees or  
 1742 agents of the distributor, franchisee, or dealer or financially  
 1743 related entity;

1744 (h) A developer of a timeshare plan or an exchange company  
 1745 approved by the Division of Florida ~~Land Sales~~, Condominiums,  
 1746 Timeshares, and Mobile Homes pursuant to chapter 721, but only  
 1747 to the extent that the developer or exchange company engages in  
 1748 conduct regulated under chapter 721; or

1749 (i) Persons or entities engaged solely in offering diving  
 1750 services, including classes and sales or rentals of equipment,  
 1751 when engaged in making any prearranged travel-related or  
 1752 tourist-related services in conjunction with a primarily dive-  
 1753 related event.

1754 Section 44. Subsection (17) of section 718.103, Florida  
 1755 Statutes, is amended to read:

1756 718.103 Definitions.--As used in this chapter, the term:

1757 (17) "Division" means the Division of Florida ~~Land Sales,~~  
 1758 Condominiums, Timeshares, and Mobile Homes of the Department of  
 1759 Business and Professional Regulation.

1760 Section 45. Paragraph (c) of subsection (4) of section  
 1761 718.105, Florida Statutes, is amended to read:

1762 718.105 Recording of declaration.--

1763 (4)

1764 (c) If the sum of money held by the clerk has not been  
 1765 paid to the developer or association as provided in paragraph  
 1766 (b) within ~~by~~ 3 years after the date the declaration was  
 1767 originally recorded, the clerk ~~in his or her discretion~~ may  
 1768 notify, in writing, the registered agent of the association that  
 1769 the sum is still available and the purpose for which it was  
 1770 deposited. If the association does not record the certificate  
 1771 within 90 days after the clerk has given the notice, the clerk  
 1772 may disburse the money to the developer. If the developer cannot  
 1773 be located, the clerk shall disburse the money to the Division  
 1774 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile  
 1775 Homes for deposit in the Division of Florida ~~Land Sales,~~  
 1776 Condominiums, Timeshares, and Mobile Homes Trust Fund.



1777 Section 46. Subsection (4) of section 718.1255, Florida  
1778 Statutes, is amended to read:

1779 718.1255 Alternative dispute resolution; voluntary  
1780 mediation; mandatory nonbinding arbitration; legislative  
1781 findings.--

1782 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
1783 DISPUTES.--The Division of Florida ~~Land Sales,~~ Condominiums,  
1784 Timeshares, and Mobile Homes of the Department of Business and  
1785 Professional Regulation shall employ full-time attorneys to act  
1786 as arbitrators to conduct the arbitration hearings provided by  
1787 this chapter. The division may also certify attorneys who are  
1788 not employed by the division to act as arbitrators to conduct  
1789 the arbitration hearings provided by this section. No person may  
1790 be employed by the department as a full-time arbitrator unless  
1791 he or she is a member in good standing of The Florida Bar. The  
1792 department shall adopt ~~promulgate~~ rules of procedure to govern  
1793 such arbitration hearings including mediation incident thereto.  
1794 The decision of an arbitrator shall be final; however, ~~such~~ a  
1795 decision shall not be deemed final agency action. Nothing in  
1796 this provision shall be construed to foreclose parties from  
1797 proceeding in a trial de novo unless the parties have agreed  
1798 that the arbitration is binding. If ~~such~~ judicial proceedings  
1799 are initiated, the final decision of the arbitrator shall be  
1800 admissible in evidence in the trial de novo.

1801 (a) Prior to the institution of court litigation, a party  
1802 to a dispute shall petition the division for nonbinding  
1803 arbitration. The petition must be accompanied by a filing fee in  
1804 the amount of \$50. Filing fees collected under this section must

1805 be used to defray the expenses of the alternative dispute  
 1806 resolution program.

1807 (b) The petition must recite, and have attached thereto,  
 1808 supporting proof that the petitioner gave the respondents:

1809 1. Advance written notice of the specific nature of the  
 1810 dispute;

1811 2. A demand for relief, and a reasonable opportunity to  
 1812 comply or to provide the relief; and

1813 3. Notice of the intention to file an arbitration petition  
 1814 or other legal action in the absence of a resolution of the  
 1815 dispute.

1816  
 1817 Failure to include the allegations or proof of compliance with  
 1818 these prerequisites requires dismissal of the petition without  
 1819 prejudice.

1820 (c) Upon receipt, the petition shall be promptly reviewed  
 1821 by the division to determine the existence of a dispute and  
 1822 compliance with the requirements of paragraphs (a) and (b). If  
 1823 emergency relief is required and is not available through  
 1824 arbitration, a motion to stay the arbitration may be filed. The  
 1825 motion must be accompanied by a verified petition alleging facts  
 1826 that, if proven, would support entry of a temporary injunction,  
 1827 and if an appropriate motion and supporting papers are filed,  
 1828 the division may abate the arbitration pending a court hearing  
 1829 and disposition of a motion for temporary injunction.

1830 (d) Upon determination by the division that a dispute  
 1831 exists and that the petition substantially meets the  
 1832 requirements of paragraphs (a) and (b) and any other applicable

1833 rules, a copy of the petition shall ~~forthwith~~ be served by the  
1834 division upon all respondents.

1835 (e) ~~Either~~ Before or after the filing of the respondents'  
1836 answer to the petition, any party may request that the  
1837 arbitrator refer the case to mediation under this section and  
1838 any rules adopted by the division. Upon receipt of a request for  
1839 mediation, the division shall promptly contact the parties to  
1840 determine if there is agreement that mediation would be  
1841 appropriate. If all parties agree, the dispute must be referred  
1842 to mediation. Notwithstanding a lack of an agreement by all  
1843 parties, the arbitrator may refer a dispute to mediation at any  
1844 time.

1845 (f) Upon referral of a case to mediation, the parties must  
1846 select a mutually acceptable mediator. To assist in the  
1847 selection, the arbitrator shall provide the parties with a list  
1848 of both volunteer and paid mediators that have been certified by  
1849 the division under s. 718.501. If the parties are unable to  
1850 agree on a mediator within the time allowed by the arbitrator,  
1851 the arbitrator shall appoint a mediator from the list of  
1852 certified mediators. If a case is referred to mediation, the  
1853 parties shall attend a mediation conference, as scheduled by the  
1854 parties and the mediator. If any party fails to attend a duly  
1855 noticed mediation conference, without the permission or approval  
1856 of the arbitrator or mediator, the arbitrator must impose  
1857 sanctions against the party, including the striking of any  
1858 pleadings filed, the entry of an order of dismissal or default  
1859 if appropriate, and the award of costs and attorneys' fees  
1860 incurred by the other parties. Unless otherwise agreed to by the

1861 parties or as provided by order of the arbitrator, a party is  
1862 deemed to have appeared at a mediation conference by the  
1863 physical presence of the party or its representative having full  
1864 authority to settle without further consultation, provided that  
1865 an association may comply by having one or more representatives  
1866 present with full authority to negotiate a settlement and  
1867 recommend that the board of administration ratify and approve  
1868 such a settlement within 5 days from the date of the mediation  
1869 conference. The parties shall share equally the expense of  
1870 mediation, unless they agree otherwise.

1871 (g) The purpose of mediation as provided for by this  
1872 section is to present the parties with an opportunity to resolve  
1873 the underlying dispute in good faith, and with a minimum  
1874 expenditure of time and resources.

1875 (h) Mediation proceedings must generally be conducted in  
1876 accordance with the Florida Rules of Civil Procedure, and these  
1877 proceedings are privileged and confidential to the same extent  
1878 as court-ordered mediation. Persons who are not parties to the  
1879 dispute are not allowed to attend the mediation conference  
1880 without the consent of all parties, with the exception of  
1881 counsel for the parties and corporate representatives designated  
1882 to appear for a party. If the mediator declares an impasse after  
1883 a mediation conference has been held, the arbitration proceeding  
1884 terminates, unless all parties agree in writing to continue the  
1885 arbitration proceeding, in which case the arbitrator's decision  
1886 shall be ~~either~~ binding or nonbinding, as agreed upon by the  
1887 parties; in the arbitration proceeding, the arbitrator shall not  
1888 consider any evidence relating to the unsuccessful mediation

1889 | except in a proceeding to impose sanctions for failure to appear  
1890 | at the mediation conference. If the parties do not agree to  
1891 | continue arbitration, the arbitrator shall enter an order of  
1892 | dismissal, and either party may institute a suit in a court of  
1893 | competent jurisdiction. The parties may seek to recover any  
1894 | costs and attorneys' fees incurred in connection with  
1895 | arbitration and mediation proceedings under this section as part  
1896 | of the costs and fees that may be recovered by the prevailing  
1897 | party in any subsequent litigation.

1898 |       (i) Arbitration shall be conducted according to rules  
1899 | adopted ~~promulgated~~ by the division. The filing of a petition  
1900 | for arbitration shall toll the applicable statute of  
1901 | limitations.

1902 |       (j) At the request of any party to the arbitration, the  
1903 | ~~such~~ arbitrator shall issue subpoenas for the attendance of  
1904 | witnesses and the production of books, records, documents, and  
1905 | other evidence and any party on whose behalf a subpoena is  
1906 | issued may apply to the court for orders compelling such  
1907 | attendance and production. Subpoenas shall be served and shall  
1908 | be enforceable in the manner provided by the Florida Rules of  
1909 | Civil Procedure. Discovery may, in the discretion of the  
1910 | arbitrator, be permitted in the manner provided by the Florida  
1911 | Rules of Civil Procedure. Rules adopted by the division may  
1912 | authorize any reasonable sanctions except contempt for a  
1913 | violation of the arbitration procedural rules of the division or  
1914 | for the failure of a party to comply with a reasonable nonfinal  
1915 | order issued by an arbitrator which is not under judicial  
1916 | review.

1917 (k) The arbitration decision shall be presented to the  
1918 parties in writing. An arbitration decision is final in those  
1919 disputes in which the parties have agreed to be bound. An  
1920 arbitration decision is also final if a complaint for a trial de  
1921 novo is not filed in a court of competent jurisdiction in which  
1922 the condominium is located within 30 days. The right to file for  
1923 a trial de novo entitles the parties to file a complaint in the  
1924 appropriate trial court for a judicial resolution of the  
1925 dispute. The prevailing party in an arbitration proceeding shall  
1926 be awarded the costs of the arbitration and reasonable  
1927 attorney's fees in an amount determined by the arbitrator. Such  
1928 an award shall include the costs and reasonable attorney's fees  
1929 incurred in the arbitration proceeding as well as the costs and  
1930 reasonable attorney's fees incurred in preparing for and  
1931 attending any scheduled mediation.

1932 (l) The party who files a complaint for a trial de novo  
1933 shall be assessed the other party's arbitration costs, court  
1934 costs, and other reasonable costs, including attorney's fees,  
1935 investigation expenses, and expenses for expert or other  
1936 testimony or evidence incurred after the arbitration hearing if  
1937 the judgment upon the trial de novo is not more favorable than  
1938 the arbitration decision. If the judgment is more favorable, the  
1939 party who filed a complaint for trial de novo shall be awarded  
1940 reasonable court costs and attorney's fees.

1941 (m) Any party to an arbitration proceeding may enforce an  
1942 arbitration award by filing a petition in a court of competent  
1943 jurisdiction in which the condominium is located. A petition may  
1944 not be granted unless the time for appeal by the filing of a

1945 | complaint for trial de novo has expired. If a complaint for a  
 1946 | trial de novo has been filed, a petition may not be granted with  
 1947 | respect to an arbitration award that has been stayed. If the  
 1948 | petition for enforcement is granted, the petitioner shall  
 1949 | recover reasonable attorney's fees and costs incurred in  
 1950 | enforcing the arbitration award. A mediation settlement may also  
 1951 | be enforced through the county or circuit court, as applicable,  
 1952 | and any costs and fees incurred in the enforcement of a  
 1953 | settlement agreement reached at mediation must be awarded to the  
 1954 | prevailing party in any enforcement action.

1955 |         Section 47. Section 718.501, Florida Statutes, is amended  
 1956 | to read:

1957 |             718.501 Powers and duties of Division of Florida ~~Land~~  
 1958 | ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1959 |             (1) The Division of Florida ~~Land Sales~~, Condominiums,  
 1960 | Timeshares, and Mobile Homes of the Department of Business and  
 1961 | Professional Regulation, referred to as the "division" in this  
 1962 | part, ~~in addition to other powers and duties prescribed by~~  
 1963 | ~~chapter 498~~, has the power to enforce and ensure compliance with  
 1964 | the provisions of this chapter and rules ~~promulgated pursuant~~  
 1965 | ~~hereto~~ relating to the development, construction, sale, lease,  
 1966 | ownership, operation, and management of residential condominium  
 1967 | units. In performing its duties, the division has the following  
 1968 | powers and duties:

1969 |             (a)1. The division may make necessary public or private  
 1970 | investigations within or outside this state to determine whether  
 1971 | any person has violated this chapter or any rule or order

1972 hereunder, to aid in the enforcement of this chapter, or to aid  
 1973 in the adoption of rules or forms hereunder.

1974 2. The division may submit any official written report,  
 1975 worksheet, or other related paper, or a duly certified copy  
 1976 thereof, compiled, prepared, drafted, or otherwise made by and  
 1977 duly authenticated by a financial examiner or analyst to be  
 1978 admitted as competent evidence in any hearing in which the  
 1979 financial examiner or analyst is available for cross-examination  
 1980 and attests under oath that such documents were prepared as a  
 1981 result of an examination or inspection conducted pursuant to  
 1982 this chapter.

1983 (b) The division may require or permit any person to file  
 1984 a statement in writing, under oath or otherwise, as the division  
 1985 determines, as to the facts and circumstances concerning a  
 1986 matter to be investigated.

1987 (c) For the purpose of any investigation under this  
 1988 chapter, the division director or any officer or employee  
 1989 designated by the division director may administer oaths or  
 1990 affirmations, subpoena witnesses and compel their attendance,  
 1991 take evidence, and require the production of any matter which is  
 1992 relevant to the investigation, including the existence,  
 1993 description, nature, custody, condition, and location of any  
 1994 books, documents, or other tangible things and the identity and  
 1995 location of persons having knowledge of relevant facts or any  
 1996 other matter reasonably calculated to lead to the discovery of  
 1997 material evidence. Upon the failure by a person to obey a  
 1998 subpoena or to answer questions propounded by the investigating  
 1999 officer and upon reasonable notice to all persons affected



2000 thereby, the division may apply to the circuit court for an  
 2001 order compelling compliance.

2002 (d) Notwithstanding any remedies available to unit owners  
 2003 and associations, if the division has reasonable cause to  
 2004 believe that a violation of any provision of this chapter or  
 2005 related rule promulgated pursuant hereto has occurred, the  
 2006 division may institute enforcement proceedings in its own name  
 2007 against any developer, association, officer, or member of the  
 2008 board of administration, or its assignees or agents, as follows:

2009 1. The division may permit a person whose conduct or  
 2010 actions may be under investigation to waive formal proceedings  
 2011 and enter into a consent proceeding whereby orders, rules, or  
 2012 letters of censure or warning, whether formal or informal, may  
 2013 be entered against the person.

2014 2. The division may issue an order requiring the  
 2015 developer, association, officer, or member of the board of  
 2016 administration, or its assignees or agents, to cease and desist  
 2017 from the unlawful practice and take such affirmative action as  
 2018 in the judgment of the division will carry out the purposes of  
 2019 this chapter. ~~Such affirmative action may include, but is not~~  
 2020 ~~limited to, an order requiring a developer to pay moneys~~  
 2021 ~~determined to be owed to a condominium association.~~ If the  
 2022 division finds that a developer, association, officer, or member  
 2023 of the board of administration, or its assignees or agents, is  
 2024 violating or is about to violate any provision of this chapter,  
 2025 any rule adopted or order issued by the division, or any written  
 2026 agreement entered into with the division, and presents an  
 2027 immediate danger to the public requiring an immediate final

2028 order, it may issue an emergency cease and desist order reciting  
 2029 with particularity the facts underlying such findings. The  
 2030 emergency cease and desist order is effective for 90 days. If  
 2031 the division begins nonemergency cease and desist proceedings,  
 2032 the emergency cease and desist order remains effective until the  
 2033 conclusion of the proceedings under ss. 120.569 and 120.57.

2034 3. The division may bring an action in circuit court on  
 2035 behalf of a class of unit owners, lessees, or purchasers for  
 2036 declaratory relief, injunctive relief, or restitution.

2037 4. The division may petition the court for the appointment  
 2038 of a receiver or conservator. If appointed, the receiver or  
 2039 conservator may take action to implement the court order to  
 2040 ensure the performance of the order and to remedy any breach  
 2041 thereof. In addition to all other means provided by law for the  
 2042 enforcement of an injunction or temporary restraining order, the  
 2043 circuit court may impound or sequester the property of a party  
 2044 defendant, including books, papers, documents, and related  
 2045 records, and allow the examination and use of the property by  
 2046 the division and a court-appointed receiver or conservator.

2047 5. The division may apply to the circuit court for an  
 2048 order of restitution whereby the defendant in an action brought  
 2049 pursuant to subparagraph 4. shall be ordered to make restitution  
 2050 of those sums shown by the division to have been obtained by the  
 2051 defendant in violation of this chapter. Such restitution shall,  
 2052 at the option of the court, be payable to the conservator or  
 2053 receiver appointed pursuant to subparagraph 4. or directly to  
 2054 the persons whose funds or assets were obtained in violation of  
 2055 this chapter.

2056        6.4. The division may impose a civil penalty against a  
 2057 developer or association, or its assignee or agent, for any  
 2058 violation of this chapter or a rule adopted under this chapter  
 2059 ~~promulgated pursuant hereto~~. The division may impose a civil  
 2060 penalty individually against any officer or board member who  
 2061 willfully and knowingly violates a provision of this chapter,  
 2062 adopted a rule ~~adopted pursuant hereto~~, or a final order of the  
 2063 division. The term "willfully and knowingly" means that the  
 2064 division informed the officer or board member that his or her  
 2065 action or intended action violates this chapter, a rule adopted  
 2066 under this chapter, or a final order of the division and that  
 2067 the officer or board member refused to comply with the  
 2068 requirements of this chapter, a rule adopted under this chapter,  
 2069 or a final order of the division. The division, prior to  
 2070 initiating formal agency action under chapter 120, shall afford  
 2071 the officer or board member an opportunity to voluntarily comply  
 2072 with this chapter, a rule adopted under this chapter, or a final  
 2073 order of the division. An officer or board member who complies  
 2074 within 10 days is not subject to a civil penalty. A penalty may  
 2075 be imposed on the basis of each day of continuing violation, but  
 2076 in no event shall the penalty for any offense exceed \$5,000. By  
 2077 January 1, 1998, the division shall adopt, by rule, penalty  
 2078 guidelines applicable to possible violations or to categories of  
 2079 violations of this chapter or rules adopted by the division. The  
 2080 guidelines must specify a meaningful range of civil penalties  
 2081 for each such violation of the statute and rules and must be  
 2082 based upon the harm caused by the violation, the repetition of  
 2083 the violation, and upon such other factors deemed relevant by

2084 the division. For example, the division may consider whether the  
2085 violations were committed by a developer or owner-controlled  
2086 association, the size of the association, and other factors. The  
2087 guidelines must designate the possible mitigating or aggravating  
2088 circumstances that justify a departure from the range of  
2089 penalties provided by the rules. It is the legislative intent  
2090 that minor violations be distinguished from those which endanger  
2091 the health, safety, or welfare of the condominium residents or  
2092 other persons and that such guidelines provide reasonable and  
2093 meaningful notice to the public of likely penalties that may be  
2094 imposed for proscribed conduct. This subsection does not limit  
2095 the ability of the division to informally dispose of  
2096 administrative actions or complaints by stipulation, agreed  
2097 settlement, or consent order. All amounts collected shall be  
2098 deposited with the Chief Financial Officer to the credit of the  
2099 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
2100 Mobile Homes Trust Fund. If a developer fails to pay the civil  
2101 penalty, the division shall ~~thereupon~~ issue an order directing  
2102 that such developer cease and desist from further operation  
2103 until such time as the civil penalty is paid or may pursue  
2104 enforcement of the penalty in a court of competent jurisdiction.  
2105 If an association fails to pay the civil penalty, the division  
2106 shall ~~thereupon~~ pursue enforcement in a court of competent  
2107 jurisdiction, and the order imposing the civil penalty or the  
2108 cease and desist order will not become effective until 20 days  
2109 after the date of such order. Any action commenced by the  
2110 division shall be brought in the county in which the division

2111 has its executive offices or in the county where the violation  
2112 occurred.

2113 7. In addition to subparagraph 6., the division may seek  
2114 the imposition of a civil penalty through the circuit court for  
2115 any violation for which the division may issue a notice to show  
2116 cause under paragraph (q). The civil penalty shall be at least  
2117 \$500 but no more than \$5,000 for each violation. The court may  
2118 also award to the prevailing party court costs and reasonable  
2119 attorney's fees and, if the division prevails, may also award  
2120 reasonable costs of investigation.

2121 (e) The division may ~~is authorized to~~ prepare and  
2122 disseminate a prospectus and other information to assist  
2123 prospective owners, purchasers, lessees, and developers of  
2124 residential condominiums in assessing the rights, privileges,  
2125 and duties pertaining thereto.

2126 (f) The division has authority to adopt rules pursuant to  
2127 ss. 120.536(1) and 120.54 to implement and enforce the  
2128 provisions of this chapter.

2129 (g) The division shall establish procedures for providing  
2130 notice to an association when the division is considering the  
2131 issuance of a declaratory statement with respect to the  
2132 declaration of condominium or any related document governing in  
2133 such condominium community.

2134 (h) The division shall furnish each association which pays  
2135 the fees required by paragraph (2)(a) a copy of this act,  
2136 subsequent changes to this act on an annual basis, an amended  
2137 version of this act as it becomes available from the Secretary

2138 of State's office on a biennial basis, and the rules adopted  
 2139 ~~promulgated pursuant~~ thereto on an annual basis.

2140 (i) The division shall annually provide each association  
 2141 with a summary of declaratory statements and formal legal  
 2142 opinions relating to the operations of condominiums which were  
 2143 rendered by the division during the previous year.

2144 (j) The division shall provide training programs for  
 2145 condominium association board members and unit owners.

2146 (k) The division shall maintain a toll-free telephone  
 2147 number accessible to condominium unit owners.

2148 (l) The division shall develop a program to certify both  
 2149 volunteer and paid mediators to provide mediation of condominium  
 2150 disputes. The division shall provide, upon request, a list of  
 2151 such mediators to any association, unit owner, or other  
 2152 participant in arbitration proceedings under s. 718.1255  
 2153 requesting a copy of the list. The division shall include on the  
 2154 list of volunteer mediators only the names of persons who have  
 2155 received at least 20 hours of training in mediation techniques  
 2156 or who have mediated at least 20 disputes. In order to become  
 2157 initially certified by the division, paid mediators must be  
 2158 certified by the Supreme Court to mediate court cases in ~~either~~  
 2159 county or circuit courts. However, the division may adopt, by  
 2160 rule, additional factors for the certification of paid  
 2161 mediators, which factors must be related to experience,  
 2162 education, or background. Any person initially certified as a  
 2163 paid mediator by the division must, in order to continue to be  
 2164 certified, comply with the factors or requirements imposed by  
 2165 rules adopted by the division.

2166 (m) When a complaint is made, the division shall conduct  
2167 its inquiry with due regard to the interests of the affected  
2168 parties. Within 30 days after receipt of a complaint, the  
2169 division shall acknowledge the complaint in writing and notify  
2170 the complainant whether the complaint is within the jurisdiction  
2171 of the division and whether additional information is needed by  
2172 the division from the complainant. The division shall conduct  
2173 its investigation and shall, within 90 days after receipt of the  
2174 original complaint or of timely requested additional  
2175 information, take action upon the complaint. However, the  
2176 failure to complete the investigation within 90 days does not  
2177 prevent the division from continuing the investigation,  
2178 accepting or considering evidence obtained or received after 90  
2179 days, or taking administrative action if reasonable cause exists  
2180 to believe that a violation of this chapter or a rule of the  
2181 division has occurred. If an investigation is not completed  
2182 within the time limits established in this paragraph, the  
2183 division shall, on a monthly basis, notify the complainant in  
2184 writing of the status of the investigation. When reporting its  
2185 action to the complainant, the division shall inform the  
2186 complainant of any right to a hearing pursuant to ss. 120.569  
2187 and 120.57.

2188 (n) The division may:

- 2189 1. Contract with agencies in this state or other  
2190 jurisdictions to perform investigative functions; or  
2191 2. Accept grants-in-aid from any source.

2192 (o) The division shall cooperate with similar agencies in  
2193 other jurisdictions to establish uniform filing procedures and

2194 forms, public offering statements, advertising standards, and  
 2195 rules and common administrative practices.

2196 (p) The division shall consider notice to a developer to  
 2197 be complete when it is delivered to the developer's address  
 2198 currently on file with the division.

2199 (q) In addition to its enforcement authority, the division  
 2200 may issue a notice to show cause, which shall provide for a  
 2201 hearing, upon written request, in accordance with chapter 120.

2202 (2) (a) Effective January 1, 1992, Each condominium  
 2203 association which operates more than two units shall pay to the  
 2204 division an annual fee in the amount of \$4 for each residential  
 2205 unit in condominiums operated by the association. If the fee is  
 2206 not paid by March 1, ~~then~~ the association shall be assessed a  
 2207 penalty of 10 percent of the amount due, and the association  
 2208 will not have standing to maintain or defend any action in the  
 2209 courts of this state until the amount due, plus any penalty, is  
 2210 paid.

2211 (b) All fees shall be deposited in the Division of Florida  
 2212 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
 2213 Fund as provided by law.

2214 Section 48. Subsection (1) of section 718.5011, Florida  
 2215 Statutes, is amended to read:

2216 718.5011 Ombudsman; appointment; administration.--

2217 (1) There is created an Office of the Condominium  
 2218 Ombudsman, to be located for administrative purposes within the  
 2219 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
 2220 Mobile Homes. The functions of the office shall be funded by the  
 2221 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and



2222 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief  
 2223 of the division, and the office shall be set within the division  
 2224 in the same manner as any other bureau is staffed and funded.

2225 Section 49. Paragraph (a) of subsection (2) of section  
 2226 718.502, Florida Statutes, is amended to read:

2227 718.502 Filing prior to sale or lease.--

2228 (2)(a) Prior to filing as required by subsection (1), and  
 2229 prior to acquiring an ownership, leasehold, or contractual  
 2230 interest in the land upon which the condominium is to be  
 2231 developed, a developer shall not offer a contract for purchase  
 2232 of a unit or lease of a unit for more than 5 years. However, the  
 2233 developer may accept deposits for reservations upon the approval  
 2234 of a fully executed escrow agreement and reservation agreement  
 2235 form properly filed with the Division of Florida ~~Land Sales,~~  
 2236 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
 2237 proposed reservation program shall be accompanied by a filing  
 2238 fee of \$250. Reservations shall not be taken on a proposed  
 2239 condominium unless the developer has an ownership, leasehold, or  
 2240 contractual interest in the land upon which the condominium is  
 2241 to be developed. The division shall notify the developer within  
 2242 20 days of receipt of the reservation filing of any deficiencies  
 2243 contained therein. Such notification shall not preclude the  
 2244 determination of reservation filing deficiencies at a later  
 2245 date, nor shall it relieve the developer of any responsibility  
 2246 under the law. The escrow agreement and the reservation  
 2247 agreement form shall include a statement of the right of the  
 2248 prospective purchaser to an immediate unqualified refund of the

2249 reservation deposit moneys upon written request to the escrow  
 2250 agent by the prospective purchaser or the developer.

2251 Section 50. Section 718.504, Florida Statutes, is amended  
 2252 to read:

2253 718.504 Prospectus or offering circular.--Every developer  
 2254 of a residential condominium which contains more than 20  
 2255 residential units, or which is part of a group of residential  
 2256 condominiums which will be served by property to be used in  
 2257 common by unit owners of more than 20 residential units, shall  
 2258 prepare a prospectus or offering circular and file it with the  
 2259 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
 2260 Mobile Homes prior to entering into an enforceable contract of  
 2261 purchase and sale of any unit or lease of a unit for more than 5  
 2262 years and shall furnish a copy of the prospectus or offering  
 2263 circular to each buyer. In addition to the prospectus or  
 2264 offering circular, each buyer shall be furnished a separate page  
 2265 entitled "Frequently Asked Questions and Answers," which shall  
 2266 be in accordance with a format approved by the division and a  
 2267 copy of the financial information required by s. 718.111. This  
 2268 page shall, in readable language, inform prospective purchasers  
 2269 regarding their voting rights and unit use restrictions,  
 2270 including restrictions on the leasing of a unit; shall indicate  
 2271 whether and in what amount the unit owners or the association is  
 2272 obligated to pay rent or land use fees for recreational or other  
 2273 commonly used facilities; shall contain a statement identifying  
 2274 that amount of assessment which, pursuant to the budget, would  
 2275 be levied upon each unit type, exclusive of any special  
 2276 assessments, and which shall further identify the basis upon

2277 which assessments are levied, whether monthly, quarterly, or  
 2278 otherwise; shall state and identify any court cases in which the  
 2279 association is currently a party of record in which the  
 2280 association may face liability in excess of \$100,000; and which  
 2281 shall further state whether membership in a recreational  
 2282 facilities association is mandatory, and if so, shall identify  
 2283 the fees currently charged per unit type. The division shall by  
 2284 rule require such other disclosure as in its judgment will  
 2285 assist prospective purchasers. The prospectus or offering  
 2286 circular may include more than one condominium, although not all  
 2287 such units are being offered for sale as of the date of the  
 2288 prospectus or offering circular. The prospectus or offering  
 2289 circular must contain the following information:

2290 (1) The front cover or the first page must contain only:

2291 (a) The name of the condominium.

2292 (b) The following statements in conspicuous type:

2293 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
 2294 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2295 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
 2296 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
 2297 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
 2298 MATERIALS.

2299 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
 2300 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
 2301 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
 2302 REPRESENTATIONS.

2303           (2) Summary: The next page must contain all statements  
 2304 required to be in conspicuous type in the prospectus or offering  
 2305 circular.

2306           (3) A separate index of the contents and exhibits of the  
 2307 prospectus.

2308           (4) Beginning on the first page of the text (not including  
 2309 the summary and index), a description of the condominium,  
 2310 including, but not limited to, the following information:

2311           (a) Its name and location.

2312           (b) A description of the condominium property, including,  
 2313 without limitation:

2314           1. The number of buildings, the number of units in each  
 2315 building, the number of bathrooms and bedrooms in each unit, and  
 2316 the total number of units, if the condominium is not a phase  
 2317 condominium, or the maximum number of buildings that may be  
 2318 contained within the condominium, the minimum and maximum  
 2319 numbers of units in each building, the minimum and maximum  
 2320 numbers of bathrooms and bedrooms that may be contained in each  
 2321 unit, and the maximum number of units that may be contained  
 2322 within the condominium, if the condominium is a phase  
 2323 condominium.

2324           2. The page in the condominium documents where a copy of  
 2325 the plot plan and survey of the condominium is located.

2326           3. The estimated latest date of completion of  
 2327 constructing, finishing, and equipping. In lieu of a date, the  
 2328 description shall include a statement that the estimated date of  
 2329 completion of the condominium is in the purchase agreement and a

2330 reference to the article or paragraph containing that  
2331 information.

2332 (c) The maximum number of units that will use facilities  
2333 in common with the condominium. If the maximum number of units  
2334 will vary, a description of the basis for variation and the  
2335 minimum amount of dollars per unit to be spent for additional  
2336 recreational facilities or enlargement of such facilities. If  
2337 the addition or enlargement of facilities will result in a  
2338 material increase of a unit owner's maintenance expense or  
2339 rental expense, if any, the maximum increase and limitations  
2340 thereon shall be stated.

2341 (5) (a) A statement in conspicuous type describing whether  
2342 the condominium is created and being sold as fee simple  
2343 interests or as leasehold interests. If the condominium is  
2344 created or being sold on a leasehold, the location of the lease  
2345 in the disclosure materials shall be stated.

2346 (b) If timeshare estates are or may be created with  
2347 respect to any unit in the condominium, a statement in  
2348 conspicuous type stating that timeshare estates are created and  
2349 being sold in units in the condominium.

2350 (6) A description of the recreational and other commonly  
2351 used facilities that will be used only by unit owners of the  
2352 condominium, including, but not limited to, the following:

2353 (a) Each room and its intended purposes, location,  
2354 approximate floor area, and capacity in numbers of people.

2355 (b) Each swimming pool, as to its general location,  
2356 approximate size and depths, approximate deck size and capacity,  
2357 and whether heated.

2358 (c) Additional facilities, as to the number of each  
 2359 facility, its approximate location, approximate size, and  
 2360 approximate capacity.

2361 (d) A general description of the items of personal  
 2362 property and the approximate number of each item of personal  
 2363 property that the developer is committing to furnish for each  
 2364 room or other facility or, in the alternative, a representation  
 2365 as to the minimum amount of expenditure that will be made to  
 2366 purchase the personal property for the facility.

2367 (e) The estimated date when each room or other facility  
 2368 will be available for use by the unit owners.

2369 (f)1. An identification of each room or other facility to  
 2370 be used by unit owners that will not be owned by the unit owners  
 2371 or the association;

2372 2. A reference to the location in the disclosure materials  
 2373 of the lease or other agreements providing for the use of those  
 2374 facilities; and

2375 3. A description of the terms of the lease or other  
 2376 agreements, including the length of the term; the rent payable,  
 2377 directly or indirectly, by each unit owner, and the total rent  
 2378 payable to the lessor, stated in monthly and annual amounts for  
 2379 the entire term of the lease; and a description of any option to  
 2380 purchase the property leased under any such lease, including the  
 2381 time the option may be exercised, the purchase price or how it  
 2382 is to be determined, the manner of payment, and whether the  
 2383 option may be exercised for a unit owner's share or only as to  
 2384 the entire leased property.

2385 (g) A statement as to whether the developer may provide  
2386 additional facilities not described above; their general  
2387 locations and types; improvements or changes that may be made;  
2388 the approximate dollar amount to be expended; and the maximum  
2389 additional common expense or cost to the individual unit owners  
2390 that may be charged during the first annual period of operation  
2391 of the modified or added facilities.

2392  
2393 Descriptions as to locations, areas, capacities, numbers,  
2394 volumes, or sizes may be stated as approximations or minimums.

2395 (7) A description of the recreational and other facilities  
2396 that will be used in common with other condominiums, community  
2397 associations, or planned developments which require the payment  
2398 of the maintenance and expenses of such facilities, ~~either~~  
2399 directly or indirectly, by the unit owners. The description  
2400 shall include, but not be limited to, the following:

2401 (a) Each building and facility committed to be built.

2402 (b) Facilities not committed to be built except under  
2403 certain conditions, and a statement of those conditions or  
2404 contingencies.

2405 (c) As to each facility committed to be built, or which  
2406 will be committed to be built upon the happening of one of the  
2407 conditions in paragraph (b), a statement of whether it will be  
2408 owned by the unit owners having the use thereof or by an  
2409 association or other entity which will be controlled by them, or  
2410 others, and the location in the exhibits of the lease or other  
2411 document providing for use of those facilities.

2412 (d) The year in which each facility will be available for  
 2413 use by the unit owners or, in the alternative, the maximum  
 2414 number of unit owners in the project at the time each of all of  
 2415 the facilities is committed to be completed.

2416 (e) A general description of the items of personal  
 2417 property, and the approximate number of each item of personal  
 2418 property, that the developer is committing to furnish for each  
 2419 room or other facility or, in the alternative, a representation  
 2420 as to the minimum amount of expenditure that will be made to  
 2421 purchase the personal property for the facility.

2422 (f) If there are leases, a description thereof, including  
 2423 the length of the term, the rent payable, and a description of  
 2424 any option to purchase.

2425  
 2426 Descriptions shall include location, areas, capacities, numbers,  
 2427 volumes, or sizes and may be stated as approximations or  
 2428 minimums.

2429 (8) Recreation lease or associated club membership:

2430 (a) If any recreational facilities or other facilities  
 2431 offered by the developer and available to, or to be used by,  
 2432 unit owners are to be leased or have club membership associated,  
 2433 the following statement in conspicuous type shall be included:  
 2434 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 2435 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 2436 CONDOMINIUM. There shall be a reference to the location in the  
 2437 disclosure materials where the recreation lease or club  
 2438 membership is described in detail.



2439 (b) If it is mandatory that unit owners pay a fee, rent,  
 2440 dues, or other charges under a recreational facilities lease or  
 2441 club membership for the use of facilities, there shall be in  
 2442 conspicuous type the applicable statement:

2443 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
 2444 MANDATORY FOR UNIT OWNERS; or

2445 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
 2446 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2447 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
 2448 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
 2449 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
 2450 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2451 4. A similar statement of the nature of the organization  
 2452 or the manner in which the use rights are created, and that unit  
 2453 owners are required to pay.

2454  
 2455 Immediately following the applicable statement, the location in  
 2456 the disclosure materials where the development is described in  
 2457 detail shall be stated.

2458 (c) If the developer, or any other person other than the  
 2459 unit owners and other persons having use rights in the  
 2460 facilities, reserves, or is entitled to receive, any rent, fee,  
 2461 or other payment for the use of the facilities, then there shall  
 2462 be the following statement in conspicuous type: THE UNIT OWNERS  
 2463 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 2464 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
 2465 following this statement, the location in the disclosure

2466 materials where the rent or land use fees are described in  
 2467 detail shall be stated.

2468 (d) If, in any recreation format, whether leasehold, club,  
 2469 or other, any person other than the association has the right to  
 2470 a lien on the units to secure the payment of assessments, rent,  
 2471 or other exactions, there shall appear a statement in  
 2472 conspicuous type in substantially the following form:

2473 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 2474 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
 2475 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 2476 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2477 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 2478 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
 2479 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
 2480 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
 2481 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2482  
 2483 Immediately following the applicable statement, the location in  
 2484 the disclosure materials where the lien or lien right is  
 2485 described in detail shall be stated.

2486 (9) If the developer or any other person has the right to  
 2487 increase or add to the recreational facilities at any time after  
 2488 the establishment of the condominium whose unit owners have use  
 2489 rights therein, without the consent of the unit owners or  
 2490 associations being required, there shall appear a statement in  
 2491 conspicuous type in substantially the following form:

2492 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
 2493 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

2494 statement, the location in the disclosure materials where such  
 2495 reserved rights are described shall be stated.

2496 (10) A statement of whether the developer's plan includes  
 2497 a program of leasing units rather than selling them, or leasing  
 2498 units and selling them subject to such leases. If so, there  
 2499 shall be a description of the plan, including the number and  
 2500 identification of the units and the provisions and term of the  
 2501 proposed leases, and a statement in boldfaced type that: **THE**  
 2502 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

2503 (11) The arrangements for management of the association  
 2504 and maintenance and operation of the condominium property and of  
 2505 other property that will serve the unit owners of the  
 2506 condominium property, and a description of the management  
 2507 contract and all other contracts for these purposes having a  
 2508 term in excess of 1 year, including the following:

- 2509 (a) The names of contracting parties.
- 2510 (b) The term of the contract.
- 2511 (c) The nature of the services included.
- 2512 (d) The compensation, stated on a monthly and annual  
 2513 basis, and provisions for increases in the compensation.
- 2514 (e) A reference to the volumes and pages of the  
 2515 condominium documents and of the exhibits containing copies of  
 2516 such contracts.

2517  
 2518 Copies of all described contracts shall be attached as exhibits.  
 2519 If there is a contract for the management of the condominium  
 2520 property, then a statement in conspicuous type in substantially  
 2521 the following form shall appear, identifying the proposed or

2522 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
 2523 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE  
 2524 CONTRACT MANAGER). Immediately following this statement, the  
 2525 location in the disclosure materials of the contract for  
 2526 management of the condominium property shall be stated.

2527 (12) If the developer or any other person or persons other  
 2528 than the unit owners has the right to retain control of the  
 2529 board of administration of the association for a period of time  
 2530 which can exceed 1 year after the closing of the sale of a  
 2531 majority of the units in that condominium to persons other than  
 2532 successors or alternate developers, then a statement in  
 2533 conspicuous type in substantially the following form shall be  
 2534 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
 2535 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
 2536 HAVE BEEN SOLD. Immediately following this statement, the  
 2537 location in the disclosure materials where this right to control  
 2538 is described in detail shall be stated.

2539 (13) If there are any restrictions upon the sale,  
 2540 transfer, conveyance, or leasing of a unit, then a statement in  
 2541 conspicuous type in substantially the following form shall be  
 2542 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
 2543 CONTROLLED. Immediately following this statement, the location  
 2544 in the disclosure materials where the restriction, limitation,  
 2545 or control on the sale, lease, or transfer of units is described  
 2546 in detail shall be stated.

2547 (14) If the condominium is part of a phase project, the  
 2548 following information shall be stated:

2549 (a) A statement in conspicuous type in substantially the  
2550 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
2551 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
2552 this statement, the location in the disclosure materials where  
2553 the phasing is described shall be stated.

2554 (b) A summary of the provisions of the declaration which  
2555 provide for the phasing.

2556 (c) A statement as to whether or not residential buildings  
2557 and units which are added to the condominium may be  
2558 substantially different from the residential buildings and units  
2559 originally in the condominium. If the added residential  
2560 buildings and units may be substantially different, there shall  
2561 be a general description of the extent to which such added  
2562 residential buildings and units may differ, and a statement in  
2563 conspicuous type in substantially the following form shall be  
2564 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM  
2565 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
2566 UNITS IN THE CONDOMINIUM. Immediately following this statement,  
2567 the location in the disclosure materials where the extent to  
2568 which added residential buildings and units may substantially  
2569 differ is described shall be stated.

2570 (d) A statement of the maximum number of buildings  
2571 containing units, the maximum and minimum numbers of units in  
2572 each building, the maximum number of units, and the minimum and  
2573 maximum square footage of the units that may be contained within  
2574 each parcel of land which may be added to the condominium.

2575 (15) If a condominium created on or after July 1, 2000, is  
 2576 or may become part of a multicondominium, the following  
 2577 information must be provided:

2578 (a) A statement in conspicuous type in substantially the  
 2579 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
 2580 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
 2581 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following  
 2582 this statement, the location in the prospectus or offering  
 2583 circular and its exhibits where the multicondominium aspects of  
 2584 the offering are described must be stated.

2585 (b) A summary of the provisions in the declaration,  
 2586 articles of incorporation, and bylaws which establish and  
 2587 provide for the operation of the multicondominium, including a  
 2588 statement as to whether unit owners in the condominium will have  
 2589 the right to use recreational or other facilities located or  
 2590 planned to be located in other condominiums operated by the same  
 2591 association, and the manner of sharing the common expenses  
 2592 related to such facilities.

2593 (c) A statement of the minimum and maximum number of  
 2594 condominiums, and the minimum and maximum number of units in  
 2595 each of those condominiums, which will or may be operated by the  
 2596 association, and the latest date by which the exact number will  
 2597 be finally determined.

2598 (d) A statement as to whether any of the condominiums in  
 2599 the multicondominium may include units intended to be used for  
 2600 nonresidential purposes and the purpose or purposes permitted  
 2601 for such use.

2602 (e) A general description of the location and approximate  
2603 acreage of any land on which any additional condominiums to be  
2604 operated by the association may be located.

2605 (16) If the condominium is created by conversion of  
2606 existing improvements, the following information shall be  
2607 stated:

2608 (a) The information required by s. 718.616.

2609 (b) A caveat that there are no express warranties unless  
2610 they are stated in writing by the developer.

2611 (17) A summary of the restrictions, if any, to be imposed  
2612 on units concerning the use of any of the condominium property,  
2613 including statements as to whether there are restrictions upon  
2614 children and pets, and reference to the volumes and pages of the  
2615 condominium documents where such restrictions are found, or if  
2616 such restrictions are contained elsewhere, then a copy of the  
2617 documents containing the restrictions shall be attached as an  
2618 exhibit.

2619 (18) If there is any land that is offered by the developer  
2620 for use by the unit owners and that is neither owned by them nor  
2621 leased to them, the association, or any entity controlled by  
2622 unit owners and other persons having the use rights to such  
2623 land, a statement shall be made as to how such land will serve  
2624 the condominium. If any part of such land will serve the  
2625 condominium, the statement shall describe the land and the  
2626 nature and term of service, and the declaration or other  
2627 instrument creating such servitude shall be included as an  
2628 exhibit.

2629 (19) The manner in which utility and other services,  
2630 including, but not limited to, sewage and waste disposal, water  
2631 supply, and storm drainage, will be provided and the person or  
2632 entity furnishing them.

2633 (20) An explanation of the manner in which the  
2634 apportionment of common expenses and ownership of the common  
2635 elements has been determined.

2636 (21) An estimated operating budget for the condominium and  
2637 the association, and a schedule of the unit owner's expenses  
2638 shall be attached as an exhibit and shall contain the following  
2639 information:

2640 (a) The estimated monthly and annual expenses of the  
2641 condominium and the association that are collected from unit  
2642 owners by assessments.

2643 (b) The estimated monthly and annual expenses of each unit  
2644 owner for a unit, other than common expenses paid by all unit  
2645 owners, payable by the unit owner to persons or entities other  
2646 than the association, as well as to the association, including  
2647 fees assessed pursuant to s. 718.113(1) for maintenance of  
2648 limited common elements where such costs are shared only by  
2649 those entitled to use the limited common element, and the total  
2650 estimated monthly and annual expense. There may be excluded from  
2651 this estimate expenses which are not provided for or  
2652 contemplated by the condominium documents, including, but not  
2653 limited to, the costs of private telephone; maintenance of the  
2654 interior of condominium units, which is not the obligation of  
2655 the association; maid or janitorial services privately  
2656 contracted for by the unit owners; utility bills billed directly



2657 to each unit owner for utility services to his or her unit;  
 2658 insurance premiums other than those incurred for policies  
 2659 obtained by the condominium; and similar personal expenses of  
 2660 the unit owner. A unit owner's estimated payments for  
 2661 assessments shall also be stated in the estimated amounts for  
 2662 the times when they will be due.

2663 (c) The estimated items of expenses of the condominium and  
 2664 the association, except as excluded under paragraph (b),  
 2665 including, but not limited to, the following items, which shall  
 2666 be stated ~~either~~ as an association expense collectible by  
 2667 assessments or as unit owners' expenses payable to persons other  
 2668 than the association:

- 2669 1. Expenses for the association and condominium:
  - 2670 a. Administration of the association.
  - 2671 b. Management fees.
  - 2672 c. Maintenance.
  - 2673 d. Rent for recreational and other commonly used
  - 2674 facilities.
  - 2675 e. Taxes upon association property.
  - 2676 f. Taxes upon leased areas.
  - 2677 g. Insurance.
  - 2678 h. Security provisions.
  - 2679 i. Other expenses.
  - 2680 j. Operating capital.
  - 2681 k. Reserves.
- 2682 1. Fees payable to the division.
- 2683 2. Expenses for a unit owner:
  - 2684 a. Rent for the unit, if subject to a lease.

2685           b. Rent payable by the unit owner directly to the lessor  
2686 or agent under any recreational lease or lease for the use of  
2687 commonly used facilities, which use and payment is a mandatory  
2688 condition of ownership and is not included in the common expense  
2689 or assessments for common maintenance paid by the unit owners to  
2690 the association.

2691           (d) The following statement in conspicuous type: THE  
2692 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
2693 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE  
2694 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
2695 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
2696 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
2697 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
2698 THE OFFERING.

2699           (e) Each budget for an association prepared by a developer  
2700 consistent with this subsection shall be prepared in good faith  
2701 and shall reflect accurate estimated amounts for the required  
2702 items in paragraph (c) at the time of the filing of the offering  
2703 circular with the division, and subsequent increased amounts of  
2704 any item included in the association's estimated budget that are  
2705 beyond the control of the developer shall not be considered an  
2706 amendment that would give rise to rescission rights set forth in  
2707 s. 718.503(1)(a) or (b), nor shall such increases modify, void,  
2708 or otherwise affect any guarantee of the developer contained in  
2709 the offering circular or any purchase contract. It is the intent  
2710 of this paragraph to clarify existing law.

2711           (f) The estimated amounts shall be stated for a period of  
2712 at least 12 months and may distinguish between the period prior

2713 to the time unit owners other than the developer elect a  
2714 majority of the board of administration and the period after  
2715 that date.

2716 (22) A schedule of estimated closing expenses to be paid  
2717 by a buyer or lessee of a unit and a statement of whether title  
2718 opinion or title insurance policy is available to the buyer and,  
2719 if so, at whose expense.

2720 (23) The identity of the developer and the chief operating  
2721 officer or principal directing the creation and sale of the  
2722 condominium and a statement of its and his or her experience in  
2723 this field.

2724 (24) Copies of the following, to the extent they are  
2725 applicable, shall be included as exhibits:

2726 (a) The declaration of condominium, or the proposed  
2727 declaration if the declaration has not been recorded.

2728 (b) The articles of incorporation creating the  
2729 association.

2730 (c) The bylaws of the association.

2731 (d) The ground lease or other underlying lease of the  
2732 condominium.

2733 (e) The management agreement and all maintenance and other  
2734 contracts for management of the association and operation of the  
2735 condominium and facilities used by the unit owners having a  
2736 service term in excess of 1 year.

2737 (f) The estimated operating budget for the condominium and  
2738 the required schedule of unit owners' expenses.

2739 (g) A copy of the floor plan of the unit and the plot plan  
 2740 showing the location of the residential buildings and the  
 2741 recreation and other common areas.

2742 (h) The lease of recreational and other facilities that  
 2743 will be used only by unit owners of the subject condominium.

2744 (i) The lease of facilities used by owners and others.

2745 (j) The form of unit lease, if the offer is of a  
 2746 leasehold.

2747 (k) A declaration of servitude of properties serving the  
 2748 condominium but not owned by unit owners or leased to them or  
 2749 the association.

2750 (l) The statement of condition of the existing building or  
 2751 buildings, if the offering is of units in an operation being  
 2752 converted to condominium ownership.

2753 (m) The statement of inspection for termite damage and  
 2754 treatment of the existing improvements, if the condominium is a  
 2755 conversion.

2756 (n) The form of agreement for sale or lease of units.

2757 (o) A copy of the agreement for escrow of payments made to  
 2758 the developer prior to closing.

2759 (p) A copy of the documents containing any restrictions on  
 2760 use of the property required by subsection (17).

2761 (25) Any prospectus or offering circular complying, prior  
 2762 to the effective date of this act, with the provisions of former  
 2763 ss. 711.69 and 711.802 may continue to be used without amendment  
 2764 or may be amended to comply with ~~the provisions of~~ this chapter.

2765 (26) A brief narrative description of the location and  
 2766 effect of all existing and intended easements located or to be

2767 | located on the condominium property other than those described  
 2768 | in the declaration.

2769 |         (27) If the developer is required by state or local  
 2770 | authorities to obtain acceptance or approval of any dock or  
 2771 | marina facilities intended to serve the condominium, a copy of  
 2772 | any such acceptance or approval acquired by the time of filing  
 2773 | with the division under s. 718.502(1) or a statement that such  
 2774 | acceptance or approval has not been acquired or received.

2775 |         (28) Evidence demonstrating that the developer has an  
 2776 | ownership, leasehold, or contractual interest in the land upon  
 2777 | which the condominium is to be developed.

2778 |         Section 51. Section 718.508, Florida Statutes, is amended  
 2779 | to read:

2780 |             718.508 Regulation by Division of Hotels and  
 2781 | Restaurants.--In addition to the authority, regulation, or  
 2782 | control exercised by the Division of Florida ~~Land Sales,~~  
 2783 | Condominiums, Timeshares, and Mobile Homes pursuant to this act  
 2784 | with respect to condominiums, buildings included in a  
 2785 | condominium property are ~~shall be~~ subject to the authority,  
 2786 | regulation, or control of the Division of Hotels and Restaurants  
 2787 | of the Department of Business and Professional Regulation, to  
 2788 | the extent provided ~~for~~ in chapter 399.

2789 |         Section 52. Section 718.509, Florida Statutes, is amended,  
 2790 | and section 498.019, Florida Statutes, is transferred,  
 2791 | renumbered as subsections (1) and (2) of that section, and  
 2792 | amended to read:

2793 |             718.509 Division of Florida ~~Land Sales,~~ Condominiums,  
 2794 | Timeshares, and Mobile Homes Trust Fund.--~~All funds collected by~~

2795 ~~the division and any amount paid for a fee or penalty under this~~  
 2796 ~~chapter shall be deposited in the State Treasury to the credit~~  
 2797 ~~of the Division of Florida Land Sales, Condominiums, and Mobile~~  
 2798 ~~Homes Trust Fund created by s. 498.019.~~

2799 ~~498.019 Division of Florida Land Sales, Condominiums, and~~  
 2800 ~~Mobile Homes Trust Fund.~~

2801 (1) There is created within the State Treasury the  
 2802 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 2803 Mobile Homes Trust Fund to be used for the administration and  
 2804 operation of this chapter and chapters 718, 719, 721, and 723 by  
 2805 the division.

2806 (2) All moneys collected by the division from fees, fines,  
 2807 or penalties or from costs awarded to the division by a court or  
 2808 administrative final order shall be paid into the Division of  
 2809 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes  
 2810 Trust Fund. The Legislature shall appropriate funds from this  
 2811 trust fund sufficient to carry out the provisions of this  
 2812 chapter and the provisions of law with respect to each category  
 2813 of business covered by the ~~this~~ trust fund. The division shall  
 2814 maintain separate revenue accounts in the trust fund for each of  
 2815 the businesses regulated by the division. The division shall  
 2816 provide for the proportionate allocation among the accounts of  
 2817 expenses incurred by the division in the performance of its  
 2818 duties with respect to each of these businesses. As part of its  
 2819 normal budgetary process, the division shall prepare an annual  
 2820 report of revenue and allocated expenses related to the  
 2821 operation of each of these businesses which may be used to

2822 determine fees charged by the division. This subsection shall  
 2823 operate pursuant to the provisions of s. 215.20.

2824 Section 53. Paragraph (a) of subsection (2) of section  
 2825 718.608, Florida Statutes, is amended to read:

2826 718.608 Notice of intended conversion; time of delivery;  
 2827 content.--

2828 (2)(a) Each notice of intended conversion shall be dated  
 2829 and in writing. The notice shall contain the following  
 2830 statement, with the phrases of the following statement which  
 2831 appear in upper case printed in conspicuous type:

2832  
 2833 These apartments are being converted to condominium by  
 2834 (name of developer) , the developer.

2835 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
 2836 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
 2837 AGREEMENT AS FOLLOWS:

2838 a. If you have continuously been a resident of these  
 2839 apartments during the last 180 days and your rental agreement  
 2840 expires during the next 270 days, you may extend your rental  
 2841 agreement for up to 270 days after the date of this notice.

2842 b. If you have not been a continuous resident of these  
 2843 apartments for the last 180 days and your rental agreement  
 2844 expires during the next 180 days, you may extend your rental  
 2845 agreement for up to 180 days after the date of this notice.

2846 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
 2847 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
 2848 DATE OF THIS NOTICE.

2849           2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
2850 you may extend your rental agreement for up to 45 days after the  
2851 date of this notice while you decide whether to extend your  
2852 rental agreement as explained above. To do so, you must notify  
2853 the developer in writing. You will then have the full 45 days to  
2854 decide whether to extend your rental agreement as explained  
2855 above.

2856           3. During the extension of your rental agreement you will  
2857 be charged the same rent that you are now paying.

2858           4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
2859 OF THE RENTAL AGREEMENT AS FOLLOWS:

2860           a. If your rental agreement began or was extended or  
2861 renewed after May 1, 1980, and your rental agreement, including  
2862 extensions and renewals, has an unexpired term of 180 days or  
2863 less, you may cancel your rental agreement upon 30 days' written  
2864 notice and move. Also, upon 30 days' written notice, you may  
2865 cancel any extension of the rental agreement.

2866           b. If your rental agreement was not begun or was not  
2867 extended or renewed after May 1, 1980, you may not cancel the  
2868 rental agreement without the consent of the developer. If your  
2869 rental agreement, including extensions and renewals, has an  
2870 unexpired term of 180 days or less, you may, however, upon 30  
2871 days' written notice cancel any extension of the rental  
2872 agreement.

2873           5. All notices must be given in writing and sent by mail,  
2874 return receipt requested, or delivered in person to the  
2875 developer at this address: (name and address of developer) .



2876           6. If you have continuously been a resident of these  
2877 apartments during the last 180 days:

2878           a. You have the right to purchase your apartment and will  
2879 have 45 days to decide whether to purchase. If you do not buy  
2880 the unit at that price and the unit is later offered at a lower  
2881 price, you will have the opportunity to buy the unit at the  
2882 lower price. However, in all events your right to purchase the  
2883 unit ends when the rental agreement or any extension of the  
2884 rental agreement ends or when you waive this right in writing.

2885           b. Within 90 days you will be provided purchase  
2886 information relating to your apartment, including the price of  
2887 your unit and the condition of the building. If you do not  
2888 receive this information within 90 days, your rental agreement  
2889 and any extension will be extended 1 day for each day over 90  
2890 days until you are given the purchase information. If you do not  
2891 want this rental agreement extension, you must notify the  
2892 developer in writing.

2893           7. If you have any questions regarding this conversion or  
2894 the Condominium Act, you may contact the developer or the state  
2895 agency which regulates condominiums: The Division of Florida  
2896 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,  
2897 (Tallahassee address and telephone number of division) .

2898           Section 54. Subsection (17) of section 719.103, Florida  
2899 Statutes, is amended to read:

2900           719.103 Definitions.--As used in this chapter:

2901           (17) "Division" means the Division of Florida ~~Land Sales~~,  
2902 Condominiums, Timeshares, and Mobile Homes of the Department of  
2903 Business and Professional Regulation.

2904 Section 55. Section 719.1255, Florida Statutes, is amended  
 2905 to read:

2906 719.1255 Alternative resolution of disputes.--The Division  
 2907 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile  
 2908 Homes of the Department of Business and Professional Regulation  
 2909 shall provide for alternative dispute resolution in accordance  
 2910 with s. 718.1255.

2911 Section 56. Section 719.501, Florida Statutes, is amended  
 2912 to read:

2913 719.501 Powers and duties of Division of Florida ~~Land~~  
 2914 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2915 (1) The Division of Florida ~~Land Sales~~, Condominiums,  
 2916 Timeshares, and Mobile Homes of the Department of Business and  
 2917 Professional Regulation, referred to as the "division" in this  
 2918 part, in addition to other powers and duties prescribed by  
 2919 chapter 718 498, has the power to enforce and ensure compliance  
 2920 with ~~the provisions of~~ this chapter and adopted rules  
 2921 ~~promulgated pursuant hereto~~ relating to the development,  
 2922 construction, sale, lease, ownership, operation, and management  
 2923 of residential cooperative units. In performing its duties, the  
 2924 division shall have the following powers and duties:

2925 (a) The division may make necessary public or private  
 2926 investigations within or outside this state to determine whether  
 2927 any person has violated this chapter or any rule or order  
 2928 hereunder, to aid in the enforcement of this chapter, or to aid  
 2929 in the adoption of rules or forms hereunder.

2930 (b) The division may require or permit any person to file  
 2931 a statement in writing, under oath or otherwise, as the division

2932 determines, as to the facts and circumstances concerning a  
 2933 matter to be investigated.

2934 (c) For the purpose of any investigation under this  
 2935 chapter, the division director or any officer or employee  
 2936 designated by the division director may administer oaths or  
 2937 affirmations, subpoena witnesses and compel their attendance,  
 2938 take evidence, and require the production of any matter which is  
 2939 relevant to the investigation, including the existence,  
 2940 description, nature, custody, condition, and location of any  
 2941 books, documents, or other tangible things and the identity and  
 2942 location of persons having knowledge of relevant facts or any  
 2943 other matter reasonably calculated to lead to the discovery of  
 2944 material evidence. Upon failure by a person to obey a subpoena  
 2945 or to answer questions propounded by the investigating officer  
 2946 and upon reasonable notice to all persons affected thereby, the  
 2947 division may apply to the circuit court for an order compelling  
 2948 compliance.

2949 (d) Notwithstanding any remedies available to unit owners  
 2950 and associations, if the division has reasonable cause to  
 2951 believe that a violation of any provision of this chapter or  
 2952 related rule promulgated pursuant hereto has occurred, the  
 2953 division may institute enforcement proceedings in its own name  
 2954 against a developer, association, officer, or member of the  
 2955 board, or its assignees or agents, as follows:

2956 1. The division may permit a person whose conduct or  
 2957 actions may be under investigation to waive formal proceedings  
 2958 and enter into a consent proceeding whereby orders, rules, or

2959 letters of censure or warning, whether formal or informal, may  
 2960 be entered against the person.

2961 2. The division may issue an order requiring the  
 2962 developer, association, officer, or member of the board, or its  
 2963 assignees or agents, to cease and desist from the unlawful  
 2964 practice and take such affirmative action as in the judgment of  
 2965 the division will carry out the purposes of this chapter. Such  
 2966 affirmative action may include, but is not limited to, an order  
 2967 requiring a developer to pay moneys determined to be owed to a  
 2968 condominium association.

2969 3. The division may bring an action in circuit court on  
 2970 behalf of a class of unit owners, lessees, or purchasers for  
 2971 declaratory relief, injunctive relief, or restitution.

2972 4. The division may impose a civil penalty against a  
 2973 developer or association, or its assignees or agents, for any  
 2974 violation of this chapter or related a rule ~~promulgated pursuant~~  
 2975 ~~hereto~~. The division may impose a civil penalty individually  
 2976 against any officer or board member who willfully and knowingly  
 2977 violates a provision of this chapter, a rule adopted pursuant to  
 2978 this chapter, or a final order of the division. The term  
 2979 "willfully and knowingly" means that the division informed the  
 2980 officer or board member that his or her action or intended  
 2981 action violates this chapter, a rule adopted under this chapter,  
 2982 or a final order of the division, and that the officer or board  
 2983 member refused to comply with the requirements of this chapter,  
 2984 a rule adopted under this chapter, or a final order of the  
 2985 division. The division, prior to initiating formal agency action  
 2986 under chapter 120, shall afford the officer or board member an

2987 opportunity to voluntarily comply with this chapter, a rule  
2988 adopted under this chapter, or a final order of the division. An  
2989 officer or board member who complies within 10 days is not  
2990 subject to a civil penalty. A penalty may be imposed on the  
2991 basis of each day of continuing violation, but in no event shall  
2992 the penalty for any offense exceed \$5,000. By January 1, 1998,  
2993 the division shall adopt, by rule, penalty guidelines applicable  
2994 to possible violations or to categories of violations of this  
2995 chapter or rules adopted by the division. The guidelines must  
2996 specify a meaningful range of civil penalties for each such  
2997 violation of the statute and rules and must be based upon the  
2998 harm caused by the violation, the repetition of the violation,  
2999 and upon such other factors deemed relevant by the division. For  
3000 example, the division may consider whether the violations were  
3001 committed by a developer or owner-controlled association, the  
3002 size of the association, and other factors. The guidelines must  
3003 designate the possible mitigating or aggravating circumstances  
3004 that justify a departure from the range of penalties provided by  
3005 the rules. It is the legislative intent that minor violations be  
3006 distinguished from those which endanger the health, safety, or  
3007 welfare of the cooperative residents or other persons and that  
3008 such guidelines provide reasonable and meaningful notice to the  
3009 public of likely penalties that may be imposed for proscribed  
3010 conduct. This subsection does not limit the ability of the  
3011 division to informally dispose of administrative actions or  
3012 complaints by stipulation, agreed settlement, or consent order.  
3013 All amounts collected shall be deposited with the Chief  
3014 Financial Officer to the credit of the Division of Florida ~~Land~~

3015 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If  
 3016 a developer fails to pay the civil penalty, the division shall  
 3017 thereupon issue an order directing that such developer cease and  
 3018 desist from further operation until such time as the civil  
 3019 penalty is paid or may pursue enforcement of the penalty in a  
 3020 court of competent jurisdiction. If an association fails to pay  
 3021 the civil penalty, the division shall thereupon pursue  
 3022 enforcement in a court of competent jurisdiction, and the order  
 3023 imposing the civil penalty or the cease and desist order shall  
 3024 not become effective until 20 days after the date of such order.  
 3025 Any action commenced by the division shall be brought in the  
 3026 county in which the division has its executive offices or in the  
 3027 county where the violation occurred.

3028 (e) The division may ~~is authorized to~~ prepare and  
 3029 disseminate a prospectus and other information to assist  
 3030 prospective owners, purchasers, lessees, and developers of  
 3031 residential cooperatives in assessing the rights, privileges,  
 3032 and duties pertaining thereto.

3033 (f) The division has authority to adopt rules pursuant to  
 3034 ss. 120.536(1) and 120.54 to implement and enforce the  
 3035 provisions of this chapter.

3036 (g) The division shall establish procedures for providing  
 3037 notice to an association when the division is considering the  
 3038 issuance of a declaratory statement with respect to the  
 3039 cooperative documents governing such cooperative community.

3040 (h) The division shall furnish each association which pays  
 3041 the fees required by paragraph (2) (a) a copy of this act,  
 3042 subsequent changes to this act on an annual basis, an amended

3043 version of this act as it becomes available from the Secretary  
3044 of State's office on a biennial basis, and the rules adopted  
3045 ~~promulgated pursuant~~ thereto on an annual basis.

3046 (i) The division shall annually provide each association  
3047 with a summary of declaratory statements and formal legal  
3048 opinions relating to the operations of cooperatives which were  
3049 rendered by the division during the previous year.

3050 (j) The division shall adopt uniform accounting  
3051 principles, policies, and standards to be used by all  
3052 associations in the preparation and presentation of all  
3053 financial statements required by this chapter. The principles,  
3054 policies, and standards shall take into consideration the size  
3055 of the association and the total revenue collected by the  
3056 association.

3057 (k) The division shall provide training programs for  
3058 cooperative association board members and unit owners.

3059 (l) The division shall maintain a toll-free telephone  
3060 number accessible to cooperative unit owners.

3061 (m) When a complaint is made to the division, the division  
3062 shall conduct its inquiry with reasonable dispatch and with due  
3063 regard to the interests of the affected parties. Within 30 days  
3064 after receipt of a complaint, the division shall acknowledge the  
3065 complaint in writing and notify the complainant whether the  
3066 complaint is within the jurisdiction of the division and whether  
3067 additional information is needed by the division from the  
3068 complainant. The division shall conduct its investigation and  
3069 shall, within 90 days after receipt of the original complaint or  
3070 timely requested additional information, take action upon the

3071 complaint. However, the failure to complete the investigation  
3072 within 90 days does not prevent the division from continuing the  
3073 investigation, accepting or considering evidence obtained or  
3074 received after 90 days, or taking administrative action if  
3075 reasonable cause exists to believe that a violation of this  
3076 chapter or a rule of the division has occurred. If an  
3077 investigation is not completed within the time limits  
3078 established in this paragraph, the division shall, on a monthly  
3079 basis, notify the complainant in writing of the status of the  
3080 investigation. When reporting its action to the complainant, the  
3081 division shall inform the complainant of any right to a hearing  
3082 pursuant to ss. 120.569 and 120.57.

3083 (n) The division shall develop a program to certify both  
3084 volunteer and paid mediators to provide mediation of cooperative  
3085 disputes. The division shall provide, upon request, a list of  
3086 such mediators to any association, unit owner, or other  
3087 participant in arbitration proceedings under s. 718.1255  
3088 requesting a copy of the list. The division shall include on the  
3089 list of voluntary mediators only persons who have received at  
3090 least 20 hours of training in mediation techniques or have  
3091 mediated at least 20 disputes. In order to become initially  
3092 certified by the division, paid mediators must be certified by  
3093 the Supreme Court to mediate court cases in ~~either~~ county or  
3094 circuit courts. However, the division may adopt, by rule,  
3095 additional factors for the certification of paid mediators,  
3096 which factors must be related to experience, education, or  
3097 background. Any person initially certified as a paid mediator by  
3098 the division must, in order to continue to be certified, comply



3099 with the factors or requirements imposed by rules adopted by the  
 3100 division.

3101 (2) (a) Each cooperative association shall pay to the  
 3102 division, on or before January 1 of each year, an annual fee in  
 3103 the amount of \$4 for each residential unit in cooperatives  
 3104 operated by the association. If the fee is not paid by March 1,  
 3105 then the association shall be assessed a penalty of 10 percent  
 3106 of the amount due, and the association shall not have the  
 3107 standing to maintain or defend any action in the courts of this  
 3108 state until the amount due is paid.

3109 (b) All fees shall be deposited in the Division of Florida  
 3110 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
 3111 Fund as provided by law.

3112 Section 57. Paragraph (a) of subsection (2) of section  
 3113 719.502, Florida Statutes, is amended to read:

3114 719.502 Filing prior to sale or lease.--

3115 (2) (a) Prior to filing as required by subsection (1), and  
 3116 prior to acquiring an ownership, leasehold, or contractual  
 3117 interest in the land upon which the cooperative is to be  
 3118 developed, a developer shall not offer a contract for purchase  
 3119 or lease of a unit for more than 5 years. However, the developer  
 3120 may accept deposits for reservations upon the approval of a  
 3121 fully executed escrow agreement and reservation agreement form  
 3122 properly filed with the Division of Florida ~~Land Sales~~,  
 3123 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
 3124 proposed reservation program shall be accompanied by a filing  
 3125 fee of \$250. Reservations shall not be taken on a proposed  
 3126 cooperative unless the developer has an ownership, leasehold, or

3127 contractual interest in the land upon which the cooperative is  
3128 to be developed. The division shall notify the developer within  
3129 20 days of receipt of the reservation filing of any deficiencies  
3130 contained therein. Such notification shall not preclude the  
3131 determination of reservation filing deficiencies at a later  
3132 date, nor shall it relieve the developer of any responsibility  
3133 under the law. The escrow agreement and the reservation  
3134 agreement form shall include a statement of the right of the  
3135 prospective purchaser to an immediate unqualified refund of the  
3136 reservation deposit moneys upon written request to the escrow  
3137 agent by the prospective purchaser or the developer.

3138 Section 58. Section 719.504, Florida Statutes, is amended  
3139 to read:

3140 719.504 Prospectus or offering circular.--Every developer  
3141 of a residential cooperative which contains more than 20  
3142 residential units, or which is part of a group of residential  
3143 cooperatives which will be served by property to be used in  
3144 common by unit owners of more than 20 residential units, shall  
3145 prepare a prospectus or offering circular and file it with the  
3146 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
3147 Mobile Homes prior to entering into an enforceable contract of  
3148 purchase and sale of any unit or lease of a unit for more than 5  
3149 years and shall furnish a copy of the prospectus or offering  
3150 circular to each buyer. In addition to the prospectus or  
3151 offering circular, each buyer shall be furnished a separate page  
3152 entitled "Frequently Asked Questions and Answers," which must be  
3153 in accordance with a format approved by the division. This page  
3154 must, in readable language: inform prospective purchasers

3155 regarding their voting rights and unit use restrictions,  
 3156 including restrictions on the leasing of a unit; indicate  
 3157 whether and in what amount the unit owners or the association is  
 3158 obligated to pay rent or land use fees for recreational or other  
 3159 commonly used facilities; contain a statement identifying that  
 3160 amount of assessment which, pursuant to the budget, would be  
 3161 levied upon each unit type, exclusive of any special  
 3162 assessments, and which identifies the basis upon which  
 3163 assessments are levied, whether monthly, quarterly, or  
 3164 otherwise; state and identify any court cases in which the  
 3165 association is currently a party of record in which the  
 3166 association may face liability in excess of \$100,000; and state  
 3167 whether membership in a recreational facilities association is  
 3168 mandatory and, if so, identify the fees currently charged per  
 3169 unit type. The division shall by rule require such other  
 3170 disclosure as in its judgment will assist prospective  
 3171 purchasers. The prospectus or offering circular may include more  
 3172 than one cooperative, although not all such units are being  
 3173 offered for sale as of the date of the prospectus or offering  
 3174 circular. The prospectus or offering circular must contain the  
 3175 following information:

3176 (1) The front cover or the first page must contain only:

3177 (a) The name of the cooperative.

3178 (b) The following statements in conspicuous type:

3179 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
 3180 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

3181 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
 3182 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,

3183 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
 3184 MATERIALS.

3185 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
 3186 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
 3187 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
 3188 REPRESENTATIONS.

3189 (2) Summary: The next page must contain all statements  
 3190 required to be in conspicuous type in the prospectus or offering  
 3191 circular.

3192 (3) A separate index of the contents and exhibits of the  
 3193 prospectus.

3194 (4) Beginning on the first page of the text (not including  
 3195 the summary and index), a description of the cooperative,  
 3196 including, but not limited to, the following information:

3197 (a) Its name and location.

3198 (b) A description of the cooperative property, including,  
 3199 without limitation:

3200 1. The number of buildings, the number of units in each  
 3201 building, the number of bathrooms and bedrooms in each unit, and  
 3202 the total number of units, if the cooperative is not a phase  
 3203 cooperative; or, if the cooperative is a phase cooperative, the  
 3204 maximum number of buildings that may be contained within the  
 3205 cooperative, the minimum and maximum number of units in each  
 3206 building, the minimum and maximum number of bathrooms and  
 3207 bedrooms that may be contained in each unit, and the maximum  
 3208 number of units that may be contained within the cooperative.

3209 2. The page in the cooperative documents where a copy of  
 3210 the survey and plot plan of the cooperative is located.

3211           3. The estimated latest date of completion of  
 3212 constructing, finishing, and equipping. In lieu of a date, a  
 3213 statement that the estimated date of completion of the  
 3214 cooperative is in the purchase agreement and a reference to the  
 3215 article or paragraph containing that information.

3216           (c) The maximum number of units that will use facilities  
 3217 in common with the cooperative. If the maximum number of units  
 3218 will vary, a description of the basis for variation and the  
 3219 minimum amount of dollars per unit to be spent for additional  
 3220 recreational facilities or enlargement of such facilities. If  
 3221 the addition or enlargement of facilities will result in a  
 3222 material increase of a unit owner's maintenance expense or  
 3223 rental expense, if any, the maximum increase and limitations  
 3224 thereon shall be stated.

3225           (5) (a) A statement in conspicuous type describing whether  
 3226 the cooperative is created and being sold as fee simple  
 3227 interests or as leasehold interests. If the cooperative is  
 3228 created or being sold on a leasehold, the location of the lease  
 3229 in the disclosure materials shall be stated.

3230           (b) If timeshare estates are or may be created with  
 3231 respect to any unit in the cooperative, a statement in  
 3232 conspicuous type stating that timeshare estates are created and  
 3233 being sold in such specified units in the cooperative.

3234           (6) A description of the recreational and other common  
 3235 areas that will be used only by unit owners of the cooperative,  
 3236 including, but not limited to, the following:

3237           (a) Each room and its intended purposes, location,  
 3238 approximate floor area, and capacity in numbers of people.

3239 (b) Each swimming pool, as to its general location,  
3240 approximate size and depths, approximate deck size and capacity,  
3241 and whether heated.

3242 (c) Additional facilities, as to the number of each  
3243 facility, its approximate location, approximate size, and  
3244 approximate capacity.

3245 (d) A general description of the items of personal  
3246 property and the approximate number of each item of personal  
3247 property that the developer is committing to furnish for each  
3248 room or other facility or, in the alternative, a representation  
3249 as to the minimum amount of expenditure that will be made to  
3250 purchase the personal property for the facility.

3251 (e) The estimated date when each room or other facility  
3252 will be available for use by the unit owners.

3253 (f)1. An identification of each room or other facility to  
3254 be used by unit owners that will not be owned by the unit owners  
3255 or the association;

3256 2. A reference to the location in the disclosure materials  
3257 of the lease or other agreements providing for the use of those  
3258 facilities; and

3259 3. A description of the terms of the lease or other  
3260 agreements, including the length of the term; the rent payable,  
3261 directly or indirectly, by each unit owner, and the total rent  
3262 payable to the lessor, stated in monthly and annual amounts for  
3263 the entire term of the lease; and a description of any option to  
3264 purchase the property leased under any such lease, including the  
3265 time the option may be exercised, the purchase price or how it  
3266 is to be determined, the manner of payment, and whether the

3267 option may be exercised for a unit owner's share or only as to  
 3268 the entire leased property.

3269 (g) A statement as to whether the developer may provide  
 3270 additional facilities not described above, their general  
 3271 locations and types, improvements or changes that may be made,  
 3272 the approximate dollar amount to be expended, and the maximum  
 3273 additional common expense or cost to the individual unit owners  
 3274 that may be charged during the first annual period of operation  
 3275 of the modified or added facilities.

3276  
 3277 Descriptions as to locations, areas, capacities, numbers,  
 3278 volumes, or sizes may be stated as approximations or minimums.

3279 (7) A description of the recreational and other facilities  
 3280 that will be used in common with other cooperatives, community  
 3281 associations, or planned developments which require the payment  
 3282 of the maintenance and expenses of such facilities, ~~either~~  
 3283 directly or indirectly, by the unit owners. The description  
 3284 shall include, but not be limited to, the following:

3285 (a) Each building and facility committed to be built.

3286 (b) Facilities not committed to be built except under  
 3287 certain conditions, and a statement of those conditions or  
 3288 contingencies.

3289 (c) As to each facility committed to be built, or which  
 3290 will be committed to be built upon the happening of one of the  
 3291 conditions in paragraph (b), a statement of whether it will be  
 3292 owned by the unit owners having the use thereof or by an  
 3293 association or other entity which will be controlled by them, or

3294 others, and the location in the exhibits of the lease or other  
 3295 document providing for use of those facilities.

3296 (d) The year in which each facility will be available for  
 3297 use by the unit owners or, in the alternative, the maximum  
 3298 number of unit owners in the project at the time each of all of  
 3299 the facilities is committed to be completed.

3300 (e) A general description of the items of personal  
 3301 property, and the approximate number of each item of personal  
 3302 property, that the developer is committing to furnish for each  
 3303 room or other facility or, in the alternative, a representation  
 3304 as to the minimum amount of expenditure that will be made to  
 3305 purchase the personal property for the facility.

3306 (f) If there are leases, a description thereof, including  
 3307 the length of the term, the rent payable, and a description of  
 3308 any option to purchase.

3309  
 3310 Descriptions shall include location, areas, capacities, numbers,  
 3311 volumes, or sizes and may be stated as approximations or  
 3312 minimums.

3313 (8) Recreation lease or associated club membership:

3314 (a) If any recreational facilities or other common areas  
 3315 offered by the developer and available to, or to be used by,  
 3316 unit owners are to be leased or have club membership associated,  
 3317 the following statement in conspicuous type shall be included:

3318 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 3319 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 3320 COOPERATIVE. There shall be a reference to the location in the



3321 disclosure materials where the recreation lease or club  
 3322 membership is described in detail.

3323 (b) If it is mandatory that unit owners pay a fee, rent,  
 3324 dues, or other charges under a recreational facilities lease or  
 3325 club membership for the use of facilities, there shall be in  
 3326 conspicuous type the applicable statement:

3327 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
 3328 MANDATORY FOR UNIT OWNERS; or

3329 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
 3330 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3331 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
 3332 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
 3333 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
 3334 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3335 4. A similar statement of the nature of the organization  
 3336 or manner in which the use rights are created, and that unit  
 3337 owners are required to pay.

3338  
 3339 Immediately following the applicable statement, the location in  
 3340 the disclosure materials where the development is described in  
 3341 detail shall be stated.

3342 (c) If the developer, or any other person other than the  
 3343 unit owners and other persons having use rights in the  
 3344 facilities, reserves, or is entitled to receive, any rent, fee,  
 3345 or other payment for the use of the facilities, then there shall  
 3346 be the following statement in conspicuous type: THE UNIT OWNERS  
 3347 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 3348 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this

3349 | statement, the location in the disclosure materials where the  
 3350 | rent or land use fees are described in detail shall be stated.

3351 | (d) If, in any recreation format, whether leasehold, club,  
 3352 | or other, any person other than the association has the right to  
 3353 | a lien on the units to secure the payment of assessments, rent,  
 3354 | or other exactions, there shall appear a statement in  
 3355 | conspicuous type in substantially the following form:

3356 | 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 3357 | SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
 3358 | RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 3359 | PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

3360 | 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 3361 | SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
 3362 | FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
 3363 | OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 3364 | PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3365 |  
 3366 | Immediately following the applicable statement, the location in  
 3367 | the disclosure materials where the lien or lien right is  
 3368 | described in detail shall be stated.

3369 | (9) If the developer or any other person has the right to  
 3370 | increase or add to the recreational facilities at any time after  
 3371 | the establishment of the cooperative whose unit owners have use  
 3372 | rights therein, without the consent of the unit owners or  
 3373 | associations being required, there shall appear a statement in  
 3374 | conspicuous type in substantially the following form:

3375 | RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
 3376 | OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

3377 statement, the location in the disclosure materials where such  
 3378 reserved rights are described shall be stated.

3379 (10) A statement of whether the developer's plan includes  
 3380 a program of leasing units rather than selling them, or leasing  
 3381 units and selling them subject to such leases. If so, there  
 3382 shall be a description of the plan, including the number and  
 3383 identification of the units and the provisions and term of the  
 3384 proposed leases, and a statement in boldfaced type that: **THE**  
 3385 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

3386 (11) The arrangements for management of the association  
 3387 and maintenance and operation of the cooperative property and of  
 3388 other property that will serve the unit owners of the  
 3389 cooperative property, and a description of the management  
 3390 contract and all other contracts for these purposes having a  
 3391 term in excess of 1 year, including the following:

- 3392 (a) The names of contracting parties.
- 3393 (b) The term of the contract.
- 3394 (c) The nature of the services included.
- 3395 (d) The compensation, stated on a monthly and annual  
 3396 basis, and provisions for increases in the compensation.
- 3397 (e) A reference to the volumes and pages of the  
 3398 cooperative documents and of the exhibits containing copies of  
 3399 such contracts.

3400  
 3401 Copies of all described contracts shall be attached as exhibits.  
 3402 If there is a contract for the management of the cooperative  
 3403 property, then a statement in conspicuous type in substantially  
 3404 the following form shall appear, identifying the proposed or

3405 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
3406 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE  
3407 CONTRACT MANAGER). Immediately following this statement, the  
3408 location in the disclosure materials of the contract for  
3409 management of the cooperative property shall be stated.

3410 (12) If the developer or any other person or persons other  
3411 than the unit owners has the right to retain control of the  
3412 board of administration of the association for a period of time  
3413 which can exceed 1 year after the closing of the sale of a  
3414 majority of the units in that cooperative to persons other than  
3415 successors or alternate developers, then a statement in  
3416 conspicuous type in substantially the following form shall be  
3417 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
3418 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
3419 HAVE BEEN SOLD. Immediately following this statement, the  
3420 location in the disclosure materials where this right to control  
3421 is described in detail shall be stated.

3422 (13) If there are any restrictions upon the sale,  
3423 transfer, conveyance, or leasing of a unit, then a statement in  
3424 conspicuous type in substantially the following form shall be  
3425 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
3426 CONTROLLED. Immediately following this statement, the location  
3427 in the disclosure materials where the restriction, limitation,  
3428 or control on the sale, lease, or transfer of units is described  
3429 in detail shall be stated.

3430 (14) If the cooperative is part of a phase project, the  
3431 following shall be stated:

3432 (a) A statement in conspicuous type in substantially the  
 3433 following form shall be included: THIS IS A PHASE COOPERATIVE.  
 3434 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
 3435 Immediately following this statement, the location in the  
 3436 disclosure materials where the phasing is described shall be  
 3437 stated.

3438 (b) A summary of the provisions of the declaration  
 3439 providing for the phasing.

3440 (c) A statement as to whether or not residential buildings  
 3441 and units which are added to the cooperative may be  
 3442 substantially different from the residential buildings and units  
 3443 originally in the cooperative, and, if the added residential  
 3444 buildings and units may be substantially different, there shall  
 3445 be a general description of the extent to which such added  
 3446 residential buildings and units may differ, and a statement in  
 3447 conspicuous type in substantially the following form shall be  
 3448 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE  
 3449 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
 3450 UNITS IN THE COOPERATIVE. Immediately following this statement,  
 3451 the location in the disclosure materials where the extent to  
 3452 which added residential buildings and units may substantially  
 3453 differ is described shall be stated.

3454 (d) A statement of the maximum number of buildings  
 3455 containing units, the maximum and minimum number of units in  
 3456 each building, the maximum number of units, and the minimum and  
 3457 maximum square footage of the units that may be contained within  
 3458 each parcel of land which may be added to the cooperative.

3459 (15) If the cooperative is created by conversion of  
3460 existing improvements, the following information shall be  
3461 stated:

3462 (a) The information required by s. 719.616.

3463 (b) A caveat that there are no express warranties unless  
3464 they are stated in writing by the developer.

3465 (16) A summary of the restrictions, if any, to be imposed  
3466 on units concerning the use of any of the cooperative property,  
3467 including statements as to whether there are restrictions upon  
3468 children and pets, and reference to the volumes and pages of the  
3469 cooperative documents where such restrictions are found, or if  
3470 such restrictions are contained elsewhere, then a copy of the  
3471 documents containing the restrictions shall be attached as an  
3472 exhibit.

3473 (17) If there is any land that is offered by the developer  
3474 for use by the unit owners and that is neither owned by them nor  
3475 leased to them, the association, or any entity controlled by  
3476 unit owners and other persons having the use rights to such  
3477 land, a statement shall be made as to how such land will serve  
3478 the cooperative. If any part of such land will serve the  
3479 cooperative, the statement shall describe the land and the  
3480 nature and term of service, and the cooperative documents or  
3481 other instrument creating such servitude shall be included as an  
3482 exhibit.

3483 (18) The manner in which utility and other services,  
3484 including, but not limited to, sewage and waste disposal, water  
3485 supply, and storm drainage, will be provided and the person or  
3486 entity furnishing them.

3487 (19) An explanation of the manner in which the  
3488 apportionment of common expenses and ownership of the common  
3489 areas have been determined.

3490 (20) An estimated operating budget for the cooperative and  
3491 the association, and a schedule of the unit owner's expenses  
3492 shall be attached as an exhibit and shall contain the following  
3493 information:

3494 (a) The estimated monthly and annual expenses of the  
3495 cooperative and the association that are collected from unit  
3496 owners by assessments.

3497 (b) The estimated monthly and annual expenses of each unit  
3498 owner for a unit, other than assessments payable to the  
3499 association, payable by the unit owner to persons or entities  
3500 other than the association, and the total estimated monthly and  
3501 annual expense. There may be excluded from this estimate  
3502 expenses that are personal to unit owners, which are not  
3503 uniformly incurred by all unit owners, or which are not provided  
3504 for or contemplated by the cooperative documents, including, but  
3505 not limited to, the costs of private telephone; maintenance of  
3506 the interior of cooperative units, which is not the obligation  
3507 of the association; maid or janitorial services privately  
3508 contracted for by the unit owners; utility bills billed directly  
3509 to each unit owner for utility services to his or her unit;  
3510 insurance premiums other than those incurred for policies  
3511 obtained by the cooperative; and similar personal expenses of  
3512 the unit owner. A unit owner's estimated payments for  
3513 assessments shall also be stated in the estimated amounts for  
3514 the times when they will be due.

3515 (c) The estimated items of expenses of the cooperative and  
 3516 the association, except as excluded under paragraph (b),  
 3517 including, but not limited to, the following items, which shall  
 3518 be stated ~~either~~ as an association expense collectible by  
 3519 assessments or as unit owners' expenses payable to persons other  
 3520 than the association:

- 3521 1. Expenses for the association and cooperative:
  - 3522 a. Administration of the association.
  - 3523 b. Management fees.
  - 3524 c. Maintenance.
  - 3525 d. Rent for recreational and other commonly used areas.
  - 3526 e. Taxes upon association property.
  - 3527 f. Taxes upon leased areas.
  - 3528 g. Insurance.
  - 3529 h. Security provisions.
  - 3530 i. Other expenses.
  - 3531 j. Operating capital.
  - 3532 k. Reserves.
    - 3533 1. Fee payable to the division.
  - 3534 2. Expenses for a unit owner:
    - 3535 a. Rent for the unit, if subject to a lease.
    - 3536 b. Rent payable by the unit owner directly to the lessor  
 3537 or agent under any recreational lease or lease for the use of  
 3538 commonly used areas, which use and payment are a mandatory  
 3539 condition of ownership and are not included in the common  
 3540 expense or assessments for common maintenance paid by the unit  
 3541 owners to the association.



3542 (d) The following statement in conspicuous type: THE  
3543 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
3544 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE  
3545 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
3546 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
3547 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
3548 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
3549 THE OFFERING.

3550 (e) Each budget for an association prepared by a developer  
3551 consistent with this subsection shall be prepared in good faith  
3552 and shall reflect accurate estimated amounts for the required  
3553 items in paragraph (c) at the time of the filing of the offering  
3554 circular with the division, and subsequent increased amounts of  
3555 any item included in the association's estimated budget that are  
3556 beyond the control of the developer shall not be considered an  
3557 amendment that would give rise to rescission rights set forth in  
3558 s. 719.503(1)(a) or (b), nor shall such increases modify, void,  
3559 or otherwise affect any guarantee of the developer contained in  
3560 the offering circular or any purchase contract. It is the intent  
3561 of this paragraph to clarify existing law.

3562 (f) The estimated amounts shall be stated for a period of  
3563 at least 12 months and may distinguish between the period prior  
3564 to the time unit owners other than the developer elect a  
3565 majority of the board of administration and the period after  
3566 that date.

3567 (21) A schedule of estimated closing expenses to be paid  
3568 by a buyer or lessee of a unit and a statement of whether title

3569 opinion or title insurance policy is available to the buyer and,  
 3570 if so, at whose expense.

3571 (22) The identity of the developer and the chief operating  
 3572 officer or principal directing the creation and sale of the  
 3573 cooperative and a statement of its and his or her experience in  
 3574 this field.

3575 (23) Copies of the following, to the extent they are  
 3576 applicable, shall be included as exhibits:

3577 (a) The cooperative documents, or the proposed cooperative  
 3578 documents if the documents have not been recorded.

3579 (b) The articles of incorporation creating the  
 3580 association.

3581 (c) The bylaws of the association.

3582 (d) The ground lease or other underlying lease of the  
 3583 cooperative.

3584 (e) The management agreement and all maintenance and other  
 3585 contracts for management of the association and operation of the  
 3586 cooperative and facilities used by the unit owners having a  
 3587 service term in excess of 1 year.

3588 (f) The estimated operating budget for the cooperative and  
 3589 the required schedule of unit owners' expenses.

3590 (g) A copy of the floor plan of the unit and the plot plan  
 3591 showing the location of the residential buildings and the  
 3592 recreation and other common areas.

3593 (h) The lease of recreational and other facilities that  
 3594 will be used only by unit owners of the subject cooperative.

3595 (i) The lease of facilities used by owners and others.

3596 (j) The form of unit lease, if the offer is of a  
 3597 leasehold.

3598 (k) A declaration of servitude of properties serving the  
 3599 cooperative but not owned by unit owners or leased to them or  
 3600 the association.

3601 (l) The statement of condition of the existing building or  
 3602 buildings, if the offering is of units in an operation being  
 3603 converted to cooperative ownership.

3604 (m) The statement of inspection for termite damage and  
 3605 treatment of the existing improvements, if the cooperative is a  
 3606 conversion.

3607 (n) The form of agreement for sale or lease of units.

3608 (o) A copy of the agreement for escrow of payments made to  
 3609 the developer prior to closing.

3610 (p) A copy of the documents containing any restrictions on  
 3611 use of the property required by subsection (16).

3612 (24) Any prospectus or offering circular complying with  
 3613 the provisions of former ss. 711.69 and 711.802 may continue to  
 3614 be used without amendment, or may be amended to comply with ~~the~~  
 3615 ~~provisions of~~ this chapter.

3616 (25) A brief narrative description of the location and  
 3617 effect of all existing and intended easements located or to be  
 3618 located on the cooperative property other than those in the  
 3619 declaration.

3620 (26) If the developer is required by state or local  
 3621 authorities to obtain acceptance or approval of any dock or  
 3622 marina facility intended to serve the cooperative, a copy of  
 3623 such acceptance or approval acquired by the time of filing with

3624 the division pursuant to s. 719.502 or a statement that such  
 3625 acceptance has not been acquired or received.

3626 (27) Evidence demonstrating that the developer has an  
 3627 ownership, leasehold, or contractual interest in the land upon  
 3628 which the cooperative is to be developed.

3629 Section 59. Section 719.508, Florida Statutes, is amended  
 3630 to read:

3631 719.508 Regulation by Division of Hotels and  
 3632 Restaurants.--In addition to the authority, regulation, or  
 3633 control exercised by the Division of Florida ~~Land Sales,~~  
 3634 Condominiums, Timeshares, and Mobile Homes pursuant to this act  
 3635 with respect to cooperatives, buildings included in a  
 3636 cooperative property shall be subject to the authority,  
 3637 regulation, or control of the Division of Hotels and Restaurants  
 3638 of the Department of Business and Professional Regulation, to  
 3639 the extent provided ~~for~~ in chapters 399 and 509.

3640 Section 60. Paragraph (a) of subsection (2) of section  
 3641 719.608, Florida Statutes, is amended to read:

3642 719.608 Notice of intended conversion; time of delivery;  
 3643 content.--

3644 (2) (a) Each notice of intended conversion shall be dated  
 3645 and in writing. The notice shall contain the following  
 3646 statement, with the phrases of the following statement which  
 3647 appear in upper case printed in conspicuous type:

3648  
 3649 These apartments are being converted to cooperative by  
 3650 (name of developer) , the developer.

3651 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
 3652 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
 3653 AGREEMENT AS FOLLOWS:

3654 a. If you have continuously been a resident of these  
 3655 apartments during the last 180 days and your rental agreement  
 3656 expires during the next 270 days, you may extend your rental  
 3657 agreement for up to 270 days after the date of this notice.

3658 b. If you have not been a continuous resident of these  
 3659 apartments for the last 180 days and your rental agreement  
 3660 expires during the next 180 days, you may extend your rental  
 3661 agreement for up to 180 days after the date of this notice.

3662 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
 3663 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
 3664 DATE OF THIS NOTICE.

3665 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
 3666 you may extend your rental agreement for up to 45 days after the  
 3667 date of this notice while you decide whether to extend your  
 3668 rental agreement as explained above. To do so, you must notify  
 3669 the developer in writing. You will then have the full 45 days to  
 3670 decide whether to extend your rental agreement as explained  
 3671 above.

3672 3. During the extension of your rental agreement you will  
 3673 be charged the same rent that you are now paying.

3674 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
 3675 OF THE RENTAL AGREEMENT AS FOLLOWS:

3676 a. If your rental agreement began or was extended or  
 3677 renewed after May 1, 1980, and your rental agreement, including  
 3678 extensions and renewals, has an unexpired term of 180 days or

3679 | less, you may cancel your rental agreement upon 30 days' written  
3680 | notice and move. Also, upon 30 days' written notice, you may  
3681 | cancel any extension of the rental agreement.

3682 |       b. If your rental agreement was not begun or was not  
3683 | extended or renewed after May 1, 1980, you may not cancel the  
3684 | rental agreement without the consent of the developer. If your  
3685 | rental agreement, including extensions and renewals, has an  
3686 | unexpired term of 180 days or less, you may, however, upon 30  
3687 | days' written notice cancel any extension of the rental  
3688 | agreement.

3689 |       5. All notices must be given in writing and sent by mail,  
3690 | return receipt requested, or delivered in person to the  
3691 | developer at this address: (name and address of developer) .

3692 |       6. If you have continuously been a resident of these  
3693 | apartments during the last 180 days:

3694 |       a. You have the right to purchase your apartment and will  
3695 | have 45 days to decide whether to purchase. If you do not buy  
3696 | the unit at that price and the unit is later offered at a lower  
3697 | price, you will have the opportunity to buy the unit at the  
3698 | lower price. However, in all events your right to purchase the  
3699 | unit ends when the rental agreement or any extension of the  
3700 | rental agreement ends or when you waive this right in writing.

3701 |       b. Within 90 days you will be provided purchase  
3702 | information relating to your apartment, including the price of  
3703 | your unit and the condition of the building. If you do not  
3704 | receive this information within 90 days, your rental agreement  
3705 | and any extension will be extended 1 day for each day over 90  
3706 | days until you are given the purchase information. If you do not

3707 want this rental agreement extension, you must notify the  
 3708 developer in writing.

3709 7. If you have any questions regarding this conversion or  
 3710 the Cooperative Act, you may contact the developer or the state  
 3711 agency which regulates cooperatives: The Division of Florida  
 3712 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,  
 3713 (Tallahassee address and telephone number of division) .

3714 Section 61. Subsection (7) of section 720.301, Florida  
 3715 Statutes, is amended to read:

3716 720.301 Definitions.--As used in this chapter, the term:

3717 (7) "Division" means the Division of Florida ~~Land Sales~~,  
 3718 Condominiums, Timeshares, and Mobile Homes in the Department of  
 3719 Business and Professional Regulation.

3720 Section 62. Subsection (2) of section 720.401, Florida  
 3721 Statutes, is amended to read:

3722 720.401 Prospective purchasers subject to association  
 3723 membership requirement; disclosure required; covenants;  
 3724 assessments; contract cancellation.--

3725 (2) This section does not apply to any association  
 3726 regulated under chapter 718, chapter 719, chapter 721, or  
 3727 chapter 723 ~~or to a subdivider registered under chapter 498~~; and  
 3728 also does not apply if disclosure regarding the association is  
 3729 otherwise made in connection with the requirements of chapter  
 3730 718, chapter 719, chapter 721, or chapter 723.

3731 Section 63. Paragraph (c) of subsection (1) of section  
 3732 721.03, Florida Statutes, is amended to read:

3733 721.03 Scope of chapter.--

3734 (1) This chapter applies to all timeshare plans consisting  
 3735 of more than seven timeshare periods over a period of at least 3  
 3736 years in which the accommodations and facilities, if any, are  
 3737 located within this state or offered within this state; provided  
 3738 that:

3739 (c) All timeshare accommodations or facilities which are  
 3740 located outside the state but offered for sale in this state  
 3741 shall be governed by the following:

3742 1. The offering for sale in this state of timeshare  
 3743 accommodations and facilities located outside the state is  
 3744 subject only to the provisions of ss. 721.01-721.12, 721.18,  
 3745 721.20, 721.21, 721.26, 721.28, and part II.

3746 2. The division shall not require a developer of timeshare  
 3747 accommodations or facilities located outside of this state to  
 3748 make changes in any timeshare instrument to conform to the  
 3749 provisions of s. 721.07 or s. 721.55. The division shall have  
 3750 the power to require disclosure of those provisions of the  
 3751 timeshare instrument that do not conform to s. 721.07 or s.  
 3752 721.55 as the director determines is necessary to fairly,  
 3753 meaningfully, and effectively disclose all aspects of the  
 3754 timeshare plan.

3755 3. Except as provided in this subparagraph, the division  
 3756 shall have no authority to determine whether any person has  
 3757 complied with another state's laws or to disapprove any filing  
 3758 out-of-state, timeshare instrument, or component site document,  
 3759 based solely upon the lack or degree of timeshare regulation in  
 3760 another state. The division may require a developer to obtain  
 3761 and provide to the division existing documentation relating to



3762 an out-of-state filing, timeshare instrument, or component site  
3763 document and prove compliance of same with the laws of that  
3764 state. In this regard, the division may accept any evidence of  
3765 the approval or acceptance of any out-of-state filing, timeshare  
3766 instrument, or component site document by another state in lieu  
3767 of requiring a developer to file the out-of-state filing,  
3768 timeshare instrument, or component site document with the  
3769 division pursuant to this section, or the division may accept an  
3770 opinion letter from an attorney or law firm opining as to the  
3771 compliance of such out-of-state filing, timeshare instrument, or  
3772 component site document with the laws of another state. The  
3773 division may refuse to approve the inclusion of any out-of-state  
3774 filing, timeshare instrument, or component site document as part  
3775 of a public offering statement based upon the inability of the  
3776 developer to establish the compliance of same with the laws of  
3777 another state.

3778 4. The division is authorized to enter into an agreement  
3779 with another state for the purpose of facilitating the  
3780 processing of out-of-state timeshare instruments or other  
3781 component site documents pursuant to this chapter and for the  
3782 purpose of facilitating the referral of consumer complaints to  
3783 the appropriate state.

3784 5. Notwithstanding any other provision of this paragraph,  
3785 the offer, in this state, of an additional interest to existing  
3786 purchasers in the same timeshare plan, the same nonspecific  
3787 multisite timeshare plan, or the same component site of a  
3788 multisite timeshare plan with accommodations and facilities  
3789 located outside of this state shall not be subject to the

3790 provisions of this chapter if the offer complies with the  
 3791 provisions of s. 721.11(4).

3792 Section 64. Subsection (11) of section 721.05, Florida  
 3793 Statutes, is amended to read:

3794 721.05 Definitions.--As used in this chapter, the term:

3795 (11) "Division" means the Division of Florida ~~Land Sales,~~  
 3796 Condominiums, Timeshares, and Mobile Homes of the Department of  
 3797 Business and Professional Regulation.

3798 Section 65. Paragraph (d) of subsection (2) of section  
 3799 721.07, Florida Statutes, is amended to read:

3800 721.07 Public offering statement.--Prior to offering any  
 3801 timeshare plan, the developer must submit a filed public  
 3802 offering statement to the division for approval as prescribed by  
 3803 s. 721.03, s. 721.55, or this section. Until the division  
 3804 approves such filing, any contract regarding the sale of that  
 3805 timeshare plan is subject to cancellation by the purchaser  
 3806 pursuant to s. 721.10.

3807 (2)

3808 (d) A developer shall have the authority to deliver to  
 3809 purchasers any purchaser public offering statement that is not  
 3810 yet approved by the division, provided that the following shall  
 3811 apply:

3812 1. At the time the developer delivers an unapproved  
 3813 purchaser public offering statement to a purchaser pursuant to  
 3814 this paragraph, the developer shall deliver a fully completed  
 3815 and executed copy of the purchase contract required by s. 721.06  
 3816 that contains the following statement in conspicuous type in

3817 substantially the following form which shall replace the  
 3818 statements required by s. 721.06(1)(g):

3819  
 3820 The developer is delivering to you a public offering statement  
 3821 that has been filed with but not yet approved by the Division of  
 3822 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes.  
 3823 Any revisions to the unapproved public offering statement you  
 3824 have received must be delivered to you, but only if the  
 3825 revisions materially alter or modify the offering in a manner  
 3826 adverse to you. After the division approves the public offering  
 3827 statement, you will receive notice of the approval from the  
 3828 developer and the required revisions, if any.

3829  
 3830 Your statutory right to cancel this transaction without any  
 3831 penalty or obligation expires 10 calendar days after the date  
 3832 you signed your purchase contract or the date on which you  
 3833 receive the last of all documents required to be given to you  
 3834 pursuant to section 721.07(6), Florida Statutes, or 10 calendar  
 3835 days after you receive revisions required to be delivered to  
 3836 you, if any, whichever is later. If you decide to cancel this  
 3837 contract, you must notify the seller in writing of your intent  
 3838 to cancel. Your notice of cancellation shall be effective upon  
 3839 the date sent and shall be sent to (Name of Seller) at  
 3840 (Address of Seller) . Any attempt to obtain a waiver of your  
 3841 cancellation right is void and of no effect. While you may  
 3842 execute all closing documents in advance, the closing, as  
 3843 evidenced by delivery of the deed or other document, before  
 3844 expiration of your 10-day cancellation period, is prohibited.

3845  
3846           2. After receipt of approval from the division and prior  
3847 to closing, if any revisions made to the documents contained in  
3848 the purchaser public offering statement materially alter or  
3849 modify the offering in a manner adverse to a purchaser, the  
3850 developer shall send the purchaser such revisions together with  
3851 a notice containing a statement in conspicuous type in  
3852 substantially the following form:

3853  
3854 The unapproved public offering statement previously delivered to  
3855 you, together with the enclosed revisions, has been approved by  
3856 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares,  
3857 and Mobile Homes. Accordingly, your cancellation right expires  
3858 10 calendar days after you sign your purchase contract or 10  
3859 calendar days after you receive these revisions, whichever is  
3860 later. If you have any questions regarding your cancellation  
3861 rights, you may contact the division at [insert division's  
3862 current address].

3863  
3864           3. After receipt of approval from the division and prior  
3865 to closing, if no revisions have been made to the documents  
3866 contained in the unapproved purchaser public offering statement,  
3867 or if such revisions do not materially alter or modify the  
3868 offering in a manner adverse to a purchaser, the developer shall  
3869 send the purchaser a notice containing a statement in  
3870 conspicuous type in substantially the following form:

3871

3872 The unapproved public offering statement previously delivered to  
 3873 you has been approved by the Division of Florida ~~Land Sales,~~  
 3874 Condominiums, Timeshares, and Mobile Homes. Revisions made to  
 3875 the unapproved public offering statement, if any, are ~~either~~ not  
 3876 required to be delivered to you or are not deemed by the  
 3877 developer, in its opinion, to materially alter or modify the  
 3878 offering in a manner that is adverse to you. Accordingly, your  
 3879 cancellation right expired 10 days after you signed your  
 3880 purchase contract. A complete copy of the approved public  
 3881 offering statement is available through the managing entity for  
 3882 inspection as part of the books and records of the plan. If you  
 3883 have any questions regarding your cancellation rights, you may  
 3884 contact the division at [insert division's current address].

3885 Section 66. Subsection (8) of section 721.08, Florida  
 3886 Statutes, is amended to read:

3887 721.08 Escrow accounts; nondisturbance instruments;  
 3888 alternate security arrangements; transfer of legal title.--

3889 (8) An escrow agent holding escrowed funds pursuant to  
 3890 this chapter that have not been claimed for a period of 5 years  
 3891 after the date of deposit shall make at least one reasonable  
 3892 attempt to deliver such unclaimed funds to the purchaser who  
 3893 submitted such funds to escrow. In making such attempt, an  
 3894 escrow agent is entitled to rely on a purchaser's last known  
 3895 address as set forth in the books and records of the escrow  
 3896 agent and is not required to conduct any further search for the  
 3897 purchaser. If an escrow agent's attempt to deliver unclaimed  
 3898 funds to any purchaser is unsuccessful, the escrow agent may  
 3899 deliver such unclaimed funds to the division and the division

3900 shall deposit such unclaimed funds in the Division of Florida  
 3901 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust  
 3902 Fund, 30 days after giving notice in a publication of general  
 3903 circulation in the county in which the timeshare property  
 3904 containing the purchaser's timeshare interest is located. The  
 3905 purchaser may claim the same at any time prior to the delivery  
 3906 of such funds to the division. After delivery of such funds to  
 3907 the division, the purchaser shall have no more rights to the  
 3908 unclaimed funds. The escrow agent shall not be liable for any  
 3909 claims from any party arising out of the escrow agent's delivery  
 3910 of the unclaimed funds to the division pursuant to this section.

3911 Section 67. Section 721.26, Florida Statutes, is amended  
 3912 to read:

3913 721.26 Regulation by division.--The division has the power  
 3914 to enforce and ensure compliance with ~~the provisions of this~~  
 3915 chapter, except for parts III and IV, using the powers provided  
 3916 in this chapter, as well as the powers prescribed in chapters  
 3917 ~~498,~~ 718, and 719. In performing its duties, the division shall  
 3918 have the following powers and duties:

3919 (1) To aid in the enforcement of this chapter, or any  
 3920 division rule adopted or order ~~promulgated or~~ issued pursuant to  
 3921 this chapter, the division may make necessary public or private  
 3922 investigations within or outside this state to determine whether  
 3923 any person has violated or is about to violate this chapter, or  
 3924 any division rule adopted or order ~~promulgated or~~ issued  
 3925 pursuant to this chapter.

3926 (2) The division may require or permit any person to file  
 3927 a written statement under oath or otherwise, as the division

3928 determines, as to the facts and circumstances concerning a  
 3929 matter under investigation.

3930 (3) For the purpose of any investigation under this  
 3931 chapter, the director of the division or any officer or employee  
 3932 designated by the director may administer oaths or affirmations,  
 3933 subpoena witnesses and compel their attendance, take evidence,  
 3934 and require the production of any matter which is relevant to  
 3935 the investigation, including the identity, existence,  
 3936 description, nature, custody, condition, and location of any  
 3937 books, documents, or other tangible things and the identity and  
 3938 location of persons having knowledge of relevant facts or any  
 3939 other matter reasonably calculated to lead to the discovery of  
 3940 material evidence. Failure to obey a subpoena or to answer  
 3941 questions propounded by the investigating officer and upon  
 3942 reasonable notice to all persons affected thereby shall be a  
 3943 violation of this chapter. In addition to the other enforcement  
 3944 powers authorized in this subsection, the division may, ~~at its~~  
 3945 ~~discretion,~~ apply to the circuit court for an order compelling  
 3946 compliance.

3947 (4) The division may prepare and disseminate a prospectus  
 3948 and other information to assist prospective purchasers, sellers,  
 3949 and managing entities of timeshare plans in assessing the  
 3950 rights, privileges, and duties pertaining thereto.

3951 (5) Notwithstanding any remedies available to purchasers,  
 3952 if the division has reasonable cause to believe that a violation  
 3953 of this chapter, or of any division rule adopted or order  
 3954 ~~promulgated or~~ issued pursuant to this chapter, has occurred,  
 3955 the division may institute enforcement proceedings in its own

3956 name against any regulated party, as such term is defined in  
3957 this subsection:

3958 (a)1. "Regulated party," for purposes of this section,  
3959 means any developer, exchange company, seller, managing entity,  
3960 owners' association, owners' association director, owners'  
3961 association officer, manager, management firm, escrow agent,  
3962 trustee, any respective assignees or agents, or any other person  
3963 having duties or obligations pursuant to this chapter.

3964 2. Any person who materially participates in any offer or  
3965 disposition of any interest in, or the management or operation  
3966 of, a timeshare plan in violation of this chapter or relevant  
3967 rules involving fraud, deception, false pretenses,  
3968 misrepresentation, or false advertising or the disbursement,  
3969 concealment, or diversion of any funds or assets, which conduct  
3970 adversely affects the interests of a purchaser, and which person  
3971 directly or indirectly controls a regulated party or is a  
3972 general partner, officer, director, agent, or employee of such  
3973 regulated party, shall be jointly and severally liable under  
3974 this subsection with such regulated party, unless such person  
3975 did not know, and in the exercise of reasonable care could not  
3976 have known, of the existence of the facts giving rise to the  
3977 violation of this chapter. A right of contribution shall exist  
3978 among jointly and severally liable persons pursuant to this  
3979 paragraph.

3980 (b) The division may permit any person whose conduct or  
3981 actions may be under investigation to waive formal proceedings  
3982 and enter into a consent proceeding whereby an order, rule, or



3983 letter of censure or warning, whether formal or informal, may be  
 3984 entered against that person.

3985 (c) The division may issue an order requiring a regulated  
 3986 party to cease and desist from an unlawful practice under this  
 3987 chapter and take such affirmative action as in the judgment of  
 3988 the division will carry out the purposes of this chapter.

3989 (d)1. The division may bring an action in circuit court  
 3990 for declaratory or injunctive relief or for other appropriate  
 3991 relief, including restitution.

3992 2. The division shall have broad authority and discretion  
 3993 to petition the circuit court to appoint a receiver with respect  
 3994 to any managing entity which fails to perform its duties and  
 3995 obligations under this chapter with respect to the operation of  
 3996 a timeshare plan. The circumstances giving rise to an  
 3997 appropriate petition for receivership under this subparagraph  
 3998 include, but are not limited to:

3999 a. Damage to or destruction of any of the accommodations  
 4000 or facilities of a timeshare plan, where the managing entity has  
 4001 failed to repair or reconstruct same.

4002 b. A breach of fiduciary duty by the managing entity,  
 4003 including, but not limited to, undisclosed self-dealing or  
 4004 failure to timely assess, collect, or disburse the common  
 4005 expenses of the timeshare plan.

4006 c. Failure of the managing entity to operate the timeshare  
 4007 plan in accordance with the timeshare instrument and this  
 4008 chapter.

4009

4010 If, under the circumstances, it appears that the events giving  
4011 rise to the petition for receivership cannot be reasonably and  
4012 timely corrected in a cost-effective manner consistent with the  
4013 timeshare instrument, the receiver may petition the circuit  
4014 court to implement such amendments or revisions to the timeshare  
4015 instrument as may be necessary to enable the managing entity to  
4016 resume effective operation of the timeshare plan, or to enter an  
4017 order terminating the timeshare plan, or to enter such further  
4018 orders regarding the disposition of the timeshare property as  
4019 the court deems appropriate, including the disposition and sale  
4020 of the timeshare property held by the owners' association or the  
4021 purchasers. In the event of a receiver's sale, all rights,  
4022 title, and interest held by the owners' association or any  
4023 purchaser shall be extinguished and title shall vest in the  
4024 buyer. This provision applies to timeshare estates, personal  
4025 property timeshare interests, and timeshare licenses. All  
4026 reasonable costs and fees of the receiver relating to the  
4027 receivership shall become common expenses of the timeshare plan  
4028 upon order of the court.

4029 3. The division may revoke its approval of any filing for  
4030 any timeshare plan for which a petition for receivership has  
4031 been filed pursuant to this paragraph.

4032 (e)1. The division may impose a penalty against any  
4033 regulated party for a violation of this chapter or any rule  
4034 adopted thereunder. A penalty may be imposed on the basis of  
4035 each day of continuing violation, but in no event may the  
4036 penalty for any offense exceed \$10,000. All accounts collected  
4037 shall be deposited with the Chief Financial Officer to the

4038 credit of the Division of Florida ~~Land Sales~~, Condominiums,  
 4039 Timeshares, and Mobile Homes Trust Fund.

4040 2.a. If a regulated party fails to pay a penalty, the  
 4041 division shall thereupon issue an order directing that such  
 4042 regulated party cease and desist from further operation until  
 4043 such time as the penalty is paid; or the division may pursue  
 4044 enforcement of the penalty in a court of competent jurisdiction.

4045 b. If an owners' association or managing entity fails to  
 4046 pay a civil penalty, the division may pursue enforcement in a  
 4047 court of competent jurisdiction.

4048 (f) In order to permit the regulated party an opportunity  
 4049 ~~either~~ to appeal such decision administratively or to seek  
 4050 relief in a court of competent jurisdiction, the order imposing  
 4051 the penalty or the cease and desist order shall not become  
 4052 effective until 20 days after the date of such order.

4053 (g) Any action commenced by the division shall be brought  
 4054 in the county in which the division has its executive offices or  
 4055 in the county where the violation occurred.

4056 (h) Notice to any regulated party shall be complete when  
 4057 delivered by United States mail, return receipt requested, to  
 4058 the party's address currently on file with the division or to  
 4059 such other address at which the division is able to locate the  
 4060 party. Every regulated party has an affirmative duty to notify  
 4061 the division of any change of address at least 5 business days  
 4062 prior to such change.

4063 (6) The division has authority to adopt rules pursuant to  
 4064 ss. 120.536(1) and 120.54 to implement and enforce the  
 4065 provisions of this chapter.

4066 (7) (a) The use of any unfair or deceptive act or practice  
 4067 by any person in connection with the sales or other operations  
 4068 of an exchange program or timeshare plan is a violation of this  
 4069 chapter.

4070 (b) Any violation of the Florida Deceptive and Unfair  
 4071 Trade Practices Act, ss. 501.201 et seq., relating to the  
 4072 creation, promotion, sale, operation, or management of any  
 4073 timeshare plan shall also be a violation of this chapter.

4074 (c) The division may ~~is authorized to~~ institute  
 4075 proceedings against any such person and take any appropriate  
 4076 action authorized in this section in connection therewith,  
 4077 notwithstanding any remedies available to purchasers.

4078 (8) The failure of any person to comply with any order of  
 4079 the division is a violation of this chapter.

4080 Section 68. Section 721.28, Florida Statutes, is amended  
 4081 to read:

4082 721.28 Division of Florida ~~Land Sales,~~ Condominiums,  
 4083 Timeshares, and Mobile Homes Trust Fund.--All funds collected by  
 4084 the division and any amounts paid as fees or penalties under  
 4085 this chapter shall be deposited in the State Treasury to the  
 4086 credit of the Division of Florida ~~Land Sales,~~ Condominiums,  
 4087 Timeshares, and Mobile Homes Trust Fund created by s. 718.509  
 4088 ~~498.019.~~

4089 Section 69. Paragraph (c) of subsection (1) of section  
 4090 721.301, Florida Statutes, is amended to read:

4091 721.301 Florida Timesharing, Vacation Club, and  
 4092 Hospitality Program.--

4093 (1)

4094 (c) The director may designate funds from the Division of  
 4095 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes  
 4096 Trust Fund, not to exceed \$50,000 annually, to support the  
 4097 projects and proposals undertaken pursuant to paragraph (b). All  
 4098 state trust funds to be expended pursuant to this section must  
 4099 be matched equally with private moneys and shall comprise no  
 4100 more than half of the total moneys expended annually.

4101 Section 70. Section 721.50, Florida Statutes, is amended  
 4102 to read:

4103 721.50 Short title.--This part may be cited as the  
 4104 "McAllister Act" in recognition and appreciation for the years  
 4105 of extraordinary and insightful contributions by Mr. Bryan C.  
 4106 McAllister, Examinations Supervisor of the former, Division of  
 4107 Florida Land Sales, Condominiums, and Mobile Homes.

4108 Section 71. Subsection (1) of section 723.003, Florida  
 4109 Statutes, is amended to read:

4110 723.003 Definitions.--As used in this chapter, the  
 4111 following words and terms have the following meanings unless  
 4112 clearly indicated otherwise:

4113 (1) The term "division" means the Division of Florida ~~Land~~  
 4114 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the  
 4115 Department of Business and Professional Regulation.

4116 Section 72. Paragraph (e) of subsection (5) of section  
 4117 723.006, Florida Statutes, is amended to read:

4118 723.006 Powers and duties of division.--In performing its  
 4119 duties, the division has the following powers and duties:

4120 (5) Notwithstanding any remedies available to mobile home  
 4121 owners, mobile home park owners, and homeowners' associations,

4122 if the division has reasonable cause to believe that a violation  
 4123 of any provision of this chapter or related any rule ~~promulgated~~  
 4124 ~~pursuant hereto~~ has occurred, the division may institute  
 4125 enforcement proceedings in its own name against a developer,  
 4126 mobile home park owner, or homeowners' association, or its  
 4127 assignee or agent, as follows:

4128 (e)1. The division may impose a civil penalty against a  
 4129 mobile home park owner or homeowners' association, or its  
 4130 assignee or agent, for any violation of this chapter, a properly  
 4131 adopted ~~promulgated~~ park rule or regulation, or a rule adopted  
 4132 ~~or regulation promulgated~~ pursuant hereto. A penalty may be  
 4133 imposed on the basis of each separate violation and, if the  
 4134 violation is a continuing one, for each day of continuing  
 4135 violation, but in no event may the penalty for each separate  
 4136 violation or for each day of continuing violation exceed \$5,000.  
 4137 All amounts collected shall be deposited with the Chief  
 4138 Financial Officer to the credit of the Division of Florida ~~Land~~  
 4139 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund.

4140 2. If a violator fails to pay the civil penalty, the  
 4141 division shall thereupon issue an order directing that such  
 4142 violator cease and desist from further violation until such time  
 4143 as the civil penalty is paid or may pursue enforcement of the  
 4144 penalty in a court of competent jurisdiction. If a homeowners'  
 4145 association fails to pay the civil penalty, the division shall  
 4146 thereupon pursue enforcement in a court of competent  
 4147 jurisdiction, and the order imposing the civil penalty or the  
 4148 cease and desist order shall not become effective until 20 days  
 4149 after the date of such order. Any action commenced by the

4150 division shall be brought in the county in which the division  
 4151 has its executive offices or in which the violation occurred.

4152 Section 73. Section 723.009, Florida Statutes, is amended  
 4153 to read:

4154 723.009 Division of Florida ~~Land Sales~~, Condominiums,  
 4155 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the  
 4156 fees, penalties, and fines imposed pursuant to this chapter  
 4157 shall be deposited into the Division of Florida ~~Land Sales~~,  
 4158 Condominiums, Timeshares, and Mobile Homes Trust Fund created by  
 4159 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the  
 4160 Legislature pursuant to chapter 216, may be used to defray the  
 4161 expenses incurred by the division in administering the  
 4162 provisions of this chapter.

4163 Section 74. Paragraph (c) of subsection (2) of section  
 4164 723.0611, Florida Statutes, is amended to read:

4165 723.0611 Florida Mobile Home Relocation Corporation.--

4166 (2)

4167 (c) The corporation shall, for purposes of s. 768.28, be  
 4168 considered an agency of the state. Agents or employees of the  
 4169 corporation, members of the board of directors of the  
 4170 corporation, or representatives of the Division of Florida ~~Land~~  
 4171 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be  
 4172 considered officers, employees, or agents of the state, and  
 4173 actions against them and the corporation shall be governed by s.  
 4174 768.28.

4175 Section 75. Except as otherwise expressly provided in this  
 4176 act, this act shall take effect July 1, 2008.