

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

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

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

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

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

141 boards and divisions; amending s. 468.841, F.S.;

142 clarifying exemption provisions for license provisions

143 governing mold-related services; amending s. 475.17, F.S.;

144 revising requirements for licensure as a real estate

145 broker; amending s. 475.451, F.S.; deleting requirements

146 relating to the submission of certain real estate course

147 rosters to the department; amending s. 477.019, F.S.,

148 relating to cosmetologists; allowing a student to apply

149 for licensure examination prior to graduation and to

150 practice prior to licensure; amending s. 489.105, F.S.;

151 clarifying that individuals and business entities that

152 sell manufactured and factory-built buildings can legally

153 enter into contracts for those sales; amending s. 489.511,

154 F.S.; revising requirements for taking the electrical or

155 alarm system contractor certification examination;

156 providing requirements for certification; amending s.

157 489.515, F.S.; revising requirements for certification as

158 a certified contractor by the Electrical Contractors'

159 Licensing Board to reflect changes made to s. 489.511,

160 F.S., by this act; renumbering s. 498.009, F.S., relating

161 to the location of the division's offices; amending and

162 renumbering s. 498.011, F.S., relating to payment of per

163 diem, mileage, and other expenses for division employees;

164 providing for reimbursement of expenses for on-site

165 review; deleting the expense reimbursement for inspection

166 of subdivided lands; renumbering s. 498.013, F.S.,

167 relating to the authentication of records; amending and

168 renumbering s. 498.057, F.S., relating to service of

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

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

220

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

222



223 Section 1. Paragraph (b) of subsection (1) of section  
 224 718.111, Florida Statutes, as amended by section 6 of House Bill  
 225 995, enacted in the 2008 Regular Session, is amended to read:

226 718.111 The association.--

227 (1) CORPORATE ENTITY.--

228 (b) A director of the association who is present at a  
 229 meeting of its board at which action on any corporate matter is  
 230 taken shall be presumed to have assented to the action taken  
 231 unless he or she votes against such action or abstains from  
 232 voting ~~in respect thereto because of an asserted conflict of~~  
 233 ~~interest.~~ A director of the association who abstains from voting  
 234 on any action taken on any corporate matter shall be presumed to  
 235 have taken no position with regard to the action. Directors may  
 236 not vote by proxy or by secret ballot at board meetings, except  
 237 that officers may be elected by secret ballot. A vote or  
 238 abstention for each member present shall be recorded in the  
 239 minutes.

240 Section 2. The amendments to section 718.111, Florida  
 241 Statutes, in this act prevail over any conflicting amendments to  
 242 that section contained in HB 995 and enacted during the 2008  
 243 Regular Session.

244 Section 3. Subsection (11) of section 718.111, Florida  
 245 Statutes, is amended to read:

246 718.111 The association.--

247 (11) INSURANCE.--In order to protect the safety, health,  
 248 and welfare of the people of the State of Florida and to ensure  
 249 consistency in the provision of insurance coverage to  
 250 condominiums and their unit owners, this subsection applies

251 ~~paragraphs (a), (b), and (c) are deemed to apply to every~~  
252 residential condominium in the state, regardless of the date of  
253 its declaration of condominium. It is the intent of the  
254 Legislature to encourage lower or stable insurance premiums for  
255 associations described in this subsection ~~section~~.

256 (a) Adequate hazard insurance, regardless of any  
257 requirement in the declaration of condominium for coverage by  
258 the association for full insurable value, replacement cost, or  
259 similar coverage, shall be based upon the replacement cost of  
260 the property to be insured as determined by an independent  
261 insurance appraisal or update of a prior appraisal. The full  
262 insurable value shall be determined at least once every 36  
263 months.

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

267 2. The association may also provide adequate hazard  
268 insurance coverage for a group of no fewer than three  
269 communities created and operating under this chapter, chapter  
270 719, chapter 720, or chapter 721 by obtaining and maintaining  
271 for such communities insurance coverage sufficient to cover an  
272 amount equal to the probable maximum loss for the communities  
273 for a 250-year windstorm event. Such probable maximum loss must  
274 be determined through the use of a competent model that has been  
275 accepted by the Florida Commission on Hurricane Loss Projection  
276 Methodology. No policy or program providing such coverage shall  
277 be issued or renewed after July 1, 2008, unless it has been  
278 reviewed and approved by the Office of Insurance Regulation.

279 The review and approval shall include approval of the policy  
280 and related forms pursuant to ss. 627.410 and 627.411, approval  
281 of the rates pursuant to s. 627.062, a determination that the  
282 loss model approved by the Commission was accurately and  
283 appropriately applied to the insured structures to determine the  
284 250-year probable maximum loss, and a determination that  
285 complete and accurate disclosure of all material provisions is  
286 provided to condominium unit owners prior to execution of the  
287 agreement by a condominium association.

288 3. When determining the adequate amount of hazard  
289 insurance coverage, the association may consider deductibles as  
290 determined by this subsection.

291 (b) If an association is a developer-controlled  
292 association, the association shall exercise its best efforts to  
293 obtain and maintain insurance as described in paragraph (a).  
294 Failure to obtain and maintain adequate hazard insurance during  
295 any period of developer control constitutes a breach of  
296 fiduciary responsibility by the developer-appointed members of  
297 the board of directors of the association, unless the members  
298 can show that despite such failure, they have made their best  
299 efforts to maintain the required coverage.

300 (c) Policies may include deductibles as determined by the  
301 board.

302 1. The deductibles shall be consistent with industry  
303 standards and prevailing practice for communities of similar  
304 size and age, and having similar construction and facilities in  
305 the locale where the condominium property is situated.

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

309        3. The board shall establish the amount of deductibles  
310 based upon the level of available funds and predetermined  
311 assessment authority at a meeting of the board. Such meeting  
312 shall be open to all unit owners in the manner set forth in s.  
313 718.112(2)(e). The notice of such meeting must state the  
314 proposed deductible and the available funds and the assessment  
315 authority relied upon by the board and estimate any potential  
316 assessment amount against each unit, if any. The meeting  
317 described in this paragraph may be held in conjunction with a  
318 meeting to consider the proposed budget or an amendment thereto.

319        (d) An association controlled by unit owners operating as  
320 a residential condominium shall use its best efforts to obtain  
321 and maintain adequate insurance to protect the association, the  
322 association property, the common elements, and the condominium  
323 property that is required to be insured by the association  
324 pursuant to this subsection.

325        (e) The declaration of condominium as originally recorded,  
326 or as amended pursuant to procedures provided therein, may  
327 provide that condominium property consisting of freestanding  
328 buildings comprised of no more than one building in or on such  
329 unit need not be insured by the association if the declaration  
330 requires the unit owner to obtain adequate insurance for the  
331 condominium property. An association may also obtain and  
332 maintain liability insurance for directors and officers,

333 insurance for the benefit of association employees, and flood  
334 insurance for common elements, association property, and units.

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

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

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

343 3. The coverage shall exclude all personal property within  
344 the unit or limited common elements, and floor, wall, and  
345 ceiling coverings, electrical fixtures, appliances, water  
346 heaters, water filters, built-in cabinets and countertops, and  
347 window treatments, including curtains, drapes, blinds, hardware,  
348 and similar window treatment components, or replacements of any  
349 of the foregoing.

350 (g) Every hazard insurance policy issued or renewed on or  
351 after January 1, 2009, to an individual unit owner must contain  
352 a provision stating that the coverage afforded by such policy is  
353 excess coverage over the amount recoverable under any other  
354 policy covering the same property. Such policies must include  
355 special assessment coverage of no less than \$2,000 per  
356 occurrence. An insurance policy issued to an individual unit  
357 owner providing such coverage does not provide rights of  
358 subrogation against the condominium association operating the  
359 condominium in which such individual's unit is located.

360       1. All improvements or additions to the condominium  
361 property that benefit fewer than all unit owners shall be  
362 insured by the unit owner or owners having the use thereof, or  
363 may be insured by the association at the cost and expense of the  
364 unit owners having the use thereof.

365       2. The association shall require each owner to provide  
366 evidence of a currently effective policy of hazard and liability  
367 insurance upon request, but not more than once per year. Upon  
368 the failure of an owner to provide a certificate of insurance  
369 issued by an insurer approved to write such insurance in this  
370 state within 30 days after the date on which a written request  
371 is delivered, the association may purchase a policy of insurance  
372 on behalf of an owner. The cost of such a policy, together with  
373 reconstruction costs undertaken by the association but which are  
374 the responsibility of the unit owner, may be collected in the  
375 manner provided for the collection of assessments in s. 718.116.

376       3. All reconstruction work after a casualty loss shall be  
377 undertaken by the association except as otherwise authorized in  
378 this section. A unit owner may undertake reconstruction work on  
379 portions of the unit with the prior written consent of the board  
380 of administration. However, such work may be conditioned upon  
381 the approval of the repair methods, the qualifications of the  
382 proposed contractor, or the contract that is used for that  
383 purpose. A unit owner shall obtain all required governmental  
384 permits and approvals prior to commencing reconstruction.

385       4. Unit owners are responsible for the cost of  
386 reconstruction of any portions of the condominium property for  
387 which the unit owner is required to carry casualty insurance,

388 and any such reconstruction work undertaken by the association  
389 shall be chargeable to the unit owner and enforceable as an  
390 assessment pursuant to s. 718.116. The association must be an  
391 additional named insured and loss payee on all casualty  
392 insurance policies issued to unit owners in the condominium  
393 operated by the association.

394 5. A multicondominium association may elect, by a majority  
395 vote of the collective members of the condominiums operated by  
396 the association, to operate such condominiums as a single  
397 condominium for purposes of insurance matters, including, but  
398 not limited to, the purchase of the hazard insurance required by  
399 this section and the apportionment of deductibles and damages in  
400 excess of coverage. The election to aggregate the treatment of  
401 insurance premiums, deductibles, and excess damages constitutes  
402 an amendment to the declaration of all condominiums operated by  
403 the association, and the costs of insurance shall be stated in  
404 the association budget. The amendments shall be recorded as  
405 required by s. 718.110.

406 (h) The association shall maintain insurance or fidelity  
407 bonding of all persons who control or disburse funds of the  
408 association. The insurance policy or fidelity bond must cover  
409 the maximum funds that will be in the custody of the association  
410 or its management agent at any one time. As used in this  
411 paragraph, the term "persons who control or disburse funds of  
412 the association" includes, but is not limited to, those  
413 individuals authorized to sign checks on behalf of the  
414 association, and the president, secretary, and treasurer of the

415 association. The association shall bear the cost of any such  
 416 bonding.

417 (i) The association may amend the declaration of  
 418 condominium without regard to any requirement for approval by  
 419 mortgagees of amendments affecting insurance requirements for  
 420 the purpose of conforming the declaration of condominium to the  
 421 coverage requirements of this subsection.

422 (j) Any portion of the condominium property required to be  
 423 insured by the association against casualty loss pursuant to  
 424 paragraph (f) which is damaged by casualty shall be  
 425 reconstructed, repaired, or replaced as necessary by the  
 426 association as a common expense. All hazard insurance  
 427 deductibles, uninsured losses, and other damages in excess of  
 428 hazard insurance coverage under the hazard insurance policies  
 429 maintained by the association are a common expense of the  
 430 condominium, except that:

431 1. A unit owner is responsible for the costs of repair or  
 432 replacement of any portion of the condominium property not paid  
 433 by insurance proceeds, if such damage is caused by intentional  
 434 conduct, negligence, or failure to comply with the terms of the  
 435 declaration or the rules of the association by a unit owner, the  
 436 members of his or her family, unit occupants, tenants, guests,  
 437 or invitees, without compromise of the subrogation rights of any  
 438 insurer as set forth in paragraph (g).

439 2. The provisions of subparagraph 1. regarding the  
 440 financial responsibility of a unit owner for the costs of  
 441 repairing or replacing other portions of the condominium  
 442 property also applies to the costs of repair or replacement of



443 personal property of other unit owners or the association, as  
444 well as other property, whether real or personal, which the unit  
445 owners are required to insure under paragraph (g).

446 3. To the extent the cost of repair or reconstruction for  
447 which the unit owner is responsible under this paragraph is  
448 reimbursed to the association by insurance proceeds, and, to the  
449 extent the association has collected the cost of such repair or  
450 reconstruction from the unit owner, the association shall  
451 reimburse the unit owner without the waiver of any rights of  
452 subrogation.

453 4. The association is not obligated to pay for repair or  
454 reconstruction or repairs of casualty losses as a common expense  
455 if the casualty losses were known or should have been known to a  
456 unit owner and were not reported to the association until after  
457 the insurance claim of the association for that casualty was  
458 settled or resolved with finality, or denied on the basis that  
459 it was untimely filed.

460 (k) An association may, upon the approval of a majority of  
461 the total voting interests in the association, opt out of the  
462 provisions of paragraph (j) for the allocation of repair or  
463 reconstruction expenses and allocate repair or reconstruction  
464 expenses in the manner provided in the declaration as originally  
465 recorded or as amended. Such vote may be approved by the voting  
466 interests of the association without regard to any mortgagee  
467 consent requirements.

468 (l) In a multicondominium association that has not  
469 consolidated its financial operations under s. 718.111(6), any  
470 condominium operated by the association may opt out of the

471 provisions of paragraph (j) with the approval of a majority of  
 472 the total voting interests in that condominium. Such vote may be  
 473 approved by the voting interests without regard to any mortgagee  
 474 consent requirements.

475 (m) Any association or condominium voting to opt out of  
 476 the guidelines for repair or reconstruction expenses as  
 477 described in paragraph (j) must record a notice setting forth  
 478 the date of the opt-out vote and the page of the official  
 479 records book on which the declaration is recorded. The decision  
 480 to opt out is effective upon the date of recording of the notice  
 481 in the public records by the association. An association that  
 482 has voted to opt out of paragraph (j) may reverse that decision  
 483 by the same vote required in paragraphs (k) and (l), and notice  
 484 thereof shall be recorded in the official records.

485 (n) The association is not obligated to pay for any  
 486 reconstruction or repair expenses due to casualty loss to any  
 487 improvements installed by a current or former owner of the unit  
 488 or by the developer if the improvement benefits only the unit  
 489 for which it was installed and is not part of the standard  
 490 improvements installed by the developer on all units as part of  
 491 original construction, whether or not such improvement is  
 492 located within the unit. This paragraph does not relieve any  
 493 party of its obligations regarding recovery due under any  
 494 insurance implemented specifically for any such improvements.

495 (o) The provisions of this subsection shall not apply to  
 496 timeshare condominium associations. Insurance for timeshare  
 497 condominium associations shall be maintained pursuant to s.  
 498 721.165. Therefore, the Legislature requires a report to be

499 ~~prepared by the Office of Insurance Regulation of the Department~~  
500 ~~of Financial Services for publication 18 months from the~~  
501 ~~effective date of this act, evaluating premium increases or~~  
502 ~~decreases for associations, unit owner premium increases or~~  
503 ~~decreases, recommended changes to better define common areas, or~~  
504 ~~any other information the Office of Insurance Regulation deems~~  
505 ~~appropriate.~~

506 ~~(a) A unit owner controlled association operating a~~  
507 ~~residential condominium shall use its best efforts to obtain and~~  
508 ~~maintain adequate insurance to protect the association, the~~  
509 ~~association property, the common elements, and the condominium~~  
510 ~~property required to be insured by the association pursuant to~~  
511 ~~paragraph (b). If the association is developer controlled, the~~  
512 ~~association shall exercise due diligence to obtain and maintain~~  
513 ~~such insurance. Failure to obtain and maintain adequate~~  
514 ~~insurance during any period of developer control shall~~  
515 ~~constitute a breach of fiduciary responsibility by the~~  
516 ~~developer appointed members of the board of directors of the~~  
517 ~~association, unless said members can show that despite such~~  
518 ~~failure, they have exercised due diligence. The declaration of~~  
519 ~~condominium as originally recorded, or amended pursuant to~~  
520 ~~procedures provided therein, may require that condominium~~  
521 ~~property consisting of freestanding buildings where there is no~~  
522 ~~more than one building in or on such unit need not be insured by~~  
523 ~~the association if the declaration requires the unit owner to~~  
524 ~~obtain adequate insurance for the condominium property. An~~  
525 ~~association may also obtain and maintain liability insurance for~~  
526 ~~directors and officers, insurance for the benefit of association~~

527 ~~employees, and flood insurance for common elements, association~~  
528 ~~property, and units. Adequate insurance, regardless of any~~  
529 ~~requirement in the declaration of condominium for coverage by~~  
530 ~~the association for "full insurable value," "replacement cost,"~~  
531 ~~or the like, may include reasonable deductibles as determined by~~  
532 ~~the board based upon available funds or predetermined assessment~~  
533 ~~authority at the time that the insurance is obtained.~~

534 ~~1. Windstorm insurance coverage for a group of no fewer~~  
535 ~~than three communities created and operating under this chapter,~~  
536 ~~chapter 719, chapter 720, or chapter 721 may be obtained and~~  
537 ~~maintained for the communities if the insurance coverage is~~  
538 ~~sufficient to cover an amount equal to the probable maximum loss~~  
539 ~~for the communities for a 250-year windstorm event. Such~~  
540 ~~probable maximum loss must be determined through the use of a~~  
541 ~~competent model that has been accepted by the Florida Commission~~  
542 ~~on Hurricane Loss Projection Methodology. Such insurance~~  
543 ~~coverage is deemed adequate windstorm insurance for the purposes~~  
544 ~~of this section.~~

545 ~~2. An association or group of associations may self-insure~~  
546 ~~against claims against the association, the association~~  
547 ~~property, and the condominium property required to be insured by~~  
548 ~~an association, upon compliance with the applicable provisions~~  
549 ~~of ss. 624.460-624.488, which shall be considered adequate~~  
550 ~~insurance for the purposes of this section. A copy of each~~  
551 ~~policy of insurance in effect shall be made available for~~  
552 ~~inspection by unit owners at reasonable times.~~

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

556 ~~1. All portions of the condominium property located~~  
557 ~~outside the units;~~

558 ~~2. The condominium property located inside the units as~~  
559 ~~such property was initially installed, or replacements thereof~~  
560 ~~of like kind and quality and in accordance with the original~~  
561 ~~plans and specifications or, if the original plans and~~  
562 ~~specifications are not available, as they existed at the time~~  
563 ~~the unit was initially conveyed; and~~

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

566  
567 ~~Anything to the contrary notwithstanding, the terms "condominium~~  
568 ~~property," "building," "improvements," "insurable improvements,"~~  
569 ~~"common elements," "association property," or any other term~~  
570 ~~found in the declaration of condominium which defines the scope~~  
571 ~~of property or casualty insurance that a condominium association~~  
572 ~~must obtain shall exclude all floor, wall, and ceiling~~  
573 ~~coverings, electrical fixtures, appliances, air conditioner or~~  
574 ~~heating equipment, water heaters, water filters, built in~~  
575 ~~cabinets and countertops, and window treatments, including~~  
576 ~~curtains, drapes, blinds, hardware, and similar window treatment~~  
577 ~~components, or replacements of any of the foregoing which are~~  
578 ~~located within the boundaries of a unit and serve only one unit~~  
579 ~~and all air conditioning compressors that service only an~~  
580 ~~individual unit, whether or not located within the unit~~

581 ~~boundaries. The foregoing is intended to establish the property~~  
582 ~~or casualty insuring responsibilities of the association and~~  
583 ~~those of the individual unit owner and do not serve to broaden~~  
584 ~~or extend the perils of coverage afforded by any insurance~~  
585 ~~contract provided to the individual unit owner. Beginning~~  
586 ~~January 1, 2004, the association shall have the authority to~~  
587 ~~amend the declaration of condominium, without regard to any~~  
588 ~~requirement for mortgagee approval of amendments affecting~~  
589 ~~insurance requirements, to conform the declaration of~~  
590 ~~condominium to the coverage requirements of this section.~~

591 ~~(c) Every hazard insurance policy issued or renewed on or~~  
592 ~~after January 1, 2004, to an individual unit owner shall provide~~  
593 ~~that the coverage afforded by such policy is excess over the~~  
594 ~~amount recoverable under any other policy covering the same~~  
595 ~~property. Each insurance policy issued to an individual unit~~  
596 ~~owner providing such coverage shall be without rights of~~  
597 ~~subrogation against the condominium association that operates~~  
598 ~~the condominium in which such unit owner's unit is located. All~~  
599 ~~real or personal property located within the boundaries of the~~  
600 ~~unit owner's unit which is excluded from the coverage to be~~  
601 ~~provided by the association as set forth in paragraph (b) shall~~  
602 ~~be insured by the individual unit owner.~~

603 ~~(d) The association shall obtain and maintain adequate~~  
604 ~~insurance or fidelity bonding of all persons who control or~~  
605 ~~disburse funds of the association. The insurance policy or~~  
606 ~~fidelity bond must cover the maximum funds that will be in the~~  
607 ~~custody of the association or its management agent at any one~~  
608 ~~time. As used in this paragraph, the term "persons who control~~

609 ~~er disburse funds of the association" includes, but is not~~  
 610 ~~limited to, those individuals authorized to sign checks and the~~  
 611 ~~president, secretary, and treasurer of the association. The~~  
 612 ~~association shall bear the cost of bonding.~~

613 Section 4. Paragraph (a) of subsection (1) of section  
 614 718.115, Florida Statutes, is amended to read:

615 718.115 Common expenses and common surplus.--

616 (1)(a) Common expenses include the expenses of the  
 617 operation, maintenance, repair, replacement, or protection of  
 618 the common elements and association property, costs of carrying  
 619 out the powers and duties of the association, and any other  
 620 expense, whether or not included in the foregoing, designated as  
 621 common expense by this chapter, the declaration, the documents  
 622 creating the association, or the bylaws. Common expenses also  
 623 include reasonable transportation services, insurance for  
 624 directors and officers, road maintenance and operation expenses,  
 625 in-house communications, and security services, which are  
 626 reasonably related to the general benefit of the unit owners  
 627 even if such expenses do not attach to the common elements or  
 628 property of the condominium. However, such common expenses must  
 629 either have been services or items provided on or after the date  
 630 control of the association is transferred from the developer to  
 631 the unit owners or must be services or items provided for in the  
 632 condominium documents or bylaws. Unless the manner of payment or  
 633 allocation of expenses is otherwise addressed in the declaration  
 634 of condominium, the expenses of any items or services required  
 635 by any federal, state, or local governmental entity to be  
 636 installed, maintained, or supplied to the condominium property

637 by the association, including, but not limited to, fire safety  
638 equipment or water and sewer service where a master meter serves  
639 the condominium, shall be common expenses whether or not such  
640 items or services are specifically identified as common expenses  
641 in the declaration of condominium, articles of incorporation, or  
642 bylaws of the association.

643 Section 5. Subsection (8) of section 718.116, Florida  
644 Statutes, is amended to read:

645 718.116 Assessments; liability; lien and priority;  
646 interest; collection.--

647 (8) Within 15 days after receiving a written request  
648 therefor from a unit owner or his or her designee ~~purchaser~~, or  
649 a unit mortgagee or his or her designee, the association shall  
650 provide a certificate signed by an officer or agent of the  
651 association stating all assessments and other moneys owed to the  
652 association by the unit owner with respect to the condominium  
653 parcel.

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

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

660 (c) Notwithstanding any limitation on transfer fees  
661 contained in s. 718.112(2)(i), the association or its authorized  
662 agent may charge a reasonable fee for the preparation of the  
663 certificate. The amount of the fee must be included on the  
664 certificate.



665        (d) The authority to charge a fee for the certificate  
 666 shall be established by a written resolution adopted by the  
 667 board or provided by a written management, bookkeeping, or  
 668 maintenance contract and is payable upon the preparation of the  
 669 certificate. If the certificate is requested in conjunction with  
 670 the sale or mortgage of a unit but the closing does not occur  
 671 and no later than 30 days after the closing date for which the  
 672 certificate was sought the preparer receives a written request,  
 673 accompanied by reasonable documentation, that the sale did not  
 674 occur from a payer that is not the unit owner, the fee shall be  
 675 refunded to that payer within 30 days after receipt of the  
 676 request. The refund is the obligation of the unit owner, and the  
 677 association may collect it from that owner in the same manner as  
 678 an assessment as provided in this section.

679        Section 6. Paragraph (c) of subsection (17) of section  
 680 718.117, Florida Statutes, is amended to read:

681        718.117 Termination of condominium.--

682        (17) DISTRIBUTION.--

683        (c) The proceeds from any sale of condominium property or  
 684 association property and any remaining condominium property or  
 685 association property, common surplus, and other assets shall be  
 686 distributed in the following priority:

687        1. To pay the reasonable termination trustee's fees and  
 688 costs and accounting fees and costs.

689        2. To lienholders of liens recorded prior to the recording  
 690 of the declaration.

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

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

696           5. To creditors of the association, as their interests  
 697 appear.

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

703           7. To unit owners, the remaining condominium property,  
 704 subject to satisfaction of liens on each unit in their order of  
 705 priority, in shares specified in the plan of termination, unless  
 706 objected to by a unit owner or a lienor as provided in paragraph  
 707 (b).

708           8. To unit owners, the proceeds of any sale of association  
 709 property, the remaining association property, common surplus,  
 710 and other assets of the association, subject to satisfaction of  
 711 liens on each unit in their order of priority, in shares  
 712 specified in the plan of termination, unless objected to by a  
 713 unit owner or a lienor as provided in paragraph (b).

714           Section 7. Section 720.30851, Florida Statutes, is created  
 715 to read:

716           720.30851 Estoppel certificates.--Within 15 days after the  
 717 date on which a request for an estoppel certificate is received  
 718 from a parcel owner or mortgagee, or his or her designee, the

719 association shall provide a certificate signed by an officer or  
720 authorized agent of the association stating all assessments and  
721 other moneys owed to the association by the parcel owner or  
722 mortgagee with respect to the parcel. An association may charge  
723 a fee for the preparation of such certificate, and the amount of  
724 such fee must be stated on the certificate.

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

727 (2) A summary proceeding pursuant to s. 51.011 may be  
728 brought to compel compliance with this section, and the  
729 prevailing party is entitled to recover reasonable attorney's  
730 fees.

731 (3) The authority to charge a fee for the certificate  
732 shall be established by a written resolution adopted by the  
733 board or provided by a written management, bookkeeping, or  
734 maintenance contract and is payable upon the preparation of the  
735 certificate. If the certificate is requested in conjunction with  
736 the sale or mortgage of a parcel but the closing does not occur  
737 and no later than 30 days after the closing date for which the  
738 certificate was sought the preparer receives a written request,  
739 accompanied by reasonable documentation, that the sale did not  
740 occur from a payer that is not the parcel owner, the fee shall  
741 be refunded to that payer within 30 days after receipt of the  
742 request. The refund is the obligation of the parcel owner, and  
743 the association may collect it from that owner in the same  
744 manner as an assessment as provided in this section.

745 Section 8. Paragraphs (d) and (j) of subsection (2) of  
746 section 20.165, Florida Statutes, are amended to read:

747 20.165 Department of Business and Professional  
 748 Regulation.--There is created a Department of Business and  
 749 Professional Regulation.

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

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

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

755 Section 9. Subsection (2) of section 73.073, Florida  
 756 Statutes, is amended to read:

757 73.073 Eminent domain procedure with respect to  
 758 condominium common elements.--

759 (2) With respect to the exercise of eminent domain or a  
 760 negotiated sale for the purchase or taking of a portion of the  
 761 common elements of a condominium, the condemning authority shall  
 762 have the responsibility of contacting the condominium  
 763 association and acquiring the most recent rolls indicating the  
 764 names of the unit owners or contacting the appropriate taxing  
 765 authority to obtain the names of the owners of record on the tax  
 766 rolls. Notification shall ~~thereupon~~ be sent by certified mail,  
 767 return receipt requested, to the unit owners of record of the  
 768 condominium units by the condemning authority indicating the  
 769 intent to purchase or take the required property and requesting  
 770 a response from the unit owner. The condemning authority shall  
 771 be responsible for the expense of sending notification pursuant  
 772 to this section. Such notice shall, at a minimum, include:

- 773 (a) The name and address of the condemning authority.
- 774 (b) A written or visual description of the property.

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

776 (d) The appraisal value of the property.

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

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

784

785 The Division of Florida ~~Land Sales~~, Condominiums, Timeshares,  
786 and Mobile Homes of the Department of Business and Professional  
787 Regulation may adopt, by rule, a standard form for such notice  
788 and may require the notice to include any additional relevant  
789 information.

790 Section 10. Subsections (2) and (3) of section 190.009,  
791 Florida Statutes, are amended to read:

792 190.009 Disclosure of public financing.--

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

797 (2)~~(3)~~ The Department of Community Affairs shall keep a  
798 current list of districts and their disclosures pursuant to this  
799 act and shall make such studies and reports and take such  
800 actions as it deems necessary.

801 Section 11. Paragraph (e) of subsection (6) of section  
802 192.037, Florida Statutes, is amended to read:

803           192.037 Fee timeshare real property; taxes and  
804 assessments; escrow.--

805           (6)

806           (e) On or before May 1 of each year, a statement of  
807 receipts and disbursements of the escrow account must be filed  
808 with the Division of Florida ~~Land Sales~~, Condominiums,  
809 Timeshares, and Mobile Homes of the Department of Business and  
810 Professional Regulation, which may enforce this paragraph  
811 pursuant to s. 721.26. This statement must appropriately show  
812 the amount of principal and interest in such account.

813           Section 12. Paragraph (i) of subsection (8) of section  
814 213.053, Florida Statutes, is amended to read:

815           213.053 Confidentiality and information sharing.--

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

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

822  
823 Disclosure of information under this subsection shall be  
824 pursuant to a written agreement between the executive director  
825 and the agency. Such agencies, governmental or nongovernmental,  
826 shall be bound by the same requirements of confidentiality as  
827 the Department of Revenue. Breach of confidentiality is a  
828 misdemeanor of the first degree, punishable as provided by s.  
829 775.082 or s. 775.083.

830 Section 13. Paragraph (d) of subsection (4) of section  
 831 215.20, Florida Statutes, is amended to read:

832 215.20 Certain income and certain trust funds to  
 833 contribute to the General Revenue Fund.--

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

838 (d) Within the Department of Business and Professional  
 839 Regulation:

- 840 1. The Administrative Trust Fund.
- 841 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 842 3. The Cigarette Tax Collection Trust Fund.
- 843 4. The Division of Florida ~~Land Sales~~, Condominiums,  
 844 Timeshares, and Mobile Homes Trust Fund.
- 845 5. The Hotel and Restaurant Trust Fund, with the exception  
 846 of those fees collected for the purpose of funding of the  
 847 hospitality education program as stated in s. 509.302.
- 848 6. The Professional Regulation Trust Fund.
- 849 7. The trust funds administered by the Division of Pari-  
 850 mutuel Wagering.

851  
 852 The enumeration of the foregoing moneys or trust funds shall not  
 853 prohibit the applicability ~~thereto~~ of s. 215.24 should the  
 854 Governor determine that for the reasons mentioned in s. 215.24  
 855 the money or trust funds should be exempt herefrom, as it is the  
 856 purpose of this law to exempt income from its force and effect  
 857 when, by the operation of this law, federal matching funds or

858 contributions or private grants to any trust fund would be lost  
859 to the state.

860 Section 14. Subsection (2) of section 326.002, Florida  
861 Statutes, is amended to read:

862 326.002 Definitions.--As used in ss. 326.001-326.006, the  
863 term:

864 (2) "Division" means the Division of Florida ~~Land Sales,~~  
865 Condominiums, Timeshares, and Mobile Homes of the Department of  
866 Business and Professional Regulation.

867 Section 15. Paragraph (d) of subsection (2) and subsection  
868 (3) of section 326.006, Florida Statutes, are amended to read:

869 326.006 Powers and duties of division.--

870 (2) The division has the power to enforce and ensure  
871 compliance with the provisions of this chapter and rules adopted  
872 under this chapter relating to the sale and ownership of yachts  
873 and ships. In performing its duties, the division has the  
874 following powers and duties:

875 (d) Notwithstanding any remedies available to a yacht or  
876 ship purchaser, if the division has reasonable cause to believe  
877 that a violation of any provision of this chapter or rule  
878 adopted under this chapter has occurred, the division may  
879 institute enforcement proceedings in its own name against any  
880 broker or salesperson or any of his or her assignees or agents,  
881 or against any unlicensed person or any of his or her assignees  
882 or agents, as follows:

883 1. The division may permit a person whose conduct or  
884 actions are under investigation to waive formal proceedings and  
885 enter into a consent proceeding whereby orders, rules, or



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

888 2. The division may issue an order requiring the broker or  
 889 salesperson or any of his or her assignees or agents, or  
 890 requiring any unlicensed person or any of his or her assignees  
 891 or agents, to cease and desist from the unlawful practice and  
 892 take such affirmative action as in the judgment of the division  
 893 will carry out the purposes of this chapter.

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

897 4. The division may impose a civil penalty against a  
 898 broker or salesperson or any of his or her assignees or agents,  
 899 or against an unlicensed person or any of his or her assignees  
 900 or agents, for any violation of this chapter or a rule adopted  
 901 under this chapter. A penalty may be imposed for each day of  
 902 continuing violation, but in no event may the penalty for any  
 903 offense exceed \$10,000. All amounts collected must be deposited  
 904 with the Chief Financial Officer to the credit of the Division  
 905 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile  
 906 Homes Trust Fund. If a broker, salesperson, or unlicensed person  
 907 working for a broker, fails to pay the civil penalty, the  
 908 division shall ~~thereupon~~ issue an order suspending the broker's  
 909 license until such time as the civil penalty is paid or may  
 910 pursue enforcement of the penalty in a court of competent  
 911 jurisdiction. The order imposing the civil penalty or the order  
 912 of suspension may not become effective until 20 days after the  
 913 date of such order. Any action commenced by the division must be

914 brought in the county in which the division has its executive  
 915 offices or in the county where the violation occurred.

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

919 Section 16. Subsection (18) of section 380.05, Florida  
 920 Statutes, is amended to read:

921 380.05 Areas of critical state concern.--

922 (18) Neither the designation of an area of critical state  
 923 concern nor the adoption of any regulations for such an area  
 924 shall in any way limit or modify the rights of any person to  
 925 complete any development that was ~~has been~~ authorized by  
 926 registration of a subdivision pursuant to former chapter 498 or  
 927 former chapter 478, by recordation pursuant to local subdivision  
 928 plat law, or by a building permit or other authorization to  
 929 commence development on which there has been reliance and a  
 930 change of position, and which registration or recordation was  
 931 accomplished, or which permit or authorization was issued, prior  
 932 to the approval under subsection (6), or the adoption under  
 933 subsection (8), of land development regulations for the area of  
 934 critical state concern. If a developer has by his or her actions  
 935 in reliance on prior regulations obtained vested or other legal  
 936 rights that in law would have prevented a local government from  
 937 changing those regulations in a way adverse to the developer's  
 938 interests, nothing in this chapter authorizes any governmental  
 939 agency to abridge those rights.

940 Section 17. Subsection (20) of section 380.06, Florida  
 941 Statutes, is amended to read:

942 380.06 Developments of regional impact.--

943 (20) VESTED RIGHTS.--Nothing in this section shall limit  
944 or modify the rights of any person to complete any development  
945 that was ~~has been~~ authorized by registration of a subdivision  
946 pursuant to former chapter 498, by recordation pursuant to local  
947 subdivision plat law, or by a building permit or other  
948 authorization to commence development on which there has been  
949 reliance and a change of position and which registration or  
950 recordation was accomplished, or which permit or authorization  
951 was issued, prior to July 1, 1973. If a developer has, by his or  
952 her actions in reliance on prior regulations, obtained vested or  
953 other legal rights that in law would have prevented a local  
954 government from changing those regulations in a way adverse to  
955 the developer's interests, nothing in this chapter authorizes  
956 any governmental agency to abridge those rights.

957 (a) For the purpose of determining the vesting of rights  
958 under this subsection, approval pursuant to local subdivision  
959 plat law, ordinances, or regulations of a subdivision plat by  
960 formal vote of a county or municipal governmental body having  
961 jurisdiction after August 1, 1967, and prior to July 1, 1973, is  
962 sufficient to vest all property rights for the purposes of this  
963 subsection; and no action in reliance on, or change of position  
964 concerning, such local governmental approval is required for  
965 vesting to take place. Anyone claiming vested rights under this  
966 paragraph must ~~se~~ notify the department in writing by January 1,  
967 1986. Such notification shall include information adequate to  
968 document the rights established by this subsection. When such  
969 notification requirements are met, in order for the vested

970 rights authorized pursuant to this paragraph to remain valid  
 971 after June 30, 1990, development of the vested plan must be  
 972 commenced prior to that date upon the property that the state  
 973 land planning agency has determined to have acquired vested  
 974 rights following the notification or in a binding letter of  
 975 interpretation. When the notification requirements have not been  
 976 met, the vested rights authorized by this paragraph shall expire  
 977 June 30, 1986, unless development commenced prior to that date.

978 (b) For the purpose of this act, the conveyance of, or the  
 979 agreement to convey, property to the county, state, or local  
 980 government as a prerequisite to zoning change approval shall be  
 981 construed as an act of reliance to vest rights as determined  
 982 under this subsection, provided such zoning change is actually  
 983 granted by such government.

984 Section 18. Paragraph (a) of subsection (4) of section  
 985 380.0651, Florida Statutes, is amended to read:

986 380.0651 Statewide guidelines and standards.--

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

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

995 1.a. The same person has retained or shared control of the  
 996 developments;

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

999           c. There is common management of the developments  
1000 controlling the form of physical development or disposition of  
1001 parcels of the development.

1002           2. There is a reasonable closeness in time between the  
1003 completion of 80 percent or less of one development and the  
1004 submission to a governmental agency of a master plan or series  
1005 of plans or drawings for the other development which is  
1006 indicative of a common development effort.

1007           3. A master plan or series of plans or drawings exists  
1008 covering the developments sought to be aggregated which have  
1009 been submitted to a local general-purpose government, water  
1010 management district, the Florida Department of Environmental  
1011 Protection, or the Division of Florida ~~Land Sales~~, Condominiums,  
1012 Timeshares, and Mobile Homes for authorization to commence  
1013 development. The existence or implementation of a utility's  
1014 master utility plan required by the Public Service Commission or  
1015 general-purpose local government or a master drainage plan shall  
1016 not be the sole determinant of the existence of a master plan.

1017           4. The voluntary sharing of infrastructure that is  
1018 indicative of a common development effort or is designated  
1019 specifically to accommodate the developments sought to be  
1020 aggregated, except that which was implemented because it was  
1021 required by a local general-purpose government; water management  
1022 district; the Department of Environmental Protection; the  
1023 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
1024 Mobile Homes; or the Public Service Commission.

1025           5. There is a common advertising scheme or promotional  
1026 plan in effect for the developments sought to be aggregated.

1027           Section 19. Paragraph (c) of subsection (4) of section  
1028 381.0065, Florida Statutes, is amended to read:

1029           381.0065 Onsite sewage treatment and disposal systems;  
1030 regulation.--

1031           (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may  
1032 not construct, repair, modify, abandon, or operate an onsite  
1033 sewage treatment and disposal system without first obtaining a  
1034 permit approved by the department. The department may issue  
1035 permits to carry out this section, but shall not make the  
1036 issuance of such permits contingent upon prior approval by the  
1037 Department of Environmental Protection, except that the issuance  
1038 of a permit for work seaward of the coastal construction control  
1039 line established under s. 161.053 shall be contingent upon  
1040 receipt of any required coastal construction control line permit  
1041 from the Department of Environmental Protection. A construction  
1042 permit is valid for 18 months from the issuance date and may be  
1043 extended by the department for one 90-day period under rules  
1044 adopted by the department. A repair permit is valid for 90 days  
1045 from the date of issuance. An operating permit must be obtained  
1046 prior to the use of any aerobic treatment unit or if the  
1047 establishment generates commercial waste. Buildings or  
1048 establishments that use an aerobic treatment unit or generate  
1049 commercial waste shall be inspected by the department at least  
1050 annually to assure compliance with the terms of the operating  
1051 permit. The operating permit for a commercial wastewater system  
1052 is valid for 1 year from the date of issuance and must be

1053 renewed annually. The operating permit for an aerobic treatment  
1054 unit is valid for 2 years from the date of issuance and must be  
1055 renewed every 2 years. If all information pertaining to the  
1056 siting, location, and installation conditions or repair of an  
1057 onsite sewage treatment and disposal system remains the same, a  
1058 construction or repair permit for the onsite sewage treatment  
1059 and disposal system may be transferred to another person, if the  
1060 transferee files, within 60 days after the transfer of  
1061 ownership, an amended application providing all corrected  
1062 information and proof of ownership of the property. There is no  
1063 fee associated with the processing of this supplemental  
1064 information. A person may not contract to construct, modify,  
1065 alter, repair, service, abandon, or maintain any portion of an  
1066 onsite sewage treatment and disposal system without being  
1067 registered under part III of chapter 489. A property owner who  
1068 personally performs construction, maintenance, or repairs to a  
1069 system serving his or her own owner-occupied single-family  
1070 residence is exempt from registration requirements for  
1071 performing such construction, maintenance, or repairs on that  
1072 residence, but is subject to all permitting requirements. A  
1073 municipality or political subdivision of the state may not issue  
1074 a building or plumbing permit for any building that requires the  
1075 use of an onsite sewage treatment and disposal system unless the  
1076 owner or builder has received a construction permit for such  
1077 system from the department. A building or structure may not be  
1078 occupied and a municipality, political subdivision, or any state  
1079 or federal agency may not authorize occupancy until the  
1080 department approves the final installation of the onsite sewage

1081 treatment and disposal system. A municipality or political  
 1082 subdivision of the state may not approve any change in occupancy  
 1083 or tenancy of a building that uses an onsite sewage treatment  
 1084 and disposal system until the department has reviewed the use of  
 1085 the system with the proposed change, approved the change, and  
 1086 amended the operating permit.

1087 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and  
 1088 (b), for subdivisions platted of record on or before October 1,  
 1089 1991, when a developer or other appropriate entity has  
 1090 previously made or makes provisions, including financial  
 1091 assurances or other commitments, acceptable to the Department of  
 1092 Health, that a central water system will be installed by a  
 1093 regulated public utility based on a density formula, private  
 1094 potable wells may be used with onsite sewage treatment and  
 1095 disposal systems until the agreed-upon densities are reached.  
 1096 ~~The department may consider assurances filed with the Department~~  
 1097 ~~of Business and Professional Regulation under chapter 498 in~~  
 1098 ~~determining the adequacy of the financial assurance required by~~  
 1099 ~~this paragraph.~~ In a subdivision regulated by this paragraph,  
 1100 the average daily sewage flow may not exceed 2,500 gallons per  
 1101 acre per day. This section does not affect the validity of  
 1102 existing prior agreements. After October 1, 1991, the exception  
 1103 provided under this paragraph is not available to a developer or  
 1104 other appropriate entity.

1105 Section 20. Subsections (8) through (12) of section  
 1106 450.33, Florida Statutes, are amended to read:

1107 450.33 Duties of farm labor contractor.--Every farm labor  
 1108 contractor must:



1109        ~~(8) File, within such time as the department may~~  
 1110 ~~prescribe, a set of his or her fingerprints.~~

1111        (8)~~(9)~~ Produce evidence to the department that each  
 1112 vehicle he or she uses for the transportation of employees  
 1113 complies with the requirements and specifications established in  
 1114 chapter 316, s. 316.622, or Pub. L. No. 93-518 as amended by  
 1115 Pub. L. No. 97-470 meeting Department of Transportation  
 1116 requirements or, in lieu thereof, bears a valid inspection  
 1117 sticker showing that the vehicle has passed the inspection in  
 1118 the state in which the vehicle is registered.

1119        (9)~~(10)~~ Comply with all applicable statutes, rules, and  
 1120 regulations of the United States and of the State of Florida for  
 1121 the protection or benefit of labor, including, but not limited  
 1122 to, those providing for wages, hours, fair labor standards,  
 1123 social security, workers' compensation, unemployment  
 1124 compensation, child labor, and transportation.

1125        (10)~~(11)~~ Maintain accurate daily field records for each  
 1126 employee actually paid by the farm labor contractor reflecting  
 1127 the hours worked for the farm labor contractor and, if paid by  
 1128 unit, the number of units harvested and the amount paid per  
 1129 unit.

1130        (11)~~(12)~~ Clearly display on each vehicle used to transport  
 1131 migrant or seasonal farm workers a display sticker issued by the  
 1132 department, which states that the vehicle is authorized by the  
 1133 department to transport farm workers and the expiration date of  
 1134 the authorization.

1135        Section 21. Subsection (10) is added to section 455.203,  
 1136 Florida Statutes, to read:

1137 455.203 Department; powers and duties.--The department,  
 1138 for the boards under its jurisdiction, shall:

1139 (10) Have authority to:

1140 (a) Close and terminate deficient license application  
 1141 files 2 years after the board or the department notifies the  
 1142 applicant of the deficiency; and

1143 (b) Approve applications for professional licenses that  
 1144 meet all statutory and rule requirements for licensure.

1145 Section 22. Subsection (5) of section 455.116, Florida  
 1146 Statutes, is amended to read:

1147 455.116 Regulation trust funds.--The following trust funds  
 1148 shall be placed in the department:

1149 (5) Division of Florida ~~Land Sales,~~ Condominiums,  
 1150 Timeshares, and Mobile Homes Trust Fund.

1151 Section 23. Subsection (1) of section 455.217, Florida  
 1152 Statutes, is amended to read:

1153 455.217 Examinations.--This section shall be read in  
 1154 conjunction with the appropriate practice act associated with  
 1155 each regulated profession under this chapter.

1156 (1) The Division of Technology, ~~Licensure, and Testing~~ of  
 1157 the Department of Business and Professional Regulation shall  
 1158 provide, contract, or approve services for the development,  
 1159 preparation, administration, scoring, score reporting, and  
 1160 evaluation of all examinations. The division shall seek the  
 1161 advice of the appropriate board in providing such services.

1162 (a) The department, acting in conjunction with the  
 1163 Division of Technology, ~~Licensure, and Testing~~ and the Division  
 1164 of Real Estate, as appropriate, shall ensure that examinations

1165 adequately and reliably measure an applicant's ability to  
1166 practice the profession regulated by the department. After an  
1167 examination developed or approved by the department has been  
1168 administered, the board or department may reject any question  
1169 which does not reliably measure the general areas of competency  
1170 specified in the rules of the board or department, when there is  
1171 no board. The department shall use professional testing services  
1172 for the development, preparation, and evaluation of  
1173 examinations, when such services are available and approved by  
1174 the board.

1175 (b) For each examination developed by the department or  
1176 contracted vendor, to the extent not otherwise specified by  
1177 statute, the board or the department when there is no board,  
1178 shall by rule specify the general areas of competency to be  
1179 covered by the examination, the relative weight to be assigned  
1180 in grading each area tested, the score necessary to achieve a  
1181 passing grade, and the fees, where applicable, to cover the  
1182 actual cost for any purchase, development, and administration of  
1183 the required examination. However, statutory fee caps in each  
1184 practice act shall apply. This subsection does not apply to  
1185 national examinations approved and administered pursuant to  
1186 paragraph (d).

1187 (c) If a practical examination is deemed to be necessary,  
1188 rules shall specify the criteria by which examiners are to be  
1189 selected, the grading criteria to be used by the examiner, the  
1190 relative weight to be assigned in grading each criterion, and  
1191 the score necessary to achieve a passing grade. When a mandatory  
1192 standardization exercise for a practical examination is required

1193 | by law, the board may conduct such exercise. Therefore, board  
1194 | members may serve as examiners at a practical examination with  
1195 | the consent of the board.

1196 |       (d) A board, or the department when there is no board, may  
1197 | approve by rule the use of any national examination which the  
1198 | department has certified as meeting requirements of national  
1199 | examinations and generally accepted testing standards pursuant  
1200 | to department rules. Providers of examinations, which may be  
1201 | either profit or nonprofit entities, seeking certification by  
1202 | the department shall pay the actual costs incurred by the  
1203 | department in making a determination regarding the  
1204 | certification. The department shall use any national examination  
1205 | which is available, certified by the department, and approved by  
1206 | the board. The name and number of a candidate may be provided to  
1207 | a national contractor for the limited purpose of preparing the  
1208 | grade tape and information to be returned to the board or  
1209 | department or, to the extent otherwise specified by rule, the  
1210 | candidate may apply directly to the vendor of the national  
1211 | examination. The department may delegate to the board the duty  
1212 | to provide and administer the examination. Any national  
1213 | examination approved by a board, or the department when there is  
1214 | no board, prior to October 1, 1997, is deemed certified under  
1215 | this paragraph. Any licensing or certification examination that  
1216 | is not developed or administered by the department in-house or  
1217 | provided as a national examination shall be competitively bid.

1218 |       (e) The department shall adopt rules regarding the  
1219 | security and monitoring of examinations. In order to maintain  
1220 | the security of examinations, the department may employ the

1221 procedures set forth in s. 455.228 to seek fines and injunctive  
1222 relief against an examinee who violates the provisions of s.  
1223 455.2175 or the rules adopted pursuant to this paragraph. The  
1224 department, or any agent thereof, may, for the purposes of  
1225 investigation, confiscate any written, photographic, or  
1226 recording material or device in the possession of the examinee  
1227 at the examination site which the department deems necessary to  
1228 enforce such provisions or rules.

1229 (f) If the professional board with jurisdiction over an  
1230 examination concurs, the department may, for a fee, share with  
1231 any other state's licensing authority an examination developed  
1232 by or for the department unless prohibited by a contract entered  
1233 into by the department for development or purchase of the  
1234 examination. The department, with the concurrence of the  
1235 appropriate board, shall establish guidelines that ensure  
1236 security of a shared exam and shall require that any other  
1237 state's licensing authority comply with those guidelines. Those  
1238 guidelines shall be approved by the appropriate professional  
1239 board. All fees paid by the user shall be applied to the  
1240 department's examination and development program for professions  
1241 regulated by this chapter. All fees paid by the user for  
1242 professions not regulated by this chapter shall be applied to  
1243 offset the fees for the development and administration of that  
1244 profession's examination. If both a written and a practical  
1245 examination are given, an applicant shall be required to retake  
1246 only the portion of the examination for which he or she failed  
1247 to achieve a passing grade, if he or she successfully passes

1248 that portion within a reasonable time of his or her passing the  
 1249 other portion.

1250 Section 24. Subsection (6) is added to section 455.2273,  
 1251 Florida Statutes, to read:

1252 455.2273 Disciplinary guidelines.--

1253 (6) Notwithstanding s. 455.017, this section applies to  
 1254 disciplinary guidelines adopted by all boards or divisions  
 1255 within the department.

1256 Section 25. Effective July 1, 2010, paragraph (d) of  
 1257 subsection (1) and paragraph (d) of subsection (2) of section  
 1258 468.841, Florida Statutes, are amended to read:

1259 468.841 Exemptions.--

1260 (1) The following persons are not required to comply with  
 1261 any provisions of this part relating to mold assessment:

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

1274 (2) The following persons are not required to comply with  
 1275 any provisions of this part relating to mold remediation:

1276 (d) Persons or business organizations that are acting  
 1277 within the scope of the respective licenses required under  
 1278 chapter 471, part I of chapter 481, chapter 482, ~~or~~ chapter 489,  
 1279 or part XV of this chapter, are acting on behalf of an insurer  
 1280 under part VI of chapter 626, or are persons in the manufactured  
 1281 housing industry who are licensed under chapter 320, except when  
 1282 any such persons or business organizations hold themselves out  
 1283 for hire to the public as a "certified mold remediator  
 1284 ~~assessor~~," "registered mold remediator ~~assessor~~," "licensed mold  
 1285 remediator ~~assessor~~," "mold remediator ~~assessor~~," "professional  
 1286 mold remediator ~~assessor~~," or any combination thereof stating or  
 1287 implying licensure under this part.

1288 Section 26. Paragraph (b) of subsection (2) of section  
 1289 475.17, Florida Statutes, is amended to read:

1290 475.17 Qualifications for practice.--

1291 (2)

1292 (b) A person may not be licensed as a real estate broker  
 1293 unless, in addition to the other requirements of law, the person  
 1294 has held:

1295 1. An active real estate sales associate's license for at  
 1296 least 24 ~~12~~ months during the preceding 5 years in the office of  
 1297 one or more real estate brokers licensed in this state or any  
 1298 other state, territory, or jurisdiction of the United States or  
 1299 in any foreign national jurisdiction;

1300 2. A current and valid real estate sales associate's  
 1301 license for at least 24 ~~12~~ months during the preceding 5 years  
 1302 in the employ of a governmental agency for a salary and

1303 performing the duties authorized in this part for real estate  
 1304 licensees; or

1305 3. A current and valid real estate broker's license for at  
 1306 least 24 ~~12~~ months during the preceding 5 years in any other  
 1307 state, territory, or jurisdiction of the United States or in any  
 1308 foreign national jurisdiction.

1309  
 1310 ~~This paragraph does not apply to a person employed as a real~~  
 1311 ~~estate investigator by the Division of Real Estate, provided the~~  
 1312 ~~person has been employed as a real estate investigator for at~~  
 1313 ~~least 24 months. The person must be currently employed as a real~~  
 1314 ~~estate investigator to sit for the real estate broker's~~  
 1315 ~~examination and have held a valid and current sales associate's~~  
 1316 ~~license for at least 12 months.~~

1317 Section 27. Subsection (9) of section 475.451, Florida  
 1318 Statutes, is amended to read:

1319 475.451 Schools teaching real estate practice.--

1320 ~~(9)(a) Each school permitholder of a proprietary real~~  
 1321 ~~estate school, each chief administrative person of such an~~  
 1322 ~~institution, or each course sponsor shall deliver to the~~  
 1323 ~~department, in a format acceptable to the department, a copy of~~  
 1324 ~~the classroom course roster of courses that require satisfactory~~  
 1325 ~~completion of an examination no later than 30 days beyond the~~  
 1326 ~~end of the calendar month in which the course was completed.~~

1327 ~~(b) The course roster shall consist of the institution or~~  
 1328 ~~school name and permit number, if applicable, the instructor's~~  
 1329 ~~name and permit number, if applicable, course title, beginning~~  
 1330 ~~and ending dates of the course, number of course hours, course~~



1331 ~~location, if applicable, each student's full name and license~~  
 1332 ~~number, if applicable, each student's mailing address, and the~~  
 1333 ~~numerical grade each student achieved. The course roster shall~~  
 1334 ~~also include the signature of the school permitholder, the chief~~  
 1335 ~~administrative person, or the course sponsor.~~

1336 Section 28. Section 475.455, Florida Statutes, is amended  
 1337 to read:

1338 475.455 Exchange of disciplinary information.--The  
 1339 commission shall inform the Division of Florida ~~Land Sales,~~  
 1340 Condominiums, Timeshares, and Mobile Homes of the Department of  
 1341 Business and Professional Regulation of any disciplinary action  
 1342 the commission has taken against any of its licensees. The  
 1343 division shall inform the commission of any disciplinary action  
 1344 the division has taken against any broker or sales associate  
 1345 registered with the division.

1346 Section 29. Subsections (4) and (5) of section 477.019,  
 1347 Florida Statutes, are amended, subsections (5) through (7) of  
 1348 that section are renumbered as subsections (6) through (8),  
 1349 respectively, and a new subsection (3) is added to that section,  
 1350 to read:

1351 477.019 Cosmetologists; qualifications; licensure;  
 1352 supervised practice; license renewal; endorsement; continuing  
 1353 education.--

1354 (3) An application for the licensure examination for any  
 1355 license under this section may be submitted for examination  
 1356 approval in the last 100 hours of training by a pregraduate of a  
 1357 licensed cosmetology school or a program within the public  
 1358 school system, which school or program is certified by the

1359 Department of Education with fees as required in paragraph  
 1360 (2) (b). Upon approval, the applicant may schedule the  
 1361 examination on a date when the training hours are completed. An  
 1362 applicant shall have 6 months from the date of approval to take  
 1363 the examination. After the 6 months have passed, if the  
 1364 applicant failed to take the examination, the applicant must  
 1365 reapply. The board shall establish by rule the procedures for  
 1366 the pregraduate application process.

1367 (4) ~~(3)~~ Upon an applicant receiving a passing grade, as  
 1368 established by board rule, on the examination and paying the  
 1369 initial licensing fee, the department shall issue a license to  
 1370 practice cosmetology.

1371 (5) ~~(4)~~ If an applicant passes all parts of the  
 1372 examination for licensure as a cosmetologist, he or she may  
 1373 practice in the time between passing the examination and  
 1374 receiving a physical copy of his or her license if he or she  
 1375 practices under the supervision of a licensed cosmetologist in a  
 1376 licensed salon. An applicant who fails any part of the  
 1377 examination may not practice as a cosmetologist and may  
 1378 immediately apply for reexamination. ~~Following the completion of~~  
 1379 ~~the first licensing examination and pending the results of that~~  
 1380 ~~examination and issuance of a license to practice cosmetology,~~  
 1381 ~~graduates of licensed cosmetology schools or cosmetology~~  
 1382 ~~programs offered in public school systems, which schools or~~  
 1383 ~~programs are certified by the Department of Education, are~~  
 1384 ~~eligible to practice cosmetology, provided such graduates~~  
 1385 ~~practice under the supervision of a licensed cosmetologist in a~~  
 1386 ~~licensed cosmetology salon. A graduate who fails the first~~

1387 ~~examination may continue to practice under the supervision of a~~  
 1388 ~~licensed cosmetologist in a licensed cosmetology salon if the~~  
 1389 ~~graduate applies for the next available examination and until~~  
 1390 ~~the graduate receives the results of that examination. No~~  
 1391 ~~graduate may continue to practice under this subsection if the~~  
 1392 ~~graduate fails the examination twice.~~

1393 Section 30. Subsection (6) of section 489.105, Florida  
 1394 Statutes, is amended to read:

1395 489.105 Definitions.--As used in this part:

1396 (6) "Contracting" means, except as exempted in this part,  
 1397 engaging in business as a contractor and includes, but is not  
 1398 limited to, performance of any of the acts as set forth in  
 1399 subsection (3) which define types of contractors. The attempted  
 1400 sale of contracting services and the negotiation or bid for a  
 1401 contract on these services also constitutes contracting. If the  
 1402 services offered require licensure or agent qualification, the  
 1403 offering, negotiation for a bid, or attempted sale of these  
 1404 services requires the corresponding licensure. However, the term  
 1405 "contracting" shall not extend to an individual, partnership,  
 1406 corporation, trust, or other legal entity that offers to sell or  
 1407 sells completed residences on property on which the individual  
 1408 or business entity has any legal or equitable interest, or to  
 1409 the individual or business entity that offers to sell or sells  
 1410 manufactured or factory-built buildings that will be completed  
 1411 on site on property on which either party to a contract has any  
 1412 legal or equitable interest, if the services of a qualified  
 1413 contractor certified or registered pursuant to the requirements

1414 of this chapter have been or will be retained for the purpose of  
 1415 constructing or completing such residences.

1416 Section 31. Section 489.511, Florida Statutes, is amended  
 1417 to read:

1418 489.511 Certification; application; examinations;  
 1419 endorsement.--

1420 (1) (a) Any person who is at least 18 years of age may take  
 1421 the certification examination.

1422 (b) Any person desiring to be certified as a contractor  
 1423 shall apply to the department in writing and must meet the  
 1424 following criteria: to take the certification examination.

1425 ~~(2)(a) A person shall be entitled to take the~~  
 1426 ~~certification examination for the purpose of determining whether~~  
 1427 ~~he or she is qualified to engage in contracting throughout the~~  
 1428 ~~state as a contractor if the person:~~

1429 ~~1. Is at least 18 years of age;~~

1430 ~~1.2. Be~~ is of good moral character;

1431 2. Pass the certification examination, achieving a passing  
 1432 grade as established by board rule; and

1433 3. Meet ~~Meets~~ eligibility requirements according to one of  
 1434 the following criteria:

1435 a. Has, within the 6 years immediately preceding the  
 1436 filing of the application, at least 3 years' proven management  
 1437 experience in the trade or education equivalent thereto, or a  
 1438 combination thereof, but not more than one-half of such  
 1439 experience may be educational equivalent;

1440 b. Has, within the 8 years immediately preceding the  
 1441 filing of the application, at least 4 years' experience as a

1442 supervisor or contractor in the trade for which he or she is  
 1443 making application;

1444 c. Has, within the 12 years immediately preceding the  
 1445 filing of the application, at least 6 years of comprehensive  
 1446 training, technical education, or supervisory experience  
 1447 associated with an electrical or alarm system contracting  
 1448 business, or at least 6 years of technical experience in  
 1449 electrical or alarm system work with the Armed Forces or a  
 1450 governmental entity;

1451 d. Has, within the 12 years immediately preceding the  
 1452 filing of the application, been licensed for 3 years as a  
 1453 professional engineer who is qualified by education, training,  
 1454 or experience to practice electrical engineering; or

1455 e. Has any combination of qualifications under sub-  
 1456 subparagraphs a.-c. totaling 6 years of experience.

1457 (c)~~(b)~~ For purposes of this subsection, "supervisor" means  
 1458 a person having the experience gained while having the general  
 1459 duty of overseeing the technical duties of the trade, provided  
 1460 that such experience is gained by a person who is able to  
 1461 perform the technical duties of the trade without supervision.

1462 (d)~~(e)~~ For purposes of this subsection, at least 40  
 1463 percent of the work experience for an alarm system contractor I  
 1464 must be in the types of fire alarm systems typically used in a  
 1465 commercial setting.

1466 (2)~~(3)~~ The board may determine by rule the number of times  
 1467 per year the applicant may take the examination and after three  
 1468 unsuccessful attempts may ~~On or after October 1, 1998, every~~  
 1469 ~~applicant who is qualified shall be allowed to take the~~

1470 ~~examination three times, notwithstanding the number of times the~~  
1471 ~~applicant has previously failed the examination. If an applicant~~  
1472 ~~fails the examination three times after October 1, 1998, the~~  
1473 ~~board shall~~ require the applicant to complete additional  
1474 college-level or technical education courses in the areas of  
1475 deficiency, as determined by the board, as a condition of future  
1476 eligibility to take the examination. ~~The applicant must also~~  
1477 ~~submit a new application that meets all certification~~  
1478 ~~requirements at the time of its submission and must pay all~~  
1479 ~~appropriate fees.~~

1480 (3) ~~(4)~~ (a) "Good moral character" means a personal history  
1481 of honesty, fairness, and respect for the rights of others and  
1482 for laws of this state and nation.

1483 (b) The board may determine that an individual applying  
1484 for certification is ineligible ~~to take the examination~~ for  
1485 failure to satisfy the requirement of good moral character only  
1486 if:

1487 1. There is a substantial connection between the lack of  
1488 good moral character of the individual and the professional  
1489 responsibilities of a certified contractor; and

1490 2. The finding by the board of lack of good moral  
1491 character is supported by clear and convincing evidence.

1492 (c) When an individual is found to be unqualified for  
1493 certification ~~examination~~ because of a lack of good moral  
1494 character, the board shall furnish such individual a statement  
1495 containing the findings of the board, a complete record of the  
1496 evidence upon which the determination was based, and a notice of  
1497 the rights of the individual to a rehearing and appeal.

1498        (4)~~(5)~~ The board shall, by rule, designate those types of  
1499 specialty electrical or alarm system contractors who may be  
1500 certified under this part. The limit of the scope of work and  
1501 responsibility of a certified specialty contractor shall be  
1502 established by board rule. A certified specialty contractor  
1503 category exists as an optional statewide licensing category.  
1504 Qualification for certification in a specialty category created  
1505 by rule shall be the same as set forth in paragraph (1) (b)  
1506 ~~(2) (a)~~. The existence of a specialty category created by rule  
1507 does not itself create any licensing requirement; however,  
1508 neither does its optional nature remove any licensure  
1509 requirement established elsewhere in this part.

1510        (5)~~(6)~~ The board shall certify as qualified for  
1511 certification by endorsement any individual applying for  
1512 certification who:

1513            (a) Meets the requirements for certification as set forth  
1514 in this section; has passed a national, regional, state, or  
1515 United States territorial licensing examination that is  
1516 substantially equivalent to the examination required by this  
1517 part; and has satisfied the requirements set forth in s.  
1518 489.521; or

1519            (b) Holds a valid license to practice electrical or alarm  
1520 system contracting issued by another state or territory of the  
1521 United States, if the criteria for issuance of such license was  
1522 substantially equivalent to the certification criteria that  
1523 existed in this state at the time the certificate was issued.

1524        (6)~~(7)~~ Upon the issuance of a certificate, any previously  
 1525 issued registered licenses for the classification in which the  
 1526 certification is issued are rendered void.

1527        Section 32. Paragraph (b) of subsection (1) of section  
 1528 489.515, Florida Statutes, is amended to read:

1529        489.515 Issuance of certificates; registrations.--

1530        (1)

1531        (b) The board shall certify as qualified for certification  
 1532 any person who satisfies the requirements of s. 489.511, ~~who~~  
 1533 ~~successfully passes the certification examination administered~~  
 1534 ~~by the department, achieving a passing grade as established by~~  
 1535 ~~board rule,~~ and who submits satisfactory evidence that he or she  
 1536 has obtained both workers' compensation insurance or an  
 1537 acceptable exemption certificate issued by the department and  
 1538 public liability and property damage insurance for the health,  
 1539 safety, and welfare of the public in amounts determined by rule  
 1540 of the board, and furnishes evidence of financial  
 1541 responsibility, credit, and business reputation of either  
 1542 himself or herself or the business organization he or she  
 1543 desires to qualify.

1544        Section 33. Section 494.008, Florida Statutes, is amended  
 1545 to read:

1546        494.008 Mortgages offered by land developers ~~licensed~~  
 1547 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~  
 1548 requirements; prohibitions.--No mortgage loan which has a face  
 1549 amount of \$35,000 or less and is secured by vacant land  
 1550 ~~registered under the Florida Uniform Land Sales Practices Law,~~  
 1551 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial



1552 institution, by any person unless all of the following  
1553 requirements are met:

1554 (1) Each mortgage securing a note or other obligation sold  
1555 or offered for sale shall be eligible for a recordation as a  
1556 first mortgage.

1557 (2) Each mortgage negotiated pursuant to this section must  
1558 include a mortgagee's title insurance policy or an opinion of  
1559 title, from an attorney who is licensed to practice law in this  
1560 state, on each parcel of land which is described in the  
1561 mortgage. The policy or opinion shall reflect that there are no  
1562 other mortgages on the property. A notice stating the priority  
1563 of the mortgage shall be placed on the face of each mortgage in  
1564 an amount over \$35,000 issued pursuant to this section.

1565 (3) Contracts to purchase a mortgage loan shall contain,  
1566 immediately above the purchaser's signature line, the statement  
1567 in 10-point boldfaced type: "This mortgage is secured by vacant  
1568 land subject to development at a future time." This statement  
1569 shall also be typed or printed in 10-point type on the face of  
1570 the note and mortgage sold.

1571 (4) The most recent assessment for tax purposes made by  
1572 the county property appraiser of each parcel of land described  
1573 in the mortgage shall be furnished to each mortgagee.

1574 (5) The mortgage broker shall record or cause to be  
1575 recorded all mortgages or other similar documents prior to  
1576 delivery of the note and mortgage to the mortgagee.

1577 (6) All funds received by the mortgage broker pursuant to  
1578 this section shall promptly be deposited in the broker's trust

1579 account where they shall remain until the note and mortgage are  
 1580 fully executed and recorded.

1581 (7) Willful failure to comply with any of the above  
 1582 provisions shall subject the person to the penalties of s.  
 1583 494.05.

1584 Section 34. Section 498.009, Florida Statutes, is  
 1585 renumbered as section 718.50152, Florida Statutes.

1586 Section 35. Section 498.011, Florida Statutes, is  
 1587 renumbered as section 718.50153, Florida Statutes, and amended  
 1588 to read:

1589 718.50153 ~~498.011~~ Payment of per diem, mileage, and other  
 1590 expenses to division employees.--The amount of per diem and  
 1591 mileage and expense money paid to employees shall be as provided  
 1592 in s. 112.061, except that the division shall establish by rule  
 1593 the standards for reimbursement of actual verified expenses  
 1594 incurred in connection with an on-site review ~~inspection~~ or  
 1595 investigation ~~of subdivided lands~~.

1596 Section 36. Section 498.013, Florida Statutes, is  
 1597 renumbered as section 718.50154, Florida Statutes.

1598 Section 37. Section 498.057, Florida Statutes, is  
 1599 renumbered as section 718.50155, Florida Statutes, and amended,  
 1600 to read:

1601 718.50155 ~~498.057~~ Service of process.--

1602 (1) In addition to the methods of service provided for in  
 1603 the Florida Rules of Civil Procedure and the Florida Statutes,  
 1604 service may be made and ~~by delivering a copy of the process to~~  
 1605 ~~the director of the division, which~~ shall be binding upon the  
 1606 defendant or respondent if:

1607 (a) The division plaintiff, which is acting as the  
 1608 petitioner or plaintiff ~~may be the division~~, immediately sends a  
 1609 copy of the process and of the pleading by certified mail to the  
 1610 defendant or respondent at his or her last known address;<sup>7</sup> and

1611 (b) The division plaintiff files an affidavit of  
 1612 compliance with this section on or before the return date of the  
 1613 process or within the time set by the court.

1614 (2) If any person, including any nonresident of this  
 1615 state, allegedly engages in conduct prohibited by this chapter,  
 1616 or any rule or order of the division, and has not filed a  
 1617 consent to service of process, and personal jurisdiction over  
 1618 him or her cannot otherwise be obtained in this state, the  
 1619 director shall be authorized to receive service of process in  
 1620 any noncriminal proceeding against that person or his or her  
 1621 successor which grows out of the conduct and which is brought by  
 1622 the division under this chapter or any rule or order of the  
 1623 division. The process shall have the same force and validity as  
 1624 if personally served. Notice shall be given as provided in  
 1625 subsection (1).

1626 Section 38. Sections 498.001, 498.003, 498.005, 498.007,  
 1627 498.017, 498.021, 498.022, 498.023, 498.024, 498.025, 498.027,  
 1628 498.028, 498.029, 498.031, 498.033, 498.035, 498.037, 498.039,  
 1629 498.041, 498.047, 498.049, 498.051, 498.053, 498.059, 498.061,  
 1630 and 498.063, Florida Statutes, are repealed.

1631 Section 39. Section 509.512, Florida Statutes, is amended  
 1632 to read:

1633 509.512 Timeshare plan developer and exchange company  
 1634 exemption.--Sections 509.501-509.511 do not apply to a developer

1635 of a timeshare plan or an exchange company approved by the  
 1636 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
 1637 Mobile Homes pursuant to chapter 721, but only to the extent  
 1638 that the developer or exchange company engages in conduct  
 1639 regulated under chapter 721.

1640 Section 40. Subsection (2) of section 517.301, Florida  
 1641 Statutes, is amended to read:

1642 517.301 Fraudulent transactions; falsification or  
 1643 concealment of facts.--

1644 (2) For purposes of ss. 517.311 and 517.312 and this  
 1645 section, the term "investment" means any commitment of money or  
 1646 property principally induced by a representation that an  
 1647 economic benefit may be derived from such commitment, except  
 1648 that the term "~~investment~~" does not include a commitment of  
 1649 money or property for:

1650 (a) The purchase of a business opportunity, business  
 1651 enterprise, or real property through a person licensed under  
 1652 chapter 475 or registered under former chapter 498; or

1653 (b) The purchase of tangible personal property through a  
 1654 person not engaged in telephone solicitation, where said  
 1655 property is offered and sold in accordance with the following  
 1656 conditions:

1657 1. There are no specific representations or guarantees  
 1658 made by the offeror or seller as to the economic benefit to be  
 1659 derived from the purchase;

1660 2. The tangible property is delivered to the purchaser  
 1661 within 30 days after sale, except that such 30-day period may be  
 1662 extended by the office if market conditions so warrant; and

1663           3. The seller has offered the purchaser a full refund  
 1664 policy in writing, exercisable by the purchaser within 10 days  
 1665 of the date of delivery of such tangible personal property,  
 1666 except that the amount of such refund may not ~~in no event shall~~  
 1667 exceed the bid price in effect at the time the property is  
 1668 returned to the seller. If the applicable sellers' market is  
 1669 closed at the time the property is returned to the seller for a  
 1670 refund, the amount of such refund shall be based on the bid  
 1671 price for such property at the next opening of such market.

1672           Section 41. Subsection (4) of section 548.0065, Florida  
 1673 Statutes, is amended to read:

1674           548.0065 Amateur matches; sanctioning and supervision;  
 1675 health and safety standards; compliance checks; continuation,  
 1676 suspension, and revocation of sanctioning approval.--

1677           (4) Any member of the commission or the executive director  
 1678 of the commission may suspend the approval of an amateur  
 1679 sanctioning organization for failure to supervise amateur  
 1680 matches or to enforce the approved health and safety standards  
 1681 required under this chapter, provided that the suspension  
 1682 complies with the procedures for summary suspensions in s.  
 1683 120.60(6). At any amateur boxing, ~~or~~ kickboxing, or mixed  
 1684 martial arts contest, any member of the commission or a  
 1685 representative of the commission may immediately suspend one or  
 1686 more matches in an event whenever it appears that the match or  
 1687 matches violate the health and safety standards established by  
 1688 rule as required by this chapter. A law enforcement officer may  
 1689 assist any member of the commission or a representative of the  
 1690 commission to enforce an order to stop a contest if called upon

1691 to do so by a member of the commission or a representative of  
 1692 the commission.

1693 Section 42. Subsections (2), (3), and (4) of section  
 1694 548.008, Florida Statutes, are amended to read:

1695 548.008 Prohibited competitions.--

1696 ~~(2) No amateur mixed martial arts match may be held in  
 1697 this state.~~

1698 (2)~~(3)~~ No professional match may be held in this state  
 1699 unless it meets the requirements for holding the match as  
 1700 provided in this chapter and the rules adopted by the  
 1701 commission.

1702 (3)~~(4)~~(a) Any person participating in a match prohibited  
 1703 under this section, knowing the match to be prohibited, commits  
 1704 a misdemeanor of the second degree, punishable as provided in s.  
 1705 775.082 or s. 775.083.

1706 (b) Any person holding, promoting, or sponsoring a match  
 1707 prohibited under this section commits a felony of the third  
 1708 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1709 775.084.

1710 Section 43. Subsection (1) of section 548.041, Florida  
 1711 Statutes, is amended to read:

1712 548.041 Age, condition, and suspension of participants.--

1713 (1) A person may ~~shall~~ not be licensed as a participant,  
 1714 and the license of a ~~any~~ participant shall be suspended or  
 1715 revoked, if such person:

1716 (a) Is under the age of 18;

1717 (b) Has participated in a match in this state which was  
 1718 not sanctioned by the commission or by a Native American  
 1719 commission properly constituted under federal law; ~~or~~

1720 (c) Does not meet certain health and medical examination  
 1721 conditions as required by rule of the commission; or

1722 (d) Has not competed in a minimum number of amateur boxing  
 1723 events as determined by commission rule prior to licensure; or

1724 (e) Has not participated in a minimum number of amateur  
 1725 mixed martial arts events as determined by commission rule prior  
 1726 to licensure.

1727 Section 44. Subsection (1) of section 559.935, Florida  
 1728 Statutes, is amended to read:

1729 559.935 Exemptions.--

1730 (1) This part does not apply to:

1731 (a) A bona fide employee of a seller of travel who is  
 1732 engaged solely in the business of her or his employer;

1733 (b) Any direct common carrier of passengers or property  
 1734 regulated by an agency of the Federal Government or employees of  
 1735 such carrier when engaged solely in the transportation business  
 1736 of the carrier as identified in the carrier's certificate;

1737 (c) An intrastate common carrier of passengers or property  
 1738 selling only transportation as defined in the applicable state  
 1739 or local registration or certification, or employees of such  
 1740 carrier when engaged solely in the transportation business of  
 1741 the carrier;

1742 (d) Hotels, motels, or other places of public  
 1743 accommodation selling public accommodations, or employees of  
 1744 such hotels, motels, or other places of public accommodation,

1745 when engaged solely in making arrangements for lodging,  
1746 accommodations, or sightseeing tours within the state, or taking  
1747 reservations for the traveler with times, dates, locations, and  
1748 accommodations certain at the time the reservations are made,  
1749 provided that hotels and motels registered with the Department  
1750 of Business and Professional Regulation pursuant to chapter 509  
1751 are excluded from the provisions of this chapter;

1752 (e) Persons involved solely in the rental, leasing, or  
1753 sale of residential property;

1754 (f) Persons involved solely in the rental, leasing, or  
1755 sale of transportation vehicles;

1756 (g) Persons who make travel arrangements for themselves;  
1757 for their employees or agents; for distributors, franchisees, or  
1758 dealers of the persons' products or services; for entities which  
1759 are financially related to the persons; or for the employees or  
1760 agents of the distributor, franchisee, or dealer or financially  
1761 related entity;

1762 (h) A developer of a timeshare plan or an exchange company  
1763 approved by the Division of Florida ~~Land Sales~~, Condominiums,  
1764 Timeshares, and Mobile Homes pursuant to chapter 721, but only  
1765 to the extent that the developer or exchange company engages in  
1766 conduct regulated under chapter 721; or

1767 (i) Persons or entities engaged solely in offering diving  
1768 services, including classes and sales or rentals of equipment,  
1769 when engaged in making any prearranged travel-related or  
1770 tourist-related services in conjunction with a primarily dive-  
1771 related event.



1772 Section 45. Subsection (17) of section 718.103, Florida  
 1773 Statutes, is amended to read:

1774 718.103 Definitions.--As used in this chapter, the term:

1775 (17) "Division" means the Division of Florida ~~Land Sales,~~  
 1776 Condominiums, Timeshares, and Mobile Homes of the Department of  
 1777 Business and Professional Regulation.

1778 Section 46. Paragraph (c) of subsection (4) of section  
 1779 718.105, Florida Statutes, is amended to read:

1780 718.105 Recording of declaration.--

1781 (4)

1782 (c) If the sum of money held by the clerk has not been  
 1783 paid to the developer or association as provided in paragraph  
 1784 (b) within ~~by~~ 3 years after the date the declaration was  
 1785 originally recorded, the clerk ~~in his or her discretion~~ may  
 1786 notify, in writing, the registered agent of the association that  
 1787 the sum is still available and the purpose for which it was  
 1788 deposited. If the association does not record the certificate  
 1789 within 90 days after the clerk has given the notice, the clerk  
 1790 may disburse the money to the developer. If the developer cannot  
 1791 be located, the clerk shall disburse the money to the Division  
 1792 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile  
 1793 Homes for deposit in the Division of Florida ~~Land Sales,~~  
 1794 Condominiums, Timeshares, and Mobile Homes Trust Fund.

1795 Section 47. Subsection (4) of section 718.1255, Florida  
 1796 Statutes, is amended to read:

1797 718.1255 Alternative dispute resolution; voluntary  
 1798 mediation; mandatory nonbinding arbitration; legislative  
 1799 findings.--

1800 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
1801 DISPUTES.--The Division of Florida ~~Land Sales~~, Condominiums,  
1802 Timeshares, and Mobile Homes of the Department of Business and  
1803 Professional Regulation shall employ full-time attorneys to act  
1804 as arbitrators to conduct the arbitration hearings provided by  
1805 this chapter. The division may also certify attorneys who are  
1806 not employed by the division to act as arbitrators to conduct  
1807 the arbitration hearings provided by this section. No person may  
1808 be employed by the department as a full-time arbitrator unless  
1809 he or she is a member in good standing of The Florida Bar. The  
1810 department shall adopt ~~promulgate~~ rules of procedure to govern  
1811 such arbitration hearings including mediation incident thereto.  
1812 The decision of an arbitrator shall be final; however, ~~such~~ a  
1813 decision shall not be deemed final agency action. Nothing in  
1814 this provision shall be construed to foreclose parties from  
1815 proceeding in a trial de novo unless the parties have agreed  
1816 that the arbitration is binding. If ~~such~~ judicial proceedings  
1817 are initiated, the final decision of the arbitrator shall be  
1818 admissible in evidence in the trial de novo.

1819 (a) Prior to the institution of court litigation, a party  
1820 to a dispute shall petition the division for nonbinding  
1821 arbitration. The petition must be accompanied by a filing fee in  
1822 the amount of \$50. Filing fees collected under this section must  
1823 be used to defray the expenses of the alternative dispute  
1824 resolution program.

1825 (b) The petition must recite, and have attached thereto,  
1826 supporting proof that the petitioner gave the respondents:

- 1827           1. Advance written notice of the specific nature of the  
 1828 dispute;  
 1829           2. A demand for relief, and a reasonable opportunity to  
 1830 comply or to provide the relief; and  
 1831           3. Notice of the intention to file an arbitration petition  
 1832 or other legal action in the absence of a resolution of the  
 1833 dispute.

1834  
 1835 Failure to include the allegations or proof of compliance with  
 1836 these prerequisites requires dismissal of the petition without  
 1837 prejudice.

1838           (c) Upon receipt, the petition shall be promptly reviewed  
 1839 by the division to determine the existence of a dispute and  
 1840 compliance with the requirements of paragraphs (a) and (b). If  
 1841 emergency relief is required and is not available through  
 1842 arbitration, a motion to stay the arbitration may be filed. The  
 1843 motion must be accompanied by a verified petition alleging facts  
 1844 that, if proven, would support entry of a temporary injunction,  
 1845 and if an appropriate motion and supporting papers are filed,  
 1846 the division may abate the arbitration pending a court hearing  
 1847 and disposition of a motion for temporary injunction.

1848           (d) Upon determination by the division that a dispute  
 1849 exists and that the petition substantially meets the  
 1850 requirements of paragraphs (a) and (b) and any other applicable  
 1851 rules, a copy of the petition shall ~~forthwith~~ be served by the  
 1852 division upon all respondents.

1853           (e) ~~Either~~ Before or after the filing of the respondents'  
 1854 answer to the petition, any party may request that the

1855 arbitrator refer the case to mediation under this section and  
1856 any rules adopted by the division. Upon receipt of a request for  
1857 mediation, the division shall promptly contact the parties to  
1858 determine if there is agreement that mediation would be  
1859 appropriate. If all parties agree, the dispute must be referred  
1860 to mediation. Notwithstanding a lack of an agreement by all  
1861 parties, the arbitrator may refer a dispute to mediation at any  
1862 time.

1863 (f) Upon referral of a case to mediation, the parties must  
1864 select a mutually acceptable mediator. To assist in the  
1865 selection, the arbitrator shall provide the parties with a list  
1866 of both volunteer and paid mediators that have been certified by  
1867 the division under s. 718.501. If the parties are unable to  
1868 agree on a mediator within the time allowed by the arbitrator,  
1869 the arbitrator shall appoint a mediator from the list of  
1870 certified mediators. If a case is referred to mediation, the  
1871 parties shall attend a mediation conference, as scheduled by the  
1872 parties and the mediator. If any party fails to attend a duly  
1873 noticed mediation conference, without the permission or approval  
1874 of the arbitrator or mediator, the arbitrator must impose  
1875 sanctions against the party, including the striking of any  
1876 pleadings filed, the entry of an order of dismissal or default  
1877 if appropriate, and the award of costs and attorneys' fees  
1878 incurred by the other parties. Unless otherwise agreed to by the  
1879 parties or as provided by order of the arbitrator, a party is  
1880 deemed to have appeared at a mediation conference by the  
1881 physical presence of the party or its representative having full  
1882 authority to settle without further consultation, provided that

1883 an association may comply by having one or more representatives  
1884 present with full authority to negotiate a settlement and  
1885 recommend that the board of administration ratify and approve  
1886 such a settlement within 5 days from the date of the mediation  
1887 conference. The parties shall share equally the expense of  
1888 mediation, unless they agree otherwise.

1889 (g) The purpose of mediation as provided for by this  
1890 section is to present the parties with an opportunity to resolve  
1891 the underlying dispute in good faith, and with a minimum  
1892 expenditure of time and resources.

1893 (h) Mediation proceedings must generally be conducted in  
1894 accordance with the Florida Rules of Civil Procedure, and these  
1895 proceedings are privileged and confidential to the same extent  
1896 as court-ordered mediation. Persons who are not parties to the  
1897 dispute are not allowed to attend the mediation conference  
1898 without the consent of all parties, with the exception of  
1899 counsel for the parties and corporate representatives designated  
1900 to appear for a party. If the mediator declares an impasse after  
1901 a mediation conference has been held, the arbitration proceeding  
1902 terminates, unless all parties agree in writing to continue the  
1903 arbitration proceeding, in which case the arbitrator's decision  
1904 shall be ~~either~~ binding or nonbinding, as agreed upon by the  
1905 parties; in the arbitration proceeding, the arbitrator shall not  
1906 consider any evidence relating to the unsuccessful mediation  
1907 except in a proceeding to impose sanctions for failure to appear  
1908 at the mediation conference. If the parties do not agree to  
1909 continue arbitration, the arbitrator shall enter an order of  
1910 dismissal, and either party may institute a suit in a court of

1911 competent jurisdiction. The parties may seek to recover any  
1912 costs and attorneys' fees incurred in connection with  
1913 arbitration and mediation proceedings under this section as part  
1914 of the costs and fees that may be recovered by the prevailing  
1915 party in any subsequent litigation.

1916 (i) Arbitration shall be conducted according to rules  
1917 adopted ~~promulgated~~ by the division. The filing of a petition  
1918 for arbitration shall toll the applicable statute of  
1919 limitations.

1920 (j) At the request of any party to the arbitration, the  
1921 ~~such~~ arbitrator shall issue subpoenas for the attendance of  
1922 witnesses and the production of books, records, documents, and  
1923 other evidence and any party on whose behalf a subpoena is  
1924 issued may apply to the court for orders compelling such  
1925 attendance and production. Subpoenas shall be served and shall  
1926 be enforceable in the manner provided by the Florida Rules of  
1927 Civil Procedure. Discovery may, in the discretion of the  
1928 arbitrator, be permitted in the manner provided by the Florida  
1929 Rules of Civil Procedure. Rules adopted by the division may  
1930 authorize any reasonable sanctions except contempt for a  
1931 violation of the arbitration procedural rules of the division or  
1932 for the failure of a party to comply with a reasonable nonfinal  
1933 order issued by an arbitrator which is not under judicial  
1934 review.

1935 (k) The arbitration decision shall be presented to the  
1936 parties in writing. An arbitration decision is final in those  
1937 disputes in which the parties have agreed to be bound. An  
1938 arbitration decision is also final if a complaint for a trial de

1939 | novo is not filed in a court of competent jurisdiction in which  
1940 | the condominium is located within 30 days. The right to file for  
1941 | a trial de novo entitles the parties to file a complaint in the  
1942 | appropriate trial court for a judicial resolution of the  
1943 | dispute. The prevailing party in an arbitration proceeding shall  
1944 | be awarded the costs of the arbitration and reasonable  
1945 | attorney's fees in an amount determined by the arbitrator. Such  
1946 | an award shall include the costs and reasonable attorney's fees  
1947 | incurred in the arbitration proceeding as well as the costs and  
1948 | reasonable attorney's fees incurred in preparing for and  
1949 | attending any scheduled mediation.

1950 |         (1) The party who files a complaint for a trial de novo  
1951 | shall be assessed the other party's arbitration costs, court  
1952 | costs, and other reasonable costs, including attorney's fees,  
1953 | investigation expenses, and expenses for expert or other  
1954 | testimony or evidence incurred after the arbitration hearing if  
1955 | the judgment upon the trial de novo is not more favorable than  
1956 | the arbitration decision. If the judgment is more favorable, the  
1957 | party who filed a complaint for trial de novo shall be awarded  
1958 | reasonable court costs and attorney's fees.

1959 |         (m) Any party to an arbitration proceeding may enforce an  
1960 | arbitration award by filing a petition in a court of competent  
1961 | jurisdiction in which the condominium is located. A petition may  
1962 | not be granted unless the time for appeal by the filing of a  
1963 | complaint for trial de novo has expired. If a complaint for a  
1964 | trial de novo has been filed, a petition may not be granted with  
1965 | respect to an arbitration award that has been stayed. If the  
1966 | petition for enforcement is granted, the petitioner shall

1967 recover reasonable attorney's fees and costs incurred in  
 1968 enforcing the arbitration award. A mediation settlement may also  
 1969 be enforced through the county or circuit court, as applicable,  
 1970 and any costs and fees incurred in the enforcement of a  
 1971 settlement agreement reached at mediation must be awarded to the  
 1972 prevailing party in any enforcement action.

1973 Section 48. Section 718.501, Florida Statutes, is amended  
 1974 to read:

1975 718.501 Powers and duties of Division of Florida ~~Land~~  
 1976 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes.--

1977 (1) The Division of Florida ~~Land Sales,~~ Condominiums,  
 1978 Timeshares, and Mobile Homes of the Department of Business and  
 1979 Professional Regulation, referred to as the "division" in this  
 1980 part, ~~in addition to other powers and duties prescribed by~~  
 1981 ~~chapter 498,~~ has the power to enforce and ensure compliance with  
 1982 the provisions of this chapter and rules ~~promulgated pursuant~~  
 1983 ~~hereto~~ relating to the development, construction, sale, lease,  
 1984 ownership, operation, and management of residential condominium  
 1985 units. In performing its duties, the division has the following  
 1986 powers and duties:

1987 (a) 1. The division may make necessary public or private  
 1988 investigations within or outside this state to determine whether  
 1989 any person has violated this chapter or any rule or order  
 1990 hereunder, to aid in the enforcement of this chapter, or to aid  
 1991 in the adoption of rules or forms hereunder.

1992 2. The division may submit any official written report,  
 1993 worksheet, or other related paper, or a duly certified copy  
 1994 thereof, compiled, prepared, drafted, or otherwise made by and



1995 duly authenticated by a financial examiner or analyst to be  
 1996 admitted as competent evidence in any hearing in which the  
 1997 financial examiner or analyst is available for cross-examination  
 1998 and attests under oath that such documents were prepared as a  
 1999 result of an examination or inspection conducted pursuant to  
 2000 this chapter.

2001 (b) The division may require or permit any person to file  
 2002 a statement in writing, under oath or otherwise, as the division  
 2003 determines, as to the facts and circumstances concerning a  
 2004 matter to be investigated.

2005 (c) For the purpose of any investigation under this  
 2006 chapter, the division director or any officer or employee  
 2007 designated by the division director may administer oaths or  
 2008 affirmations, subpoena witnesses and compel their attendance,  
 2009 take evidence, and require the production of any matter which is  
 2010 relevant to the investigation, including the existence,  
 2011 description, nature, custody, condition, and location of any  
 2012 books, documents, or other tangible things and the identity and  
 2013 location of persons having knowledge of relevant facts or any  
 2014 other matter reasonably calculated to lead to the discovery of  
 2015 material evidence. Upon the failure by a person to obey a  
 2016 subpoena or to answer questions propounded by the investigating  
 2017 officer and upon reasonable notice to all persons affected  
 2018 thereby, the division may apply to the circuit court for an  
 2019 order compelling compliance.

2020 (d) Notwithstanding any remedies available to unit owners  
 2021 and associations, if the division has reasonable cause to  
 2022 believe that a violation of any provision of this chapter or

2023 related rule ~~promulgated pursuant hereto~~ has occurred, the  
 2024 division may institute enforcement proceedings in its own name  
 2025 against any developer, association, officer, or member of the  
 2026 board of administration, or its assignees or agents, as follows:

2027 1. The division may permit a person whose conduct or  
 2028 actions may be under investigation to waive formal proceedings  
 2029 and enter into a consent proceeding whereby orders, rules, or  
 2030 letters of censure or warning, whether formal or informal, may  
 2031 be entered against the person.

2032 2. The division may issue an order requiring the  
 2033 developer, association, officer, or member of the board of  
 2034 administration, or its assignees or agents, to cease and desist  
 2035 from the unlawful practice and take such affirmative action as  
 2036 in the judgment of the division will carry out the purposes of  
 2037 this chapter. ~~Such affirmative action may include, but is not~~  
 2038 ~~limited to, an order requiring a developer to pay moneys~~  
 2039 ~~determined to be owed to a condominium association. If the~~  
 2040 division finds that a developer, association, officer, or member  
 2041 of the board of administration, or its assignees or agents, is  
 2042 violating or is about to violate any provision of this chapter,  
 2043 any rule adopted or order issued by the division, or any written  
 2044 agreement entered into with the division, and presents an  
 2045 immediate danger to the public requiring an immediate final  
 2046 order, it may issue an emergency cease and desist order reciting  
 2047 with particularity the facts underlying such findings. The  
 2048 emergency cease and desist order is effective for 90 days. If  
 2049 the division begins nonemergency cease and desist proceedings,

2050 the emergency cease and desist order remains effective until the  
2051 conclusion of the proceedings under ss. 120.569 and 120.57.

2052 3. The division may bring an action in circuit court on  
2053 behalf of a class of unit owners, lessees, or purchasers for  
2054 declaratory relief, injunctive relief, or restitution.

2055 4. The division may petition the court for the appointment  
2056 of a receiver or conservator. If appointed, the receiver or  
2057 conservator may take action to implement the court order to  
2058 ensure the performance of the order and to remedy any breach  
2059 thereof. In addition to all other means provided by law for the  
2060 enforcement of an injunction or temporary restraining order, the  
2061 circuit court may impound or sequester the property of a party  
2062 defendant, including books, papers, documents, and related  
2063 records, and allow the examination and use of the property by  
2064 the division and a court-appointed receiver or conservator.

2065 5. The division may apply to the circuit court for an  
2066 order of restitution whereby the defendant in an action brought  
2067 pursuant to subparagraph 4. shall be ordered to make restitution  
2068 of those sums shown by the division to have been obtained by the  
2069 defendant in violation of this chapter. Such restitution shall,  
2070 at the option of the court, be payable to the conservator or  
2071 receiver appointed pursuant to subparagraph 4. or directly to  
2072 the persons whose funds or assets were obtained in violation of  
2073 this chapter.

2074 ~~6.4.~~ The division may impose a civil penalty against a  
2075 developer or association, or its assignee or agent, for any  
2076 violation of this chapter or a rule adopted under this chapter  
2077 ~~promulgated pursuant hereto.~~ The division may impose a civil

2078 penalty individually against any officer or board member who  
 2079 willfully and knowingly violates a provision of this chapter,  
 2080 adopted a rule ~~adopted pursuant hereto~~, or a final order of the  
 2081 division. The term "willfully and knowingly" means that the  
 2082 division informed the officer or board member that his or her  
 2083 action or intended action violates this chapter, a rule adopted  
 2084 under this chapter, or a final order of the division and that  
 2085 the officer or board member refused to comply with the  
 2086 requirements of this chapter, a rule adopted under this chapter,  
 2087 or a final order of the division. The division, prior to  
 2088 initiating formal agency action under chapter 120, shall afford  
 2089 the officer or board member an opportunity to voluntarily comply  
 2090 with this chapter, a rule adopted under this chapter, or a final  
 2091 order of the division. An officer or board member who complies  
 2092 within 10 days is not subject to a civil penalty. A penalty may  
 2093 be imposed on the basis of each day of continuing violation, but  
 2094 in no event shall the penalty for any offense exceed \$5,000. By  
 2095 January 1, 1998, the division shall adopt, by rule, penalty  
 2096 guidelines applicable to possible violations or to categories of  
 2097 violations of this chapter or rules adopted by the division. The  
 2098 guidelines must specify a meaningful range of civil penalties  
 2099 for each such violation of the statute and rules and must be  
 2100 based upon the harm caused by the violation, the repetition of  
 2101 the violation, and upon such other factors deemed relevant by  
 2102 the division. For example, the division may consider whether the  
 2103 violations were committed by a developer or owner-controlled  
 2104 association, the size of the association, and other factors. The  
 2105 guidelines must designate the possible mitigating or aggravating

2106 | circumstances that justify a departure from the range of  
 2107 | penalties provided by the rules. It is the legislative intent  
 2108 | that minor violations be distinguished from those which endanger  
 2109 | the health, safety, or welfare of the condominium residents or  
 2110 | other persons and that such guidelines provide reasonable and  
 2111 | meaningful notice to the public of likely penalties that may be  
 2112 | imposed for proscribed conduct. This subsection does not limit  
 2113 | the ability of the division to informally dispose of  
 2114 | administrative actions or complaints by stipulation, agreed  
 2115 | settlement, or consent order. All amounts collected shall be  
 2116 | deposited with the Chief Financial Officer to the credit of the  
 2117 | Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
 2118 | Mobile Homes Trust Fund. If a developer fails to pay the civil  
 2119 | penalty, the division shall ~~thereupon~~ issue an order directing  
 2120 | that such developer cease and desist from further operation  
 2121 | until such time as the civil penalty is paid or may pursue  
 2122 | enforcement of the penalty in a court of competent jurisdiction.  
 2123 | If an association fails to pay the civil penalty, the division  
 2124 | shall ~~thereupon~~ pursue enforcement in a court of competent  
 2125 | jurisdiction, and the order imposing the civil penalty or the  
 2126 | cease and desist order will not become effective until 20 days  
 2127 | after the date of such order. Any action commenced by the  
 2128 | division shall be brought in the county in which the division  
 2129 | has its executive offices or in the county where the violation  
 2130 | occurred.

2131 | 7. In addition to subparagraph 6., the division may seek  
 2132 | the imposition of a civil penalty through the circuit court for  
 2133 | any violation for which the division may issue a notice to show

2134 cause under paragraph (q). The civil penalty shall be at least  
 2135 \$500 but no more than \$5,000 for each violation. The court may  
 2136 also award to the prevailing party court costs and reasonable  
 2137 attorney's fees and, if the division prevails, may also award  
 2138 reasonable costs of investigation.

2139 (e) The division may ~~is authorized to~~ prepare and  
 2140 disseminate a prospectus and other information to assist  
 2141 prospective owners, purchasers, lessees, and developers of  
 2142 residential condominiums in assessing the rights, privileges,  
 2143 and duties pertaining thereto.

2144 (f) The division has authority to adopt rules pursuant to  
 2145 ss. 120.536(1) and 120.54 to implement and enforce the  
 2146 provisions of this chapter.

2147 (g) The division shall establish procedures for providing  
 2148 notice to an association when the division is considering the  
 2149 issuance of a declaratory statement with respect to the  
 2150 declaration of condominium or any related document governing in  
 2151 such condominium community.

2152 (h) The division shall furnish each association which pays  
 2153 the fees required by paragraph (2)(a) a copy of this act,  
 2154 subsequent changes to this act on an annual basis, an amended  
 2155 version of this act as it becomes available from the Secretary  
 2156 of State's office on a biennial basis, and the rules adopted  
 2157 ~~promulgated pursuant~~ thereto on an annual basis.

2158 (i) The division shall annually provide each association  
 2159 with a summary of declaratory statements and formal legal  
 2160 opinions relating to the operations of condominiums which were  
 2161 rendered by the division during the previous year.

2162 (j) The division shall provide training programs for  
2163 condominium association board members and unit owners.

2164 (k) The division shall maintain a toll-free telephone  
2165 number accessible to condominium unit owners.

2166 (l) The division shall develop a program to certify both  
2167 volunteer and paid mediators to provide mediation of condominium  
2168 disputes. The division shall provide, upon request, a list of  
2169 such mediators to any association, unit owner, or other  
2170 participant in arbitration proceedings under s. 718.1255  
2171 requesting a copy of the list. The division shall include on the  
2172 list of volunteer mediators only the names of persons who have  
2173 received at least 20 hours of training in mediation techniques  
2174 or who have mediated at least 20 disputes. In order to become  
2175 initially certified by the division, paid mediators must be  
2176 certified by the Supreme Court to mediate court cases in ~~either~~  
2177 county or circuit courts. However, the division may adopt, by  
2178 rule, additional factors for the certification of paid  
2179 mediators, which factors must be related to experience,  
2180 education, or background. Any person initially certified as a  
2181 paid mediator by the division must, in order to continue to be  
2182 certified, comply with the factors or requirements imposed by  
2183 rules adopted by the division.

2184 (m) When a complaint is made, the division shall conduct  
2185 its inquiry with due regard to the interests of the affected  
2186 parties. Within 30 days after receipt of a complaint, the  
2187 division shall acknowledge the complaint in writing and notify  
2188 the complainant whether the complaint is within the jurisdiction  
2189 of the division and whether additional information is needed by

2190 the division from the complainant. The division shall conduct  
2191 its investigation and shall, within 90 days after receipt of the  
2192 original complaint or of timely requested additional  
2193 information, take action upon the complaint. However, the  
2194 failure to complete the investigation within 90 days does not  
2195 prevent the division from continuing the investigation,  
2196 accepting or considering evidence obtained or received after 90  
2197 days, or taking administrative action if reasonable cause exists  
2198 to believe that a violation of this chapter or a rule of the  
2199 division has occurred. If an investigation is not completed  
2200 within the time limits established in this paragraph, the  
2201 division shall, on a monthly basis, notify the complainant in  
2202 writing of the status of the investigation. When reporting its  
2203 action to the complainant, the division shall inform the  
2204 complainant of any right to a hearing pursuant to ss. 120.569  
2205 and 120.57.

2206 (n) The division may:

2207 1. Contract with agencies in this state or other  
2208 jurisdictions to perform investigative functions; or

2209 2. Accept grants-in-aid from any source.

2210 (o) The division shall cooperate with similar agencies in  
2211 other jurisdictions to establish uniform filing procedures and  
2212 forms, public offering statements, advertising standards, and  
2213 rules and common administrative practices.

2214 (p) The division shall consider notice to a developer to  
2215 be complete when it is delivered to the developer's address  
2216 currently on file with the division.



2217           (g) In addition to its enforcement authority, the division  
 2218 may issue a notice to show cause, which shall provide for a  
 2219 hearing, upon written request, in accordance with chapter 120.

2220           (2) (a) Effective January 1, 1992, Each condominium  
 2221 association which operates more than two units shall pay to the  
 2222 division an annual fee in the amount of \$4 for each residential  
 2223 unit in condominiums operated by the association. If the fee is  
 2224 not paid by March 1, ~~then~~ the association shall be assessed a  
 2225 penalty of 10 percent of the amount due, and the association  
 2226 will not have standing to maintain or defend any action in the  
 2227 courts of this state until the amount due, plus any penalty, is  
 2228 paid.

2229           (b) All fees shall be deposited in the Division of Florida  
 2230 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust  
 2231 Fund as provided by law.

2232           Section 49. Subsection (1) of section 718.5011, Florida  
 2233 Statutes, is amended to read:

2234           718.5011 Ombudsman; appointment; administration.--

2235           (1) There is created an Office of the Condominium  
 2236 Ombudsman, to be located for administrative purposes within the  
 2237 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 2238 Mobile Homes. The functions of the office shall be funded by the  
 2239 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 2240 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief  
 2241 of the division, and the office shall be set within the division  
 2242 in the same manner as any other bureau is staffed and funded.

2243           Section 50. Paragraph (a) of subsection (2) of section  
 2244 718.502, Florida Statutes, is amended to read:

2245           718.502 Filing prior to sale or lease.--  
 2246           (2)(a) Prior to filing as required by subsection (1), and  
 2247 prior to acquiring an ownership, leasehold, or contractual  
 2248 interest in the land upon which the condominium is to be  
 2249 developed, a developer shall not offer a contract for purchase  
 2250 of a unit or lease of a unit for more than 5 years. However, the  
 2251 developer may accept deposits for reservations upon the approval  
 2252 of a fully executed escrow agreement and reservation agreement  
 2253 form properly filed with the Division of Florida ~~Land Sales,~~  
 2254 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
 2255 proposed reservation program shall be accompanied by a filing  
 2256 fee of \$250. Reservations shall not be taken on a proposed  
 2257 condominium unless the developer has an ownership, leasehold, or  
 2258 contractual interest in the land upon which the condominium is  
 2259 to be developed. The division shall notify the developer within  
 2260 20 days of receipt of the reservation filing of any deficiencies  
 2261 contained therein. Such notification shall not preclude the  
 2262 determination of reservation filing deficiencies at a later  
 2263 date, nor shall it relieve the developer of any responsibility  
 2264 under the law. The escrow agreement and the reservation  
 2265 agreement form shall include a statement of the right of the  
 2266 prospective purchaser to an immediate unqualified refund of the  
 2267 reservation deposit moneys upon written request to the escrow  
 2268 agent by the prospective purchaser or the developer.

2269           Section 51. Section 718.504, Florida Statutes, is amended  
 2270 to read:

2271           718.504 Prospectus or offering circular.--Every developer  
 2272 of a residential condominium which contains more than 20

2273 residential units, or which is part of a group of residential  
2274 condominiums which will be served by property to be used in  
2275 common by unit owners of more than 20 residential units, shall  
2276 prepare a prospectus or offering circular and file it with the  
2277 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
2278 Mobile Homes prior to entering into an enforceable contract of  
2279 purchase and sale of any unit or lease of a unit for more than 5  
2280 years and shall furnish a copy of the prospectus or offering  
2281 circular to each buyer. In addition to the prospectus or  
2282 offering circular, each buyer shall be furnished a separate page  
2283 entitled "Frequently Asked Questions and Answers," which shall  
2284 be in accordance with a format approved by the division and a  
2285 copy of the financial information required by s. 718.111. This  
2286 page shall, in readable language, inform prospective purchasers  
2287 regarding their voting rights and unit use restrictions,  
2288 including restrictions on the leasing of a unit; shall indicate  
2289 whether and in what amount the unit owners or the association is  
2290 obligated to pay rent or land use fees for recreational or other  
2291 commonly used facilities; shall contain a statement identifying  
2292 that amount of assessment which, pursuant to the budget, would  
2293 be levied upon each unit type, exclusive of any special  
2294 assessments, and which shall further identify the basis upon  
2295 which assessments are levied, whether monthly, quarterly, or  
2296 otherwise; shall state and identify any court cases in which the  
2297 association is currently a party of record in which the  
2298 association may face liability in excess of \$100,000; and which  
2299 shall further state whether membership in a recreational  
2300 facilities association is mandatory, and if so, shall identify

2301 the fees currently charged per unit type. The division shall by  
 2302 rule require such other disclosure as in its judgment will  
 2303 assist prospective purchasers. The prospectus or offering  
 2304 circular may include more than one condominium, although not all  
 2305 such units are being offered for sale as of the date of the  
 2306 prospectus or offering circular. The prospectus or offering  
 2307 circular must contain the following information:

2308 (1) The front cover or the first page must contain only:

2309 (a) The name of the condominium.

2310 (b) The following statements in conspicuous type:

2311 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
 2312 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2313 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
 2314 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
 2315 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
 2316 MATERIALS.

2317 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
 2318 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
 2319 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
 2320 REPRESENTATIONS.

2321 (2) Summary: The next page must contain all statements  
 2322 required to be in conspicuous type in the prospectus or offering  
 2323 circular.

2324 (3) A separate index of the contents and exhibits of the  
 2325 prospectus.

2326 (4) Beginning on the first page of the text (not including  
 2327 the summary and index), a description of the condominium,  
 2328 including, but not limited to, the following information:

2329           (a) Its name and location.

2330           (b) A description of the condominium property, including,

2331 without limitation:

2332           1. The number of buildings, the number of units in each

2333 building, the number of bathrooms and bedrooms in each unit, and

2334 the total number of units, if the condominium is not a phase

2335 condominium, or the maximum number of buildings that may be

2336 contained within the condominium, the minimum and maximum

2337 numbers of units in each building, the minimum and maximum

2338 numbers of bathrooms and bedrooms that may be contained in each

2339 unit, and the maximum number of units that may be contained

2340 within the condominium, if the condominium is a phase

2341 condominium.

2342           2. The page in the condominium documents where a copy of

2343 the plot plan and survey of the condominium is located.

2344           3. The estimated latest date of completion of

2345 constructing, finishing, and equipping. In lieu of a date, the

2346 description shall include a statement that the estimated date of

2347 completion of the condominium is in the purchase agreement and a

2348 reference to the article or paragraph containing that

2349 information.

2350           (c) The maximum number of units that will use facilities

2351 in common with the condominium. If the maximum number of units

2352 will vary, a description of the basis for variation and the

2353 minimum amount of dollars per unit to be spent for additional

2354 recreational facilities or enlargement of such facilities. If

2355 the addition or enlargement of facilities will result in a

2356 material increase of a unit owner's maintenance expense or

2357 rental expense, if any, the maximum increase and limitations  
 2358 thereon shall be stated.

2359 (5) (a) A statement in conspicuous type describing whether  
 2360 the condominium is created and being sold as fee simple  
 2361 interests or as leasehold interests. If the condominium is  
 2362 created or being sold on a leasehold, the location of the lease  
 2363 in the disclosure materials shall be stated.

2364 (b) If timeshare estates are or may be created with  
 2365 respect to any unit in the condominium, a statement in  
 2366 conspicuous type stating that timeshare estates are created and  
 2367 being sold in units in the condominium.

2368 (6) A description of the recreational and other commonly  
 2369 used facilities that will be used only by unit owners of the  
 2370 condominium, including, but not limited to, the following:

2371 (a) Each room and its intended purposes, location,  
 2372 approximate floor area, and capacity in numbers of people.

2373 (b) Each swimming pool, as to its general location,  
 2374 approximate size and depths, approximate deck size and capacity,  
 2375 and whether heated.

2376 (c) Additional facilities, as to the number of each  
 2377 facility, its approximate location, approximate size, and  
 2378 approximate capacity.

2379 (d) A general description of the items of personal  
 2380 property and the approximate number of each item of personal  
 2381 property that the developer is committing to furnish for each  
 2382 room or other facility or, in the alternative, a representation  
 2383 as to the minimum amount of expenditure that will be made to  
 2384 purchase the personal property for the facility.

2385 (e) The estimated date when each room or other facility  
 2386 will be available for use by the unit owners.

2387 (f)1. An identification of each room or other facility to  
 2388 be used by unit owners that will not be owned by the unit owners  
 2389 or the association;

2390 2. A reference to the location in the disclosure materials  
 2391 of the lease or other agreements providing for the use of those  
 2392 facilities; and

2393 3. A description of the terms of the lease or other  
 2394 agreements, including the length of the term; the rent payable,  
 2395 directly or indirectly, by each unit owner, and the total rent  
 2396 payable to the lessor, stated in monthly and annual amounts for  
 2397 the entire term of the lease; and a description of any option to  
 2398 purchase the property leased under any such lease, including the  
 2399 time the option may be exercised, the purchase price or how it  
 2400 is to be determined, the manner of payment, and whether the  
 2401 option may be exercised for a unit owner's share or only as to  
 2402 the entire leased property.

2403 (g) A statement as to whether the developer may provide  
 2404 additional facilities not described above; their general  
 2405 locations and types; improvements or changes that may be made;  
 2406 the approximate dollar amount to be expended; and the maximum  
 2407 additional common expense or cost to the individual unit owners  
 2408 that may be charged during the first annual period of operation  
 2409 of the modified or added facilities.

2410  
 2411 Descriptions as to locations, areas, capacities, numbers,  
 2412 volumes, or sizes may be stated as approximations or minimums.

2413 (7) A description of the recreational and other facilities  
2414 that will be used in common with other condominiums, community  
2415 associations, or planned developments which require the payment  
2416 of the maintenance and expenses of such facilities, ~~either~~  
2417 directly or indirectly, by the unit owners. The description  
2418 shall include, but not be limited to, the following:

2419 (a) Each building and facility committed to be built.

2420 (b) Facilities not committed to be built except under  
2421 certain conditions, and a statement of those conditions or  
2422 contingencies.

2423 (c) As to each facility committed to be built, or which  
2424 will be committed to be built upon the happening of one of the  
2425 conditions in paragraph (b), a statement of whether it will be  
2426 owned by the unit owners having the use thereof or by an  
2427 association or other entity which will be controlled by them, or  
2428 others, and the location in the exhibits of the lease or other  
2429 document providing for use of those facilities.

2430 (d) The year in which each facility will be available for  
2431 use by the unit owners or, in the alternative, the maximum  
2432 number of unit owners in the project at the time each of all of  
2433 the facilities is committed to be completed.

2434 (e) A general description of the items of personal  
2435 property, and the approximate number of each item of personal  
2436 property, that the developer is committing to furnish for each  
2437 room or other facility or, in the alternative, a representation  
2438 as to the minimum amount of expenditure that will be made to  
2439 purchase the personal property for the facility.



2440 (f) If there are leases, a description thereof, including  
 2441 the length of the term, the rent payable, and a description of  
 2442 any option to purchase.

2443  
 2444 Descriptions shall include location, areas, capacities, numbers,  
 2445 volumes, or sizes and may be stated as approximations or  
 2446 minimums.

2447 (8) Recreation lease or associated club membership:

2448 (a) If any recreational facilities or other facilities  
 2449 offered by the developer and available to, or to be used by,  
 2450 unit owners are to be leased or have club membership associated,  
 2451 the following statement in conspicuous type shall be included:  
 2452 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 2453 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 2454 CONDOMINIUM. There shall be a reference to the location in the  
 2455 disclosure materials where the recreation lease or club  
 2456 membership is described in detail.

2457 (b) If it is mandatory that unit owners pay a fee, rent,  
 2458 dues, or other charges under a recreational facilities lease or  
 2459 club membership for the use of facilities, there shall be in  
 2460 conspicuous type the applicable statement:

2461 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
 2462 MANDATORY FOR UNIT OWNERS; or

2463 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
 2464 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2465 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
 2466 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,

2467 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
 2468 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or  
 2469 4. A similar statement of the nature of the organization  
 2470 or the manner in which the use rights are created, and that unit  
 2471 owners are required to pay.

2472  
 2473 Immediately following the applicable statement, the location in  
 2474 the disclosure materials where the development is described in  
 2475 detail shall be stated.

2476 (c) If the developer, or any other person other than the  
 2477 unit owners and other persons having use rights in the  
 2478 facilities, reserves, or is entitled to receive, any rent, fee,  
 2479 or other payment for the use of the facilities, then there shall  
 2480 be the following statement in conspicuous type: THE UNIT OWNERS  
 2481 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 2482 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
 2483 following this statement, the location in the disclosure  
 2484 materials where the rent or land use fees are described in  
 2485 detail shall be stated.

2486 (d) If, in any recreation format, whether leasehold, club,  
 2487 or other, any person other than the association has the right to  
 2488 a lien on the units to secure the payment of assessments, rent,  
 2489 or other exactions, there shall appear a statement in  
 2490 conspicuous type in substantially the following form:

2491 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 2492 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
 2493 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 2494 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2495           2.   THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 2496 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
 2497 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
 2498 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
 2499 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2500  
 2501 Immediately following the applicable statement, the location in  
 2502 the disclosure materials where the lien or lien right is  
 2503 described in detail shall be stated.

2504           (9)   If the developer or any other person has the right to  
 2505 increase or add to the recreational facilities at any time after  
 2506 the establishment of the condominium whose unit owners have use  
 2507 rights therein, without the consent of the unit owners or  
 2508 associations being required, there shall appear a statement in  
 2509 conspicuous type in substantially the following form:

2510 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
 2511 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
 2512 statement, the location in the disclosure materials where such  
 2513 reserved rights are described shall be stated.

2514           (10)  A statement of whether the developer's plan includes  
 2515 a program of leasing units rather than selling them, or leasing  
 2516 units and selling them subject to such leases. If so, there  
 2517 shall be a description of the plan, including the number and  
 2518 identification of the units and the provisions and term of the  
 2519 proposed leases, and a statement in boldfaced type that: THE  
 2520 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2521           (11)  The arrangements for management of the association  
 2522 and maintenance and operation of the condominium property and of

2523 other property that will serve the unit owners of the  
 2524 condominium property, and a description of the management  
 2525 contract and all other contracts for these purposes having a  
 2526 term in excess of 1 year, including the following:

- 2527 (a) The names of contracting parties.
- 2528 (b) The term of the contract.
- 2529 (c) The nature of the services included.
- 2530 (d) The compensation, stated on a monthly and annual  
 2531 basis, and provisions for increases in the compensation.
- 2532 (e) A reference to the volumes and pages of the  
 2533 condominium documents and of the exhibits containing copies of  
 2534 such contracts.

2535  
 2536 Copies of all described contracts shall be attached as exhibits.  
 2537 If there is a contract for the management of the condominium  
 2538 property, then a statement in conspicuous type in substantially  
 2539 the following form shall appear, identifying the proposed or  
 2540 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
 2541 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE  
 2542 CONTRACT MANAGER). Immediately following this statement, the  
 2543 location in the disclosure materials of the contract for  
 2544 management of the condominium property shall be stated.

2545 (12) If the developer or any other person or persons other  
 2546 than the unit owners has the right to retain control of the  
 2547 board of administration of the association for a period of time  
 2548 which can exceed 1 year after the closing of the sale of a  
 2549 majority of the units in that condominium to persons other than  
 2550 successors or alternate developers, then a statement in

2551 conspicuous type in substantially the following form shall be  
2552 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
2553 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
2554 HAVE BEEN SOLD. Immediately following this statement, the  
2555 location in the disclosure materials where this right to control  
2556 is described in detail shall be stated.

2557 (13) If there are any restrictions upon the sale,  
2558 transfer, conveyance, or leasing of a unit, then a statement in  
2559 conspicuous type in substantially the following form shall be  
2560 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
2561 CONTROLLED. Immediately following this statement, the location  
2562 in the disclosure materials where the restriction, limitation,  
2563 or control on the sale, lease, or transfer of units is described  
2564 in detail shall be stated.

2565 (14) If the condominium is part of a phase project, the  
2566 following information shall be stated:

2567 (a) A statement in conspicuous type in substantially the  
2568 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
2569 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
2570 this statement, the location in the disclosure materials where  
2571 the phasing is described shall be stated.

2572 (b) A summary of the provisions of the declaration which  
2573 provide for the phasing.

2574 (c) A statement as to whether or not residential buildings  
2575 and units which are added to the condominium may be  
2576 substantially different from the residential buildings and units  
2577 originally in the condominium. If the added residential  
2578 buildings and units may be substantially different, there shall

2579 be a general description of the extent to which such added  
 2580 residential buildings and units may differ, and a statement in  
 2581 conspicuous type in substantially the following form shall be  
 2582 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM  
 2583 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
 2584 UNITS IN THE CONDOMINIUM. Immediately following this statement,  
 2585 the location in the disclosure materials where the extent to  
 2586 which added residential buildings and units may substantially  
 2587 differ is described shall be stated.

2588 (d) A statement of the maximum number of buildings  
 2589 containing units, the maximum and minimum numbers of units in  
 2590 each building, the maximum number of units, and the minimum and  
 2591 maximum square footage of the units that may be contained within  
 2592 each parcel of land which may be added to the condominium.

2593 (15) If a condominium created on or after July 1, 2000, is  
 2594 or may become part of a multicondominium, the following  
 2595 information must be provided:

2596 (a) A statement in conspicuous type in substantially the  
 2597 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
 2598 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
 2599 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following  
 2600 this statement, the location in the prospectus or offering  
 2601 circular and its exhibits where the multicondominium aspects of  
 2602 the offering are described must be stated.

2603 (b) A summary of the provisions in the declaration,  
 2604 articles of incorporation, and bylaws which establish and  
 2605 provide for the operation of the multicondominium, including a  
 2606 statement as to whether unit owners in the condominium will have

2607 the right to use recreational or other facilities located or  
2608 planned to be located in other condominiums operated by the same  
2609 association, and the manner of sharing the common expenses  
2610 related to such facilities.

2611 (c) A statement of the minimum and maximum number of  
2612 condominiums, and the minimum and maximum number of units in  
2613 each of those condominiums, which will or may be operated by the  
2614 association, and the latest date by which the exact number will  
2615 be finally determined.

2616 (d) A statement as to whether any of the condominiums in  
2617 the multicondominium may include units intended to be used for  
2618 nonresidential purposes and the purpose or purposes permitted  
2619 for such use.

2620 (e) A general description of the location and approximate  
2621 acreage of any land on which any additional condominiums to be  
2622 operated by the association may be located.

2623 (16) If the condominium is created by conversion of  
2624 existing improvements, the following information shall be  
2625 stated:

2626 (a) The information required by s. 718.616.

2627 (b) A caveat that there are no express warranties unless  
2628 they are stated in writing by the developer.

2629 (17) A summary of the restrictions, if any, to be imposed  
2630 on units concerning the use of any of the condominium property,  
2631 including statements as to whether there are restrictions upon  
2632 children and pets, and reference to the volumes and pages of the  
2633 condominium documents where such restrictions are found, or if  
2634 such restrictions are contained elsewhere, then a copy of the

2635 documents containing the restrictions shall be attached as an  
 2636 exhibit.

2637 (18) If there is any land that is offered by the developer  
 2638 for use by the unit owners and that is neither owned by them nor  
 2639 leased to them, the association, or any entity controlled by  
 2640 unit owners and other persons having the use rights to such  
 2641 land, a statement shall be made as to how such land will serve  
 2642 the condominium. If any part of such land will serve the  
 2643 condominium, the statement shall describe the land and the  
 2644 nature and term of service, and the declaration or other  
 2645 instrument creating such servitude shall be included as an  
 2646 exhibit.

2647 (19) The manner in which utility and other services,  
 2648 including, but not limited to, sewage and waste disposal, water  
 2649 supply, and storm drainage, will be provided and the person or  
 2650 entity furnishing them.

2651 (20) An explanation of the manner in which the  
 2652 apportionment of common expenses and ownership of the common  
 2653 elements has been determined.

2654 (21) An estimated operating budget for the condominium and  
 2655 the association, and a schedule of the unit owner's expenses  
 2656 shall be attached as an exhibit and shall contain the following  
 2657 information:

2658 (a) The estimated monthly and annual expenses of the  
 2659 condominium and the association that are collected from unit  
 2660 owners by assessments.

2661 (b) The estimated monthly and annual expenses of each unit  
 2662 owner for a unit, other than common expenses paid by all unit



2663 owners, payable by the unit owner to persons or entities other  
 2664 than the association, as well as to the association, including  
 2665 fees assessed pursuant to s. 718.113(1) for maintenance of  
 2666 limited common elements where such costs are shared only by  
 2667 those entitled to use the limited common element, and the total  
 2668 estimated monthly and annual expense. There may be excluded from  
 2669 this estimate expenses which are not provided for or  
 2670 contemplated by the condominium documents, including, but not  
 2671 limited to, the costs of private telephone; maintenance of the  
 2672 interior of condominium units, which is not the obligation of  
 2673 the association; maid or janitorial services privately  
 2674 contracted for by the unit owners; utility bills billed directly  
 2675 to each unit owner for utility services to his or her unit;  
 2676 insurance premiums other than those incurred for policies  
 2677 obtained by the condominium; and similar personal expenses of  
 2678 the unit owner. A unit owner's estimated payments for  
 2679 assessments shall also be stated in the estimated amounts for  
 2680 the times when they will be due.

2681 (c) The estimated items of expenses of the condominium and  
 2682 the association, except as excluded under paragraph (b),  
 2683 including, but not limited to, the following items, which shall  
 2684 be stated ~~either~~ as an association expense collectible by  
 2685 assessments or as unit owners' expenses payable to persons other  
 2686 than the association:

- 2687 1. Expenses for the association and condominium:
- 2688 a. Administration of the association.
- 2689 b. Management fees.
- 2690 c. Maintenance.

- 2691 d. Rent for recreational and other commonly used
- 2692 facilities.
- 2693 e. Taxes upon association property.
- 2694 f. Taxes upon leased areas.
- 2695 g. Insurance.
- 2696 h. Security provisions.
- 2697 i. Other expenses.
- 2698 j. Operating capital.
- 2699 k. Reserves.
- 2700 l. Fees payable to the division.
- 2701 2. Expenses for a unit owner:
- 2702 a. Rent for the unit, if subject to a lease.
- 2703 b. Rent payable by the unit owner directly to the lessor
- 2704 or agent under any recreational lease or lease for the use of
- 2705 commonly used facilities, which use and payment is a mandatory
- 2706 condition of ownership and is not included in the common expense
- 2707 or assessments for common maintenance paid by the unit owners to
- 2708 the association.
- 2709 (d) The following statement in conspicuous type: THE
- 2710 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 2711 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
- 2712 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 2713 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 2714 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 2715 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
- 2716 THE OFFERING.
- 2717 (e) Each budget for an association prepared by a developer
- 2718 consistent with this subsection shall be prepared in good faith

2719 and shall reflect accurate estimated amounts for the required  
2720 items in paragraph (c) at the time of the filing of the offering  
2721 circular with the division, and subsequent increased amounts of  
2722 any item included in the association's estimated budget that are  
2723 beyond the control of the developer shall not be considered an  
2724 amendment that would give rise to rescission rights set forth in  
2725 s. 718.503(1)(a) or (b), nor shall such increases modify, void,  
2726 or otherwise affect any guarantee of the developer contained in  
2727 the offering circular or any purchase contract. It is the intent  
2728 of this paragraph to clarify existing law.

2729 (f) The estimated amounts shall be stated for a period of  
2730 at least 12 months and may distinguish between the period prior  
2731 to the time unit owners other than the developer elect a  
2732 majority of the board of administration and the period after  
2733 that date.

2734 (22) A schedule of estimated closing expenses to be paid  
2735 by a buyer or lessee of a unit and a statement of whether title  
2736 opinion or title insurance policy is available to the buyer and,  
2737 if so, at whose expense.

2738 (23) The identity of the developer and the chief operating  
2739 officer or principal directing the creation and sale of the  
2740 condominium and a statement of its and his or her experience in  
2741 this field.

2742 (24) Copies of the following, to the extent they are  
2743 applicable, shall be included as exhibits:

2744 (a) The declaration of condominium, or the proposed  
2745 declaration if the declaration has not been recorded.

- 2746 (b) The articles of incorporation creating the
- 2747 association.
- 2748 (c) The bylaws of the association.
- 2749 (d) The ground lease or other underlying lease of the
- 2750 condominium.
- 2751 (e) The management agreement and all maintenance and other
- 2752 contracts for management of the association and operation of the
- 2753 condominium and facilities used by the unit owners having a
- 2754 service term in excess of 1 year.
- 2755 (f) The estimated operating budget for the condominium and
- 2756 the required schedule of unit owners' expenses.
- 2757 (g) A copy of the floor plan of the unit and the plot plan
- 2758 showing the location of the residential buildings and the
- 2759 recreation and other common areas.
- 2760 (h) The lease of recreational and other facilities that
- 2761 will be used only by unit owners of the subject condominium.
- 2762 (i) The lease of facilities used by owners and others.
- 2763 (j) The form of unit lease, if the offer is of a
- 2764 leasehold.
- 2765 (k) A declaration of servitude of properties serving the
- 2766 condominium but not owned by unit owners or leased to them or
- 2767 the association.
- 2768 (l) The statement of condition of the existing building or
- 2769 buildings, if the offering is of units in an operation being
- 2770 converted to condominium ownership.
- 2771 (m) The statement of inspection for termite damage and
- 2772 treatment of the existing improvements, if the condominium is a
- 2773 conversion.

2774 (n) The form of agreement for sale or lease of units.  
 2775 (o) A copy of the agreement for escrow of payments made to  
 2776 the developer prior to closing.  
 2777 (p) A copy of the documents containing any restrictions on  
 2778 use of the property required by subsection (17).  
 2779 (25) Any prospectus or offering circular complying, prior  
 2780 to the effective date of this act, with the provisions of former  
 2781 ss. 711.69 and 711.802 may continue to be used without amendment  
 2782 or may be amended to comply with ~~the provisions of~~ this chapter.  
 2783 (26) A brief narrative description of the location and  
 2784 effect of all existing and intended easements located or to be  
 2785 located on the condominium property other than those described  
 2786 in the declaration.  
 2787 (27) If the developer is required by state or local  
 2788 authorities to obtain acceptance or approval of any dock or  
 2789 marina facilities intended to serve the condominium, a copy of  
 2790 any such acceptance or approval acquired by the time of filing  
 2791 with the division under s. 718.502(1) or a statement that such  
 2792 acceptance or approval has not been acquired or received.  
 2793 (28) Evidence demonstrating that the developer has an  
 2794 ownership, leasehold, or contractual interest in the land upon  
 2795 which the condominium is to be developed.  
 2796 Section 52. Section 718.508, Florida Statutes, is amended  
 2797 to read:  
 2798 718.508 Regulation by Division of Hotels and  
 2799 Restaurants.--In addition to the authority, regulation, or  
 2800 control exercised by the Division of Florida ~~Land Sales,~~  
 2801 Condominiums, Timeshares, and Mobile Homes pursuant to this act

2802 with respect to condominiums, buildings included in a  
 2803 condominium property are ~~shall be~~ subject to the authority,  
 2804 regulation, or control of the Division of Hotels and Restaurants  
 2805 of the Department of Business and Professional Regulation, to  
 2806 the extent provided ~~for~~ in chapter 399.

2807 Section 53. Section 718.509, Florida Statutes, is amended,  
 2808 and section 498.019, Florida Statutes, is transferred,  
 2809 renumbered as subsections (1) and (2) of that section, and  
 2810 amended to read:

2811 718.509 Division of Florida ~~Land Sales,~~ Condominiums,  
 2812 Timeshares, and Mobile Homes Trust Fund. -- ~~All funds collected by~~  
 2813 ~~the division and any amount paid for a fee or penalty under this~~  
 2814 ~~chapter shall be deposited in the State Treasury to the credit~~  
 2815 ~~of the Division of Florida Land Sales, Condominiums, and Mobile~~  
 2816 ~~Homes Trust Fund created by s. 498.019.~~

2817 ~~498.019 Division of Florida Land Sales, Condominiums, and~~  
 2818 ~~Mobile Homes Trust Fund.~~

2819 (1) There is created within the State Treasury the  
 2820 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 2821 Mobile Homes Trust Fund to be used for the administration and  
 2822 operation of this chapter and chapters 718, 719, 721, and 723 by  
 2823 the division.

2824 (2) All moneys collected by the division from fees, fines,  
 2825 or penalties or from costs awarded to the division by a court or  
 2826 administrative final order shall be paid into the Division of  
 2827 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes  
 2828 Trust Fund. The Legislature shall appropriate funds from this  
 2829 trust fund sufficient to carry out the provisions of this

2830 chapter and the provisions of law with respect to each category  
 2831 of business covered by the ~~this~~ trust fund. The division shall  
 2832 maintain separate revenue accounts in the trust fund for each of  
 2833 the businesses regulated by the division. The division shall  
 2834 provide for the proportionate allocation among the accounts of  
 2835 expenses incurred by the division in the performance of its  
 2836 duties with respect to each of these businesses. As part of its  
 2837 normal budgetary process, the division shall prepare an annual  
 2838 report of revenue and allocated expenses related to the  
 2839 operation of each of these businesses which may be used to  
 2840 determine fees charged by the division. This subsection shall  
 2841 operate pursuant to the provisions of s. 215.20.

2842 Section 54. Paragraph (a) of subsection (2) of section  
 2843 718.608, Florida Statutes, is amended to read:

2844 718.608 Notice of intended conversion; time of delivery;  
 2845 content.--

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

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

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

2856 a. If you have continuously been a resident of these  
 2857 apartments during the last 180 days and your rental agreement

2858 expires during the next 270 days, you may extend your rental  
2859 agreement for up to 270 days after the date of this notice.

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

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

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

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

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

2878 a. If your rental agreement began or was extended or  
2879 renewed after May 1, 1980, and your rental agreement, including  
2880 extensions and renewals, has an unexpired term of 180 days or  
2881 less, you may cancel your rental agreement upon 30 days' written  
2882 notice and move. Also, upon 30 days' written notice, you may  
2883 cancel any extension of the rental agreement.

2884 b. If your rental agreement was not begun or was not  
2885 extended or renewed after May 1, 1980, you may not cancel the



2886 rental agreement without the consent of the developer. If your  
2887 rental agreement, including extensions and renewals, has an  
2888 unexpired term of 180 days or less, you may, however, upon 30  
2889 days' written notice cancel any extension of the rental  
2890 agreement.

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

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

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

2903 b. Within 90 days you will be provided purchase  
2904 information relating to your apartment, including the price of  
2905 your unit and the condition of the building. If you do not  
2906 receive this information within 90 days, your rental agreement  
2907 and any extension will be extended 1 day for each day over 90  
2908 days until you are given the purchase information. If you do not  
2909 want this rental agreement extension, you must notify the  
2910 developer in writing.

2911 7. If you have any questions regarding this conversion or  
2912 the Condominium Act, you may contact the developer or the state  
2913 agency which regulates condominiums: The Division of Florida

2914 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,  
 2915 (Tallahassee address and telephone number of division) .

2916 Section 55. Subsection (17) of section 719.103, Florida  
 2917 Statutes, is amended to read:

2918 719.103 Definitions.--As used in this chapter:

2919 (17) "Division" means the Division of Florida ~~Land Sales~~,  
 2920 Condominiums, Timeshares, and Mobile Homes of the Department of  
 2921 Business and Professional Regulation.

2922 Section 56. Section 719.1255, Florida Statutes, is amended  
 2923 to read:

2924 719.1255 Alternative resolution of disputes.--The Division  
 2925 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile  
 2926 Homes of the Department of Business and Professional Regulation  
 2927 shall provide for alternative dispute resolution in accordance  
 2928 with s. 718.1255.

2929 Section 57. Section 719.501, Florida Statutes, is amended  
 2930 to read:

2931 719.501 Powers and duties of Division of Florida ~~Land~~  
 2932 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2933 (1) The Division of Florida ~~Land Sales~~, Condominiums,  
 2934 Timeshares, and Mobile Homes of the Department of Business and  
 2935 Professional Regulation, referred to as the "division" in this  
 2936 part, in addition to other powers and duties prescribed by  
 2937 chapter 718 ~~498~~, has the power to enforce and ensure compliance  
 2938 with ~~the provisions of~~ this chapter and adopted rules  
 2939 ~~promulgated pursuant hereto~~ relating to the development,  
 2940 construction, sale, lease, ownership, operation, and management

2941 of residential cooperative units. In performing its duties, the  
2942 division shall have the following powers and duties:

2943 (a) The division may make necessary public or private  
2944 investigations within or outside this state to determine whether  
2945 any person has violated this chapter or any rule or order  
2946 hereunder, to aid in the enforcement of this chapter, or to aid  
2947 in the adoption of rules or forms hereunder.

2948 (b) The division may require or permit any person to file  
2949 a statement in writing, under oath or otherwise, as the division  
2950 determines, as to the facts and circumstances concerning a  
2951 matter to be investigated.

2952 (c) For the purpose of any investigation under this  
2953 chapter, the division director or any officer or employee  
2954 designated by the division director may administer oaths or  
2955 affirmations, subpoena witnesses and compel their attendance,  
2956 take evidence, and require the production of any matter which is  
2957 relevant to the investigation, including the existence,  
2958 description, nature, custody, condition, and location of any  
2959 books, documents, or other tangible things and the identity and  
2960 location of persons having knowledge of relevant facts or any  
2961 other matter reasonably calculated to lead to the discovery of  
2962 material evidence. Upon failure by a person to obey a subpoena  
2963 or to answer questions propounded by the investigating officer  
2964 and upon reasonable notice to all persons affected thereby, the  
2965 division may apply to the circuit court for an order compelling  
2966 compliance.

2967 (d) Notwithstanding any remedies available to unit owners  
2968 and associations, if the division has reasonable cause to

2969 believe that a violation of any provision of this chapter or  
2970 related rule ~~promulgated pursuant hereto~~ has occurred, the  
2971 division may institute enforcement proceedings in its own name  
2972 against a developer, association, officer, or member of the  
2973 board, or its assignees or agents, as follows:

2974 1. The division may permit a person whose conduct or  
2975 actions may be under investigation to waive formal proceedings  
2976 and enter into a consent proceeding whereby orders, rules, or  
2977 letters of censure or warning, whether formal or informal, may  
2978 be entered against the person.

2979 2. The division may issue an order requiring the  
2980 developer, association, officer, or member of the board, or its  
2981 assignees or agents, to cease and desist from the unlawful  
2982 practice and take such affirmative action as in the judgment of  
2983 the division will carry out the purposes of this chapter. Such  
2984 affirmative action may include, but is not limited to, an order  
2985 requiring a developer to pay moneys determined to be owed to a  
2986 condominium association.

2987 3. The division may bring an action in circuit court on  
2988 behalf of a class of unit owners, lessees, or purchasers for  
2989 declaratory relief, injunctive relief, or restitution.

2990 4. The division may impose a civil penalty against a  
2991 developer or association, or its assignees or agents, for any  
2992 violation of this chapter or related a rule ~~promulgated pursuant~~  
2993 ~~hereto~~. The division may impose a civil penalty individually  
2994 against any officer or board member who willfully and knowingly  
2995 violates a provision of this chapter, a rule adopted pursuant to  
2996 this chapter, or a final order of the division. The term

2997 "willfully and knowingly" means that the division informed the  
2998 officer or board member that his or her action or intended  
2999 action violates this chapter, a rule adopted under this chapter,  
3000 or a final order of the division, and that the officer or board  
3001 member refused to comply with the requirements of this chapter,  
3002 a rule adopted under this chapter, or a final order of the  
3003 division. The division, prior to initiating formal agency action  
3004 under chapter 120, shall afford the officer or board member an  
3005 opportunity to voluntarily comply with this chapter, a rule  
3006 adopted under this chapter, or a final order of the division. An  
3007 officer or board member who complies within 10 days is not  
3008 subject to a civil penalty. A penalty may be imposed on the  
3009 basis of each day of continuing violation, but in no event shall  
3010 the penalty for any offense exceed \$5,000. By January 1, 1998,  
3011 the division shall adopt, by rule, penalty guidelines applicable  
3012 to possible violations or to categories of violations of this  
3013 chapter or rules adopted by the division. The guidelines must  
3014 specify a meaningful range of civil penalties for each such  
3015 violation of the statute and rules and must be based upon the  
3016 harm caused by the violation, the repetition of the violation,  
3017 and upon such other factors deemed relevant by the division. For  
3018 example, the division may consider whether the violations were  
3019 committed by a developer or owner-controlled association, the  
3020 size of the association, and other factors. The guidelines must  
3021 designate the possible mitigating or aggravating circumstances  
3022 that justify a departure from the range of penalties provided by  
3023 the rules. It is the legislative intent that minor violations be  
3024 distinguished from those which endanger the health, safety, or

3025 welfare of the cooperative residents or other persons and that  
3026 such guidelines provide reasonable and meaningful notice to the  
3027 public of likely penalties that may be imposed for proscribed  
3028 conduct. This subsection does not limit the ability of the  
3029 division to informally dispose of administrative actions or  
3030 complaints by stipulation, agreed settlement, or consent order.  
3031 All amounts collected shall be deposited with the Chief  
3032 Financial Officer to the credit of the Division of Florida ~~Land~~  
3033 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If  
3034 a developer fails to pay the civil penalty, the division shall  
3035 thereupon issue an order directing that such developer cease and  
3036 desist from further operation until such time as the civil  
3037 penalty is paid or may pursue enforcement of the penalty in a  
3038 court of competent jurisdiction. If an association fails to pay  
3039 the civil penalty, the division shall thereupon pursue  
3040 enforcement in a court of competent jurisdiction, and the order  
3041 imposing the civil penalty or the cease and desist order shall  
3042 not become effective until 20 days after the date of such order.  
3043 Any action commenced by the division shall be brought in the  
3044 county in which the division has its executive offices or in the  
3045 county where the violation occurred.

3046 (e) The division may ~~is authorized to~~ prepare and  
3047 disseminate a prospectus and other information to assist  
3048 prospective owners, purchasers, lessees, and developers of  
3049 residential cooperatives in assessing the rights, privileges,  
3050 and duties pertaining thereto.

3051 (f) The division has authority to adopt rules pursuant to  
 3052 ss. 120.536(1) and 120.54 to implement and enforce the  
 3053 provisions of this chapter.

3054 (g) The division shall establish procedures for providing  
 3055 notice to an association when the division is considering the  
 3056 issuance of a declaratory statement with respect to the  
 3057 cooperative documents governing such cooperative community.

3058 (h) The division shall furnish each association which pays  
 3059 the fees required by paragraph (2)(a) a copy of this act,  
 3060 subsequent changes to this act on an annual basis, an amended  
 3061 version of this act as it becomes available from the Secretary  
 3062 of State's office on a biennial basis, and the rules adopted  
 3063 ~~promulgated pursuant~~ thereto on an annual basis.

3064 (i) The division shall annually provide each association  
 3065 with a summary of declaratory statements and formal legal  
 3066 opinions relating to the operations of cooperatives which were  
 3067 rendered by the division during the previous year.

3068 (j) The division shall adopt uniform accounting  
 3069 principles, policies, and standards to be used by all  
 3070 associations in the preparation and presentation of all  
 3071 financial statements required by this chapter. The principles,  
 3072 policies, and standards shall take into consideration the size  
 3073 of the association and the total revenue collected by the  
 3074 association.

3075 (k) The division shall provide training programs for  
 3076 cooperative association board members and unit owners.

3077 (l) The division shall maintain a toll-free telephone  
 3078 number accessible to cooperative unit owners.

3079 (m) When a complaint is made to the division, the division  
3080 shall conduct its inquiry with reasonable dispatch and with due  
3081 regard to the interests of the affected parties. Within 30 days  
3082 after receipt of a complaint, the division shall acknowledge the  
3083 complaint in writing and notify the complainant whether the  
3084 complaint is within the jurisdiction of the division and whether  
3085 additional information is needed by the division from the  
3086 complainant. The division shall conduct its investigation and  
3087 shall, within 90 days after receipt of the original complaint or  
3088 timely requested additional information, take action upon the  
3089 complaint. However, the failure to complete the investigation  
3090 within 90 days does not prevent the division from continuing the  
3091 investigation, accepting or considering evidence obtained or  
3092 received after 90 days, or taking administrative action if  
3093 reasonable cause exists to believe that a violation of this  
3094 chapter or a rule of the division has occurred. If an  
3095 investigation is not completed within the time limits  
3096 established in this paragraph, the division shall, on a monthly  
3097 basis, notify the complainant in writing of the status of the  
3098 investigation. When reporting its action to the complainant, the  
3099 division shall inform the complainant of any right to a hearing  
3100 pursuant to ss. 120.569 and 120.57.

3101 (n) The division shall develop a program to certify both  
3102 volunteer and paid mediators to provide mediation of cooperative  
3103 disputes. The division shall provide, upon request, a list of  
3104 such mediators to any association, unit owner, or other  
3105 participant in arbitration proceedings under s. 718.1255  
3106 requesting a copy of the list. The division shall include on the



3107 list of voluntary mediators only persons who have received at  
 3108 least 20 hours of training in mediation techniques or have  
 3109 mediated at least 20 disputes. In order to become initially  
 3110 certified by the division, paid mediators must be certified by  
 3111 the Supreme Court to mediate court cases in ~~either~~ county or  
 3112 circuit courts. However, the division may adopt, by rule,  
 3113 additional factors for the certification of paid mediators,  
 3114 which factors must be related to experience, education, or  
 3115 background. Any person initially certified as a paid mediator by  
 3116 the division must, in order to continue to be certified, comply  
 3117 with the factors or requirements imposed by rules adopted by the  
 3118 division.

3119 (2) (a) Each cooperative association shall pay to the  
 3120 division, on or before January 1 of each year, an annual fee in  
 3121 the amount of \$4 for each residential unit in cooperatives  
 3122 operated by the association. If the fee is not paid by March 1,  
 3123 then the association shall be assessed a penalty of 10 percent  
 3124 of the amount due, and the association shall not have the  
 3125 standing to maintain or defend any action in the courts of this  
 3126 state until the amount due is paid.

3127 (b) All fees shall be deposited in the Division of Florida  
 3128 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust  
 3129 Fund as provided by law.

3130 Section 58. Paragraph (a) of subsection (2) of section  
 3131 719.502, Florida Statutes, is amended to read:

3132 719.502 Filing prior to sale or lease.--

3133 (2) (a) Prior to filing as required by subsection (1), and  
 3134 prior to acquiring an ownership, leasehold, or contractual

3135 interest in the land upon which the cooperative is to be  
 3136 developed, a developer shall not offer a contract for purchase  
 3137 or lease of a unit for more than 5 years. However, the developer  
 3138 may accept deposits for reservations upon the approval of a  
 3139 fully executed escrow agreement and reservation agreement form  
 3140 properly filed with the Division of Florida ~~Land Sales,~~  
 3141 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
 3142 proposed reservation program shall be accompanied by a filing  
 3143 fee of \$250. Reservations shall not be taken on a proposed  
 3144 cooperative unless the developer has an ownership, leasehold, or  
 3145 contractual interest in the land upon which the cooperative is  
 3146 to be developed. The division shall notify the developer within  
 3147 20 days of receipt of the reservation filing of any deficiencies  
 3148 contained therein. Such notification shall not preclude the  
 3149 determination of reservation filing deficiencies at a later  
 3150 date, nor shall it relieve the developer of any responsibility  
 3151 under the law. The escrow agreement and the reservation  
 3152 agreement form shall include a statement of the right of the  
 3153 prospective purchaser to an immediate unqualified refund of the  
 3154 reservation deposit moneys upon written request to the escrow  
 3155 agent by the prospective purchaser or the developer.

3156 Section 59. Section 719.504, Florida Statutes, is amended  
 3157 to read:

3158 719.504 Prospectus or offering circular.--Every developer  
 3159 of a residential cooperative which contains more than 20  
 3160 residential units, or which is part of a group of residential  
 3161 cooperatives which will be served by property to be used in  
 3162 common by unit owners of more than 20 residential units, shall

3163 prepare a prospectus or offering circular and file it with the  
3164 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
3165 Mobile Homes prior to entering into an enforceable contract of  
3166 purchase and sale of any unit or lease of a unit for more than 5  
3167 years and shall furnish a copy of the prospectus or offering  
3168 circular to each buyer. In addition to the prospectus or  
3169 offering circular, each buyer shall be furnished a separate page  
3170 entitled "Frequently Asked Questions and Answers," which must be  
3171 in accordance with a format approved by the division. This page  
3172 must, in readable language: inform prospective purchasers  
3173 regarding their voting rights and unit use restrictions,  
3174 including restrictions on the leasing of a unit; indicate  
3175 whether and in what amount the unit owners or the association is  
3176 obligated to pay rent or land use fees for recreational or other  
3177 commonly used facilities; contain a statement identifying that  
3178 amount of assessment which, pursuant to the budget, would be  
3179 levied upon each unit type, exclusive of any special  
3180 assessments, and which identifies the basis upon which  
3181 assessments are levied, whether monthly, quarterly, or  
3182 otherwise; state and identify any court cases in which the  
3183 association is currently a party of record in which the  
3184 association may face liability in excess of \$100,000; and state  
3185 whether membership in a recreational facilities association is  
3186 mandatory and, if so, identify the fees currently charged per  
3187 unit type. The division shall by rule require such other  
3188 disclosure as in its judgment will assist prospective  
3189 purchasers. The prospectus or offering circular may include more  
3190 than one cooperative, although not all such units are being

3191 offered for sale as of the date of the prospectus or offering  
 3192 circular. The prospectus or offering circular must contain the  
 3193 following information:

3194 (1) The front cover or the first page must contain only:

3195 (a) The name of the cooperative.

3196 (b) The following statements in conspicuous type:

3197 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
 3198 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

3199 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
 3200 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
 3201 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
 3202 MATERIALS.

3203 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
 3204 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
 3205 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
 3206 REPRESENTATIONS.

3207 (2) Summary: The next page must contain all statements  
 3208 required to be in conspicuous type in the prospectus or offering  
 3209 circular.

3210 (3) A separate index of the contents and exhibits of the  
 3211 prospectus.

3212 (4) Beginning on the first page of the text (not including  
 3213 the summary and index), a description of the cooperative,  
 3214 including, but not limited to, the following information:

3215 (a) Its name and location.

3216 (b) A description of the cooperative property, including,  
 3217 without limitation:

3218 1. The number of buildings, the number of units in each  
 3219 building, the number of bathrooms and bedrooms in each unit, and  
 3220 the total number of units, if the cooperative is not a phase  
 3221 cooperative; or, if the cooperative is a phase cooperative, the  
 3222 maximum number of buildings that may be contained within the  
 3223 cooperative, the minimum and maximum number of units in each  
 3224 building, the minimum and maximum number of bathrooms and  
 3225 bedrooms that may be contained in each unit, and the maximum  
 3226 number of units that may be contained within the cooperative.

3227 2. The page in the cooperative documents where a copy of  
 3228 the survey and plot plan of the cooperative is located.

3229 3. The estimated latest date of completion of  
 3230 constructing, finishing, and equipping. In lieu of a date, a  
 3231 statement that the estimated date of completion of the  
 3232 cooperative is in the purchase agreement and a reference to the  
 3233 article or paragraph containing that information.

3234 (c) The maximum number of units that will use facilities  
 3235 in common with the cooperative. If the maximum number of units  
 3236 will vary, a description of the basis for variation and the  
 3237 minimum amount of dollars per unit to be spent for additional  
 3238 recreational facilities or enlargement of such facilities. If  
 3239 the addition or enlargement of facilities will result in a  
 3240 material increase of a unit owner's maintenance expense or  
 3241 rental expense, if any, the maximum increase and limitations  
 3242 thereon shall be stated.

3243 (5) (a) A statement in conspicuous type describing whether  
 3244 the cooperative is created and being sold as fee simple  
 3245 interests or as leasehold interests. If the cooperative is

3246 created or being sold on a leasehold, the location of the lease  
 3247 in the disclosure materials shall be stated.

3248 (b) If timeshare estates are or may be created with  
 3249 respect to any unit in the cooperative, a statement in  
 3250 conspicuous type stating that timeshare estates are created and  
 3251 being sold in such specified units in the cooperative.

3252 (6) A description of the recreational and other common  
 3253 areas that will be used only by unit owners of the cooperative,  
 3254 including, but not limited to, the following:

3255 (a) Each room and its intended purposes, location,  
 3256 approximate floor area, and capacity in numbers of people.

3257 (b) Each swimming pool, as to its general location,  
 3258 approximate size and depths, approximate deck size and capacity,  
 3259 and whether heated.

3260 (c) Additional facilities, as to the number of each  
 3261 facility, its approximate location, approximate size, and  
 3262 approximate capacity.

3263 (d) A general description of the items of personal  
 3264 property and the approximate number of each item of personal  
 3265 property that the developer is committing to furnish for each  
 3266 room or other facility or, in the alternative, a representation  
 3267 as to the minimum amount of expenditure that will be made to  
 3268 purchase the personal property for the facility.

3269 (e) The estimated date when each room or other facility  
 3270 will be available for use by the unit owners.

3271 (f)1. An identification of each room or other facility to  
 3272 be used by unit owners that will not be owned by the unit owners  
 3273 or the association;

3274           2. A reference to the location in the disclosure materials  
 3275 of the lease or other agreements providing for the use of those  
 3276 facilities; and

3277           3. A description of the terms of the lease or other  
 3278 agreements, including the length of the term; the rent payable,  
 3279 directly or indirectly, by each unit owner, and the total rent  
 3280 payable to the lessor, stated in monthly and annual amounts for  
 3281 the entire term of the lease; and a description of any option to  
 3282 purchase the property leased under any such lease, including the  
 3283 time the option may be exercised, the purchase price or how it  
 3284 is to be determined, the manner of payment, and whether the  
 3285 option may be exercised for a unit owner's share or only as to  
 3286 the entire leased property.

3287           (g) A statement as to whether the developer may provide  
 3288 additional facilities not described above, their general  
 3289 locations and types, improvements or changes that may be made,  
 3290 the approximate dollar amount to be expended, and the maximum  
 3291 additional common expense or cost to the individual unit owners  
 3292 that may be charged during the first annual period of operation  
 3293 of the modified or added facilities.

3294  
 3295 Descriptions as to locations, areas, capacities, numbers,  
 3296 volumes, or sizes may be stated as approximations or minimums.

3297           (7) A description of the recreational and other facilities  
 3298 that will be used in common with other cooperatives, community  
 3299 associations, or planned developments which require the payment  
 3300 of the maintenance and expenses of such facilities, ~~either~~

3301 directly or indirectly, by the unit owners. The description  
 3302 shall include, but not be limited to, the following:

3303 (a) Each building and facility committed to be built.

3304 (b) Facilities not committed to be built except under  
 3305 certain conditions, and a statement of those conditions or  
 3306 contingencies.

3307 (c) As to each facility committed to be built, or which  
 3308 will be committed to be built upon the happening of one of the  
 3309 conditions in paragraph (b), a statement of whether it will be  
 3310 owned by the unit owners having the use thereof or by an  
 3311 association or other entity which will be controlled by them, or  
 3312 others, and the location in the exhibits of the lease or other  
 3313 document providing for use of those facilities.

3314 (d) The year in which each facility will be available for  
 3315 use by the unit owners or, in the alternative, the maximum  
 3316 number of unit owners in the project at the time each of all of  
 3317 the facilities is committed to be completed.

3318 (e) A general description of the items of personal  
 3319 property, and the approximate number of each item of personal  
 3320 property, that the developer is committing to furnish for each  
 3321 room or other facility or, in the alternative, a representation  
 3322 as to the minimum amount of expenditure that will be made to  
 3323 purchase the personal property for the facility.

3324 (f) If there are leases, a description thereof, including  
 3325 the length of the term, the rent payable, and a description of  
 3326 any option to purchase.

3327



3328 Descriptions shall include location, areas, capacities, numbers,  
 3329 volumes, or sizes and may be stated as approximations or  
 3330 minimums.

3331 (8) Recreation lease or associated club membership:

3332 (a) If any recreational facilities or other common areas  
 3333 offered by the developer and available to, or to be used by,  
 3334 unit owners are to be leased or have club membership associated,  
 3335 the following statement in conspicuous type shall be included:

3336 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 3337 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 3338 COOPERATIVE. There shall be a reference to the location in the  
 3339 disclosure materials where the recreation lease or club  
 3340 membership is described in detail.

3341 (b) If it is mandatory that unit owners pay a fee, rent,  
 3342 dues, or other charges under a recreational facilities lease or  
 3343 club membership for the use of facilities, there shall be in  
 3344 conspicuous type the applicable statement:

3345 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
 3346 MANDATORY FOR UNIT OWNERS; or

3347 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
 3348 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3349 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
 3350 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
 3351 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
 3352 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3353 4. A similar statement of the nature of the organization  
 3354 or manner in which the use rights are created, and that unit  
 3355 owners are required to pay.

3356  
3357 Immediately following the applicable statement, the location in  
3358 the disclosure materials where the development is described in  
3359 detail shall be stated.

3360 (c) If the developer, or any other person other than the  
3361 unit owners and other persons having use rights in the  
3362 facilities, reserves, or is entitled to receive, any rent, fee,  
3363 or other payment for the use of the facilities, then there shall  
3364 be the following statement in conspicuous type: THE UNIT OWNERS  
3365 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
3366 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this  
3367 statement, the location in the disclosure materials where the  
3368 rent or land use fees are described in detail shall be stated.

3369 (d) If, in any recreation format, whether leasehold, club,  
3370 or other, any person other than the association has the right to  
3371 a lien on the units to secure the payment of assessments, rent,  
3372 or other exactions, there shall appear a statement in  
3373 conspicuous type in substantially the following form:

3374 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
3375 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
3376 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
3377 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

3378 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
3379 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
3380 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
3381 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
3382 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3383

3384 Immediately following the applicable statement, the location in  
3385 the disclosure materials where the lien or lien right is  
3386 described in detail shall be stated.

3387 (9) If the developer or any other person has the right to  
3388 increase or add to the recreational facilities at any time after  
3389 the establishment of the cooperative whose unit owners have use  
3390 rights therein, without the consent of the unit owners or  
3391 associations being required, there shall appear a statement in  
3392 conspicuous type in substantially the following form:

3393 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
3394 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
3395 statement, the location in the disclosure materials where such  
3396 reserved rights are described shall be stated.

3397 (10) A statement of whether the developer's plan includes  
3398 a program of leasing units rather than selling them, or leasing  
3399 units and selling them subject to such leases. If so, there  
3400 shall be a description of the plan, including the number and  
3401 identification of the units and the provisions and term of the  
3402 proposed leases, and a statement in boldfaced type that: THE  
3403 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

3404 (11) The arrangements for management of the association  
3405 and maintenance and operation of the cooperative property and of  
3406 other property that will serve the unit owners of the  
3407 cooperative property, and a description of the management  
3408 contract and all other contracts for these purposes having a  
3409 term in excess of 1 year, including the following:

- 3410 (a) The names of contracting parties.  
3411 (b) The term of the contract.

3412 (c) The nature of the services included.

3413 (d) The compensation, stated on a monthly and annual  
 3414 basis, and provisions for increases in the compensation.

3415 (e) A reference to the volumes and pages of the  
 3416 cooperative documents and of the exhibits containing copies of  
 3417 such contracts.

3418

3419 Copies of all described contracts shall be attached as exhibits.  
 3420 If there is a contract for the management of the cooperative  
 3421 property, then a statement in conspicuous type in substantially  
 3422 the following form shall appear, identifying the proposed or  
 3423 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
 3424 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE  
 3425 CONTRACT MANAGER). Immediately following this statement, the  
 3426 location in the disclosure materials of the contract for  
 3427 management of the cooperative property shall be stated.

3428 (12) If the developer or any other person or persons other  
 3429 than the unit owners has the right to retain control of the  
 3430 board of administration of the association for a period of time  
 3431 which can exceed 1 year after the closing of the sale of a  
 3432 majority of the units in that cooperative to persons other than  
 3433 successors or alternate developers, then a statement in  
 3434 conspicuous type in substantially the following form shall be  
 3435 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
 3436 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
 3437 HAVE BEEN SOLD. Immediately following this statement, the  
 3438 location in the disclosure materials where this right to control  
 3439 is described in detail shall be stated.

3440 (13) If there are any restrictions upon the sale,  
 3441 transfer, conveyance, or leasing of a unit, then a statement in  
 3442 conspicuous type in substantially the following form shall be  
 3443 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
 3444 CONTROLLED. Immediately following this statement, the location  
 3445 in the disclosure materials where the restriction, limitation,  
 3446 or control on the sale, lease, or transfer of units is described  
 3447 in detail shall be stated.

3448 (14) If the cooperative is part of a phase project, the  
 3449 following shall be stated:

3450 (a) A statement in conspicuous type in substantially the  
 3451 following form shall be included: THIS IS A PHASE COOPERATIVE.  
 3452 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
 3453 Immediately following this statement, the location in the  
 3454 disclosure materials where the phasing is described shall be  
 3455 stated.

3456 (b) A summary of the provisions of the declaration  
 3457 providing for the phasing.

3458 (c) A statement as to whether or not residential buildings  
 3459 and units which are added to the cooperative may be  
 3460 substantially different from the residential buildings and units  
 3461 originally in the cooperative, and, if the added residential  
 3462 buildings and units may be substantially different, there shall  
 3463 be a general description of the extent to which such added  
 3464 residential buildings and units may differ, and a statement in  
 3465 conspicuous type in substantially the following form shall be  
 3466 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE  
 3467 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND

3468 UNITS IN THE COOPERATIVE. Immediately following this statement,  
3469 the location in the disclosure materials where the extent to  
3470 which added residential buildings and units may substantially  
3471 differ is described shall be stated.

3472 (d) A statement of the maximum number of buildings  
3473 containing units, the maximum and minimum number of units in  
3474 each building, the maximum number of units, and the minimum and  
3475 maximum square footage of the units that may be contained within  
3476 each parcel of land which may be added to the cooperative.

3477 (15) If the cooperative is created by conversion of  
3478 existing improvements, the following information shall be  
3479 stated:

3480 (a) The information required by s. 719.616.

3481 (b) A caveat that there are no express warranties unless  
3482 they are stated in writing by the developer.

3483 (16) A summary of the restrictions, if any, to be imposed  
3484 on units concerning the use of any of the cooperative property,  
3485 including statements as to whether there are restrictions upon  
3486 children and pets, and reference to the volumes and pages of the  
3487 cooperative documents where such restrictions are found, or if  
3488 such restrictions are contained elsewhere, then a copy of the  
3489 documents containing the restrictions shall be attached as an  
3490 exhibit.

3491 (17) If there is any land that is offered by the developer  
3492 for use by the unit owners and that is neither owned by them nor  
3493 leased to them, the association, or any entity controlled by  
3494 unit owners and other persons having the use rights to such  
3495 land, a statement shall be made as to how such land will serve

3496 the cooperative. If any part of such land will serve the  
 3497 cooperative, the statement shall describe the land and the  
 3498 nature and term of service, and the cooperative documents or  
 3499 other instrument creating such servitude shall be included as an  
 3500 exhibit.

3501 (18) The manner in which utility and other services,  
 3502 including, but not limited to, sewage and waste disposal, water  
 3503 supply, and storm drainage, will be provided and the person or  
 3504 entity furnishing them.

3505 (19) An explanation of the manner in which the  
 3506 apportionment of common expenses and ownership of the common  
 3507 areas have been determined.

3508 (20) An estimated operating budget for the cooperative and  
 3509 the association, and a schedule of the unit owner's expenses  
 3510 shall be attached as an exhibit and shall contain the following  
 3511 information:

3512 (a) The estimated monthly and annual expenses of the  
 3513 cooperative and the association that are collected from unit  
 3514 owners by assessments.

3515 (b) The estimated monthly and annual expenses of each unit  
 3516 owner for a unit, other than assessments payable to the  
 3517 association, payable by the unit owner to persons or entities  
 3518 other than the association, and the total estimated monthly and  
 3519 annual expense. There may be excluded from this estimate  
 3520 expenses that are personal to unit owners, which are not  
 3521 uniformly incurred by all unit owners, or which are not provided  
 3522 for or contemplated by the cooperative documents, including, but  
 3523 not limited to, the costs of private telephone; maintenance of

3524 the interior of cooperative units, which is not the obligation  
 3525 of the association; maid or janitorial services privately  
 3526 contracted for by the unit owners; utility bills billed directly  
 3527 to each unit owner for utility services to his or her unit;  
 3528 insurance premiums other than those incurred for policies  
 3529 obtained by the cooperative; and similar personal expenses of  
 3530 the unit owner. A unit owner's estimated payments for  
 3531 assessments shall also be stated in the estimated amounts for  
 3532 the times when they will be due.

3533 (c) The estimated items of expenses of the cooperative and  
 3534 the association, except as excluded under paragraph (b),  
 3535 including, but not limited to, the following items, which shall  
 3536 be stated ~~either~~ as an association expense collectible by  
 3537 assessments or as unit owners' expenses payable to persons other  
 3538 than the association:

- 3539 1. Expenses for the association and cooperative:
  - 3540 a. Administration of the association.
  - 3541 b. Management fees.
  - 3542 c. Maintenance.
  - 3543 d. Rent for recreational and other commonly used areas.
  - 3544 e. Taxes upon association property.
  - 3545 f. Taxes upon leased areas.
  - 3546 g. Insurance.
  - 3547 h. Security provisions.
  - 3548 i. Other expenses.
  - 3549 j. Operating capital.
  - 3550 k. Reserves.
  - 3551 l. Fee payable to the division.



- 3552           2. Expenses for a unit owner:
- 3553           a. Rent for the unit, if subject to a lease.
- 3554           b. Rent payable by the unit owner directly to the lessor
- 3555 or agent under any recreational lease or lease for the use of
- 3556 commonly used areas, which use and payment are a mandatory
- 3557 condition of ownership and are not included in the common
- 3558 expense or assessments for common maintenance paid by the unit
- 3559 owners to the association.

3560           (d) The following statement in conspicuous type: THE

3561 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN

3562 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE

3563 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON

3564 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.

3565 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH

3566 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN

3567 THE OFFERING.

3568           (e) Each budget for an association prepared by a developer

3569 consistent with this subsection shall be prepared in good faith

3570 and shall reflect accurate estimated amounts for the required

3571 items in paragraph (c) at the time of the filing of the offering

3572 circular with the division, and subsequent increased amounts of

3573 any item included in the association's estimated budget that are

3574 beyond the control of the developer shall not be considered an

3575 amendment that would give rise to rescission rights set forth in

3576 s. 719.503(1)(a) or (b), nor shall such increases modify, void,

3577 or otherwise affect any guarantee of the developer contained in

3578 the offering circular or any purchase contract. It is the intent

3579 of this paragraph to clarify existing law.

3580 (f) The estimated amounts shall be stated for a period of  
3581 at least 12 months and may distinguish between the period prior  
3582 to the time unit owners other than the developer elect a  
3583 majority of the board of administration and the period after  
3584 that date.

3585 (21) A schedule of estimated closing expenses to be paid  
3586 by a buyer or lessee of a unit and a statement of whether title  
3587 opinion or title insurance policy is available to the buyer and,  
3588 if so, at whose expense.

3589 (22) The identity of the developer and the chief operating  
3590 officer or principal directing the creation and sale of the  
3591 cooperative and a statement of its and his or her experience in  
3592 this field.

3593 (23) Copies of the following, to the extent they are  
3594 applicable, shall be included as exhibits:

3595 (a) The cooperative documents, or the proposed cooperative  
3596 documents if the documents have not been recorded.

3597 (b) The articles of incorporation creating the  
3598 association.

3599 (c) The bylaws of the association.

3600 (d) The ground lease or other underlying lease of the  
3601 cooperative.

3602 (e) The management agreement and all maintenance and other  
3603 contracts for management of the association and operation of the  
3604 cooperative and facilities used by the unit owners having a  
3605 service term in excess of 1 year.

3606 (f) The estimated operating budget for the cooperative and  
3607 the required schedule of unit owners' expenses.

3608 (g) A copy of the floor plan of the unit and the plot plan  
 3609 showing the location of the residential buildings and the  
 3610 recreation and other common areas.

3611 (h) The lease of recreational and other facilities that  
 3612 will be used only by unit owners of the subject cooperative.

3613 (i) The lease of facilities used by owners and others.

3614 (j) The form of unit lease, if the offer is of a  
 3615 leasehold.

3616 (k) A declaration of servitude of properties serving the  
 3617 cooperative but not owned by unit owners or leased to them or  
 3618 the association.

3619 (l) The statement of condition of the existing building or  
 3620 buildings, if the offering is of units in an operation being  
 3621 converted to cooperative ownership.

3622 (m) The statement of inspection for termite damage and  
 3623 treatment of the existing improvements, if the cooperative is a  
 3624 conversion.

3625 (n) The form of agreement for sale or lease of units.

3626 (o) A copy of the agreement for escrow of payments made to  
 3627 the developer prior to closing.

3628 (p) A copy of the documents containing any restrictions on  
 3629 use of the property required by subsection (16).

3630 (24) Any prospectus or offering circular complying with  
 3631 the provisions of former ss. 711.69 and 711.802 may continue to  
 3632 be used without amendment, or may be amended to comply with ~~the~~  
 3633 ~~provisions of this chapter.~~

3634 (25) A brief narrative description of the location and  
 3635 effect of all existing and intended easements located or to be

3636 | located on the cooperative property other than those in the  
 3637 | declaration.

3638 |         (26) If the developer is required by state or local  
 3639 | authorities to obtain acceptance or approval of any dock or  
 3640 | marina facility intended to serve the cooperative, a copy of  
 3641 | such acceptance or approval acquired by the time of filing with  
 3642 | the division pursuant to s. 719.502 or a statement that such  
 3643 | acceptance has not been acquired or received.

3644 |         (27) Evidence demonstrating that the developer has an  
 3645 | ownership, leasehold, or contractual interest in the land upon  
 3646 | which the cooperative is to be developed.

3647 |         Section 60. Section 719.508, Florida Statutes, is amended  
 3648 | to read:

3649 |             719.508 Regulation by Division of Hotels and  
 3650 | Restaurants.--In addition to the authority, regulation, or  
 3651 | control exercised by the Division of Florida ~~Land Sales,~~  
 3652 | Condominiums, Timeshares, and Mobile Homes pursuant to this act  
 3653 | with respect to cooperatives, buildings included in a  
 3654 | cooperative property shall be subject to the authority,  
 3655 | regulation, or control of the Division of Hotels and Restaurants  
 3656 | of the Department of Business and Professional Regulation, to  
 3657 | the extent provided ~~for~~ in chapters 399 and 509.

3658 |         Section 61. Paragraph (a) of subsection (2) of section  
 3659 | 719.608, Florida Statutes, is amended to read:

3660 |             719.608 Notice of intended conversion; time of delivery;  
 3661 | content.--

3662 |         (2) (a) Each notice of intended conversion shall be dated  
 3663 | and in writing. The notice shall contain the following

3664 statement, with the phrases of the following statement which  
 3665 appear in upper case printed in conspicuous type:

3666  
 3667 These apartments are being converted to cooperative by  
 3668 (name of developer) , the developer.

3669 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
 3670 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
 3671 AGREEMENT AS FOLLOWS:

3672 a. If you have continuously been a resident of these  
 3673 apartments during the last 180 days and your rental agreement  
 3674 expires during the next 270 days, you may extend your rental  
 3675 agreement for up to 270 days after the date of this notice.

3676 b. If you have not been a continuous resident of these  
 3677 apartments for the last 180 days and your rental agreement  
 3678 expires during the next 180 days, you may extend your rental  
 3679 agreement for up to 180 days after the date of this notice.

3680 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
 3681 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
 3682 DATE OF THIS NOTICE.

3683 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
 3684 you may extend your rental agreement for up to 45 days after the  
 3685 date of this notice while you decide whether to extend your  
 3686 rental agreement as explained above. To do so, you must notify  
 3687 the developer in writing. You will then have the full 45 days to  
 3688 decide whether to extend your rental agreement as explained  
 3689 above.

3690 3. During the extension of your rental agreement you will  
 3691 be charged the same rent that you are now paying.

3692 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
 3693 OF THE RENTAL AGREEMENT AS FOLLOWS:

3694 a. If your rental agreement began or was extended or  
 3695 renewed after May 1, 1980, and your rental agreement, including  
 3696 extensions and renewals, has an unexpired term of 180 days or  
 3697 less, you may cancel your rental agreement upon 30 days' written  
 3698 notice and move. Also, upon 30 days' written notice, you may  
 3699 cancel any extension of the rental agreement.

3700 b. If your rental agreement was not begun or was not  
 3701 extended or renewed after May 1, 1980, you may not cancel the  
 3702 rental agreement without the consent of the developer. If your  
 3703 rental agreement, including extensions and renewals, has an  
 3704 unexpired term of 180 days or less, you may, however, upon 30  
 3705 days' written notice cancel any extension of the rental  
 3706 agreement.

3707 5. All notices must be given in writing and sent by mail,  
 3708 return receipt requested, or delivered in person to the  
 3709 developer at this address: (name and address of developer) .

3710 6. If you have continuously been a resident of these  
 3711 apartments during the last 180 days:

3712 a. You have the right to purchase your apartment and will  
 3713 have 45 days to decide whether to purchase. If you do not buy  
 3714 the unit at that price and the unit is later offered at a lower  
 3715 price, you will have the opportunity to buy the unit at the  
 3716 lower price. However, in all events your right to purchase the  
 3717 unit ends when the rental agreement or any extension of the  
 3718 rental agreement ends or when you waive this right in writing.

3719           b. Within 90 days you will be provided purchase  
 3720 information relating to your apartment, including the price of  
 3721 your unit and the condition of the building. If you do not  
 3722 receive this information within 90 days, your rental agreement  
 3723 and any extension will be extended 1 day for each day over 90  
 3724 days until you are given the purchase information. If you do not  
 3725 want this rental agreement extension, you must notify the  
 3726 developer in writing.

3727           7. If you have any questions regarding this conversion or  
 3728 the Cooperative Act, you may contact the developer or the state  
 3729 agency which regulates cooperatives: The Division of Florida  
 3730 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes,  
 3731 (Tallahassee address and telephone number of division) .

3732           Section 62. Subsection (7) of section 720.301, Florida  
 3733 Statutes, is amended to read:

3734           720.301 Definitions.--As used in this chapter, the term:

3735           (7) "Division" means the Division of Florida ~~Land Sales,~~  
 3736 Condominiums, Timeshares, and Mobile Homes in the Department of  
 3737 Business and Professional Regulation.

3738           Section 63. Subsection (2) of section 720.401, Florida  
 3739 Statutes, is amended to read:

3740           720.401 Prospective purchasers subject to association  
 3741 membership requirement; disclosure required; covenants;  
 3742 assessments; contract cancellation.--

3743           (2) This section does not apply to any association  
 3744 regulated under chapter 718, chapter 719, chapter 721, or  
 3745 chapter 723 ~~or to a subdivider registered under chapter 498;~~ and  
 3746 also does not apply if disclosure regarding the association is

3747 otherwise made in connection with the requirements of chapter  
 3748 718, chapter 719, chapter 721, or chapter 723.

3749 Section 64. Paragraph (c) of subsection (1) of section  
 3750 721.03, Florida Statutes, is amended to read:

3751 721.03 Scope of chapter.--

3752 (1) This chapter applies to all timeshare plans consisting  
 3753 of more than seven timeshare periods over a period of at least 3  
 3754 years in which the accommodations and facilities, if any, are  
 3755 located within this state or offered within this state; provided  
 3756 that:

3757 (c) All timeshare accommodations or facilities which are  
 3758 located outside the state but offered for sale in this state  
 3759 shall be governed by the following:

3760 1. The offering for sale in this state of timeshare  
 3761 accommodations and facilities located outside the state is  
 3762 subject only to the provisions of ss. 721.01-721.12, 721.18,  
 3763 721.20, 721.21, 721.26, 721.28, and part II.

3764 2. The division shall not require a developer of timeshare  
 3765 accommodations or facilities located outside of this state to  
 3766 make changes in any timeshare instrument to conform to the  
 3767 provisions of s. 721.07 or s. 721.55. The division shall have  
 3768 the power to require disclosure of those provisions of the  
 3769 timeshare instrument that do not conform to s. 721.07 or s.  
 3770 721.55 as the director determines is necessary to fairly,  
 3771 meaningfully, and effectively disclose all aspects of the  
 3772 timeshare plan.

3773 3. Except as provided in this subparagraph, the division  
 3774 shall have no authority to determine whether any person has



3775 | complied with another state's laws or to disapprove any filing  
3776 | out-of-state, timeshare instrument, or component site document,  
3777 | based solely upon the lack or degree of timeshare regulation in  
3778 | another state. The division may require a developer to obtain  
3779 | and provide to the division existing documentation relating to  
3780 | an out-of-state filing, timeshare instrument, or component site  
3781 | document and prove compliance of same with the laws of that  
3782 | state. In this regard, the division may accept any evidence of  
3783 | the approval or acceptance of any out-of-state filing, timeshare  
3784 | instrument, or component site document by another state in lieu  
3785 | of requiring a developer to file the out-of-state filing,  
3786 | timeshare instrument, or component site document with the  
3787 | division pursuant to this section, or the division may accept an  
3788 | opinion letter from an attorney or law firm opining as to the  
3789 | compliance of such out-of-state filing, timeshare instrument, or  
3790 | component site document with the laws of another state. The  
3791 | division may refuse to approve the inclusion of any out-of-state  
3792 | filing, timeshare instrument, or component site document as part  
3793 | of a public offering statement based upon the inability of the  
3794 | developer to establish the compliance of same with the laws of  
3795 | another state.

3796 |         4. The division is authorized to enter into an agreement  
3797 | with another state for the purpose of facilitating the  
3798 | processing of out-of-state timeshare instruments or other  
3799 | component site documents pursuant to this chapter and for the  
3800 | purpose of facilitating the referral of consumer complaints to  
3801 | the appropriate state.

3802           5. Notwithstanding any other provision of this paragraph,  
 3803 the offer, in this state, of an additional interest to existing  
 3804 purchasers in the same timeshare plan, the same nonspecific  
 3805 multisite timeshare plan, or the same component site of a  
 3806 multisite timeshare plan with accommodations and facilities  
 3807 located outside of this state shall not be subject to the  
 3808 provisions of this chapter if the offer complies with the  
 3809 provisions of s. 721.11(4).

3810           Section 65. Subsection (11) of section 721.05, Florida  
 3811 Statutes, is amended to read:

3812           721.05 Definitions.--As used in this chapter, the term:

3813           (11) "Division" means the Division of Florida ~~Land Sales,~~  
 3814 Condominiums, Timeshares, and Mobile Homes of the Department of  
 3815 Business and Professional Regulation.

3816           Section 66. Paragraph (d) of subsection (2) of section  
 3817 721.07, Florida Statutes, is amended to read:

3818           721.07 Public offering statement.--Prior to offering any  
 3819 timeshare plan, the developer must submit a filed public  
 3820 offering statement to the division for approval as prescribed by  
 3821 s. 721.03, s. 721.55, or this section. Until the division  
 3822 approves such filing, any contract regarding the sale of that  
 3823 timeshare plan is subject to cancellation by the purchaser  
 3824 pursuant to s. 721.10.

3825           (2)

3826           (d) A developer shall have the authority to deliver to  
 3827 purchasers any purchaser public offering statement that is not  
 3828 yet approved by the division, provided that the following shall  
 3829 apply:

3830           1. At the time the developer delivers an unapproved  
3831 purchaser public offering statement to a purchaser pursuant to  
3832 this paragraph, the developer shall deliver a fully completed  
3833 and executed copy of the purchase contract required by s. 721.06  
3834 that contains the following statement in conspicuous type in  
3835 substantially the following form which shall replace the  
3836 statements required by s. 721.06(1)(g):

3837

3838           The developer is delivering to you a public offering statement  
3839 that has been filed with but not yet approved by the Division of  
3840 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes.  
3841 Any revisions to the unapproved public offering statement you  
3842 have received must be delivered to you, but only if the  
3843 revisions materially alter or modify the offering in a manner  
3844 adverse to you. After the division approves the public offering  
3845 statement, you will receive notice of the approval from the  
3846 developer and the required revisions, if any.

3847

3848           Your statutory right to cancel this transaction without any  
3849 penalty or obligation expires 10 calendar days after the date  
3850 you signed your purchase contract or the date on which you  
3851 receive the last of all documents required to be given to you  
3852 pursuant to section 721.07(6), Florida Statutes, or 10 calendar  
3853 days after you receive revisions required to be delivered to  
3854 you, if any, whichever is later. If you decide to cancel this  
3855 contract, you must notify the seller in writing of your intent  
3856 to cancel. Your notice of cancellation shall be effective upon  
3857 the date sent and shall be sent to (Name of Seller) at

3858 (Address of Seller) . Any attempt to obtain a waiver of your  
3859 cancellation right is void and of no effect. While you may  
3860 execute all closing documents in advance, the closing, as  
3861 evidenced by delivery of the deed or other document, before  
3862 expiration of your 10-day cancellation period, is prohibited.

3863

3864 2. After receipt of approval from the division and prior  
3865 to closing, if any revisions made to the documents contained in  
3866 the purchaser public offering statement materially alter or  
3867 modify the offering in a manner adverse to a purchaser, the  
3868 developer shall send the purchaser such revisions together with  
3869 a notice containing a statement in conspicuous type in  
3870 substantially the following form:

3871

3872 The unapproved public offering statement previously delivered to  
3873 you, together with the enclosed revisions, has been approved by  
3874 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares,  
3875 and Mobile Homes. Accordingly, your cancellation right expires  
3876 10 calendar days after you sign your purchase contract or 10  
3877 calendar days after you receive these revisions, whichever is  
3878 later. If you have any questions regarding your cancellation  
3879 rights, you may contact the division at [insert division's  
3880 current address].

3881

3882 3. After receipt of approval from the division and prior  
3883 to closing, if no revisions have been made to the documents  
3884 contained in the unapproved purchaser public offering statement,  
3885 or if such revisions do not materially alter or modify the

3886 offering in a manner adverse to a purchaser, the developer shall  
 3887 send the purchaser a notice containing a statement in  
 3888 conspicuous type in substantially the following form:

3889  
 3890 The unapproved public offering statement previously delivered to  
 3891 you has been approved by the Division of Florida ~~Land Sales,~~  
 3892 Condominiums, Timeshares, and Mobile Homes. Revisions made to  
 3893 the unapproved public offering statement, if any, are ~~either~~ not  
 3894 required to be delivered to you or are not deemed by the  
 3895 developer, in its opinion, to materially alter or modify the  
 3896 offering in a manner that is adverse to you. Accordingly, your  
 3897 cancellation right expired 10 days after you signed your  
 3898 purchase contract. A complete copy of the approved public  
 3899 offering statement is available through the managing entity for  
 3900 inspection as part of the books and records of the plan. If you  
 3901 have any questions regarding your cancellation rights, you may  
 3902 contact the division at [insert division's current address].

3903 Section 67. Subsection (8) of section 721.08, Florida  
 3904 Statutes, is amended to read:

3905 721.08 Escrow accounts; nondisturbance instruments;  
 3906 alternate security arrangements; transfer of legal title.--

3907 (8) An escrow agent holding escrowed funds pursuant to  
 3908 this chapter that have not been claimed for a period of 5 years  
 3909 after the date of deposit shall make at least one reasonable  
 3910 attempt to deliver such unclaimed funds to the purchaser who  
 3911 submitted such funds to escrow. In making such attempt, an  
 3912 escrow agent is entitled to rely on a purchaser's last known  
 3913 address as set forth in the books and records of the escrow

3914 agent and is not required to conduct any further search for the  
 3915 purchaser. If an escrow agent's attempt to deliver unclaimed  
 3916 funds to any purchaser is unsuccessful, the escrow agent may  
 3917 deliver such unclaimed funds to the division and the division  
 3918 shall deposit such unclaimed funds in the Division of Florida  
 3919 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
 3920 Fund, 30 days after giving notice in a publication of general  
 3921 circulation in the county in which the timeshare property  
 3922 containing the purchaser's timeshare interest is located. The  
 3923 purchaser may claim the same at any time prior to the delivery  
 3924 of such funds to the division. After delivery of such funds to  
 3925 the division, the purchaser shall have no more rights to the  
 3926 unclaimed funds. The escrow agent shall not be liable for any  
 3927 claims from any party arising out of the escrow agent's delivery  
 3928 of the unclaimed funds to the division pursuant to this section.

3929 Section 68. Section 721.26, Florida Statutes, is amended  
 3930 to read:

3931 721.26 Regulation by division.--The division has the power  
 3932 to enforce and ensure compliance with ~~the provisions of this~~  
 3933 chapter, except for parts III and IV, using the powers provided  
 3934 in this chapter, as well as the powers prescribed in chapters  
 3935 ~~498~~, ~~718~~, and 719. In performing its duties, the division shall  
 3936 have the following powers and duties:

3937 (1) To aid in the enforcement of this chapter, or any  
 3938 division rule adopted or order ~~promulgated~~ or issued pursuant to  
 3939 this chapter, the division may make necessary public or private  
 3940 investigations within or outside this state to determine whether  
 3941 any person has violated or is about to violate this chapter, or

3942 any division rule adopted or order ~~promulgated or~~ issued  
 3943 pursuant to this chapter.

3944 (2) The division may require or permit any person to file  
 3945 a written statement under oath or otherwise, as the division  
 3946 determines, as to the facts and circumstances concerning a  
 3947 matter under investigation.

3948 (3) For the purpose of any investigation under this  
 3949 chapter, the director of the division or any officer or employee  
 3950 designated by the director may administer oaths or affirmations,  
 3951 subpoena witnesses and compel their attendance, take evidence,  
 3952 and require the production of any matter which is relevant to  
 3953 the investigation, including the identity, existence,  
 3954 description, nature, custody, condition, and location of any  
 3955 books, documents, or other tangible things and the identity and  
 3956 location of persons having knowledge of relevant facts or any  
 3957 other matter reasonably calculated to lead to the discovery of  
 3958 material evidence. Failure to obey a subpoena or to answer  
 3959 questions propounded by the investigating officer and upon  
 3960 reasonable notice to all persons affected thereby shall be a  
 3961 violation of this chapter. In addition to the other enforcement  
 3962 powers authorized in this subsection, the division may, ~~at its~~  
 3963 ~~discretion,~~ apply to the circuit court for an order compelling  
 3964 compliance.

3965 (4) The division may prepare and disseminate a prospectus  
 3966 and other information to assist prospective purchasers, sellers,  
 3967 and managing entities of timeshare plans in assessing the  
 3968 rights, privileges, and duties pertaining thereto.

3969 (5) Notwithstanding any remedies available to purchasers,  
 3970 if the division has reasonable cause to believe that a violation  
 3971 of this chapter, or of any division rule adopted or order  
 3972 ~~promulgated or~~ issued pursuant to this chapter, has occurred,  
 3973 the division may institute enforcement proceedings in its own  
 3974 name against any regulated party, as such term is defined in  
 3975 this subsection:

3976 (a)1. "Regulated party," for purposes of this section,  
 3977 means any developer, exchange company, seller, managing entity,  
 3978 owners' association, owners' association director, owners'  
 3979 association officer, manager, management firm, escrow agent,  
 3980 trustee, any respective assignees or agents, or any other person  
 3981 having duties or obligations pursuant to this chapter.

3982 2. Any person who materially participates in any offer or  
 3983 disposition of any interest in, or the management or operation  
 3984 of, a timeshare plan in violation of this chapter or relevant  
 3985 rules involving fraud, deception, false pretenses,  
 3986 misrepresentation, or false advertising or the disbursement,  
 3987 concealment, or diversion of any funds or assets, which conduct  
 3988 adversely affects the interests of a purchaser, and which person  
 3989 directly or indirectly controls a regulated party or is a  
 3990 general partner, officer, director, agent, or employee of such  
 3991 regulated party, shall be jointly and severally liable under  
 3992 this subsection with such regulated party, unless such person  
 3993 did not know, and in the exercise of reasonable care could not  
 3994 have known, of the existence of the facts giving rise to the  
 3995 violation of this chapter. A right of contribution shall exist



3996 among jointly and severally liable persons pursuant to this  
 3997 paragraph.

3998 (b) The division may permit any person whose conduct or  
 3999 actions may be under investigation to waive formal proceedings  
 4000 and enter into a consent proceeding whereby an order, rule, or  
 4001 letter of censure or warning, whether formal or informal, may be  
 4002 entered against that person.

4003 (c) The division may issue an order requiring a regulated  
 4004 party to cease and desist from an unlawful practice under this  
 4005 chapter and take such affirmative action as in the judgment of  
 4006 the division will carry out the purposes of this chapter.

4007 (d)1. The division may bring an action in circuit court  
 4008 for declaratory or injunctive relief or for other appropriate  
 4009 relief, including restitution.

4010 2. The division shall have broad authority and discretion  
 4011 to petition the circuit court to appoint a receiver with respect  
 4012 to any managing entity which fails to perform its duties and  
 4013 obligations under this chapter with respect to the operation of  
 4014 a timeshare plan. The circumstances giving rise to an  
 4015 appropriate petition for receivership under this subparagraph  
 4016 include, but are not limited to:

4017 a. Damage to or destruction of any of the accommodations  
 4018 or facilities of a timeshare plan, where the managing entity has  
 4019 failed to repair or reconstruct same.

4020 b. A breach of fiduciary duty by the managing entity,  
 4021 including, but not limited to, undisclosed self-dealing or  
 4022 failure to timely assess, collect, or disburse the common  
 4023 expenses of the timeshare plan.

4024 c. Failure of the managing entity to operate the timeshare  
4025 plan in accordance with the timeshare instrument and this  
4026 chapter.

4027  
4028 If, under the circumstances, it appears that the events giving  
4029 rise to the petition for receivership cannot be reasonably and  
4030 timely corrected in a cost-effective manner consistent with the  
4031 timeshare instrument, the receiver may petition the circuit  
4032 court to implement such amendments or revisions to the timeshare  
4033 instrument as may be necessary to enable the managing entity to  
4034 resume effective operation of the timeshare plan, or to enter an  
4035 order terminating the timeshare plan, or to enter such further  
4036 orders regarding the disposition of the timeshare property as  
4037 the court deems appropriate, including the disposition and sale  
4038 of the timeshare property held by the owners' association or the  
4039 purchasers. In the event of a receiver's sale, all rights,  
4040 title, and interest held by the owners' association or any  
4041 purchaser shall be extinguished and title shall vest in the  
4042 buyer. This provision applies to timeshare estates, personal  
4043 property timeshare interests, and timeshare licenses. All  
4044 reasonable costs and fees of the receiver relating to the  
4045 receivership shall become common expenses of the timeshare plan  
4046 upon order of the court.

4047 3. The division may revoke its approval of any filing for  
4048 any timeshare plan for which a petition for receivership has  
4049 been filed pursuant to this paragraph.

4050 (e)1. The division may impose a penalty against any  
4051 regulated party for a violation of this chapter or any rule

4052 adopted thereunder. A penalty may be imposed on the basis of  
4053 each day of continuing violation, but in no event may the  
4054 penalty for any offense exceed \$10,000. All accounts collected  
4055 shall be deposited with the Chief Financial Officer to the  
4056 credit of the Division of Florida ~~Land Sales~~, Condominiums,  
4057 Timeshares, and Mobile Homes Trust Fund.

4058 2.a. If a regulated party fails to pay a penalty, the  
4059 division shall thereupon issue an order directing that such  
4060 regulated party cease and desist from further operation until  
4061 such time as the penalty is paid; or the division may pursue  
4062 enforcement of the penalty in a court of competent jurisdiction.

4063 b. If an owners' association or managing entity fails to  
4064 pay a civil penalty, the division may pursue enforcement in a  
4065 court of competent jurisdiction.

4066 (f) In order to permit the regulated party an opportunity  
4067 ~~either~~ to appeal such decision administratively or to seek  
4068 relief in a court of competent jurisdiction, the order imposing  
4069 the penalty or the cease and desist order shall not become  
4070 effective until 20 days after the date of such order.

4071 (g) Any action commenced by the division shall be brought  
4072 in the county in which the division has its executive offices or  
4073 in the county where the violation occurred.

4074 (h) Notice to any regulated party shall be complete when  
4075 delivered by United States mail, return receipt requested, to  
4076 the party's address currently on file with the division or to  
4077 such other address at which the division is able to locate the  
4078 party. Every regulated party has an affirmative duty to notify

4079 the division of any change of address at least 5 business days  
4080 prior to such change.

4081 (6) The division has authority to adopt rules pursuant to  
4082 ss. 120.536(1) and 120.54 to implement and enforce the  
4083 provisions of this chapter.

4084 (7) (a) The use of any unfair or deceptive act or practice  
4085 by any person in connection with the sales or other operations  
4086 of an exchange program or timeshare plan is a violation of this  
4087 chapter.

4088 (b) Any violation of the Florida Deceptive and Unfair  
4089 Trade Practices Act, ss. 501.201 et seq., relating to the  
4090 creation, promotion, sale, operation, or management of any  
4091 timeshare plan shall also be a violation of this chapter.

4092 (c) The division may ~~is authorized to~~ institute  
4093 proceedings against any such person and take any appropriate  
4094 action authorized in this section in connection therewith,  
4095 notwithstanding any remedies available to purchasers.

4096 (8) The failure of any person to comply with any order of  
4097 the division is a violation of this chapter.

4098 Section 69. Section 721.28, Florida Statutes, is amended  
4099 to read:

4100 721.28 Division of Florida ~~Land Sales,~~ Condominiums,  
4101 Timeshares, and Mobile Homes Trust Fund.--All funds collected by  
4102 the division and any amounts paid as fees or penalties under  
4103 this chapter shall be deposited in the State Treasury to the  
4104 credit of the Division of Florida ~~Land Sales,~~ Condominiums,  
4105 Timeshares, and Mobile Homes Trust Fund created by s. 718.509  
4106 ~~498.019.~~

4107 Section 70. Paragraph (c) of subsection (1) of section  
 4108 721.301, Florida Statutes, is amended to read:

4109 721.301 Florida Timesharing, Vacation Club, and  
 4110 Hospitality Program.--

4111 (1)

4112 (c) The director may designate funds from the Division of  
 4113 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes  
 4114 Trust Fund, not to exceed \$50,000 annually, to support the  
 4115 projects and proposals undertaken pursuant to paragraph (b). All  
 4116 state trust funds to be expended pursuant to this section must  
 4117 be matched equally with private moneys and shall comprise no  
 4118 more than half of the total moneys expended annually.

4119 Section 71. Section 721.50, Florida Statutes, is amended  
 4120 to read:

4121 721.50 Short title.--This part may be cited as the  
 4122 "McAllister Act" in recognition and appreciation for the years  
 4123 of extraordinary and insightful contributions by Mr. Bryan C.  
 4124 McAllister, Examinations Supervisor of the former, Division of  
 4125 Florida Land Sales, Condominiums, and Mobile Homes.

4126 Section 72. Subsection (1) of section 723.003, Florida  
 4127 Statutes, is amended to read:

4128 723.003 Definitions.--As used in this chapter, the  
 4129 following words and terms have the following meanings unless  
 4130 clearly indicated otherwise:

4131 (1) The term "division" means the Division of Florida ~~Land~~  
 4132 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the  
 4133 Department of Business and Professional Regulation.

4134 Section 73. Paragraph (e) of subsection (5) of section  
 4135 723.006, Florida Statutes, is amended to read:

4136 723.006 Powers and duties of division.--In performing its  
 4137 duties, the division has the following powers and duties:

4138 (5) Notwithstanding any remedies available to mobile home  
 4139 owners, mobile home park owners, and homeowners' associations,  
 4140 if the division has reasonable cause to believe that a violation  
 4141 of any provision of this chapter or related ~~any rule promulgated~~  
 4142 ~~pursuant hereto~~ has occurred, the division may institute  
 4143 enforcement proceedings in its own name against a developer,  
 4144 mobile home park owner, or homeowners' association, or its  
 4145 assignee or agent, as follows:

4146 (e)1. The division may impose a civil penalty against a  
 4147 mobile home park owner or homeowners' association, or its  
 4148 assignee or agent, for any violation of this chapter, a properly  
 4149 adopted ~~promulgated~~ park rule or regulation, or a rule adopted  
 4150 ~~or regulation promulgated~~ pursuant hereto. A penalty may be  
 4151 imposed on the basis of each separate violation and, if the  
 4152 violation is a continuing one, for each day of continuing  
 4153 violation, but in no event may the penalty for each separate  
 4154 violation or for each day of continuing violation exceed \$5,000.  
 4155 All amounts collected shall be deposited with the Chief  
 4156 Financial Officer to the credit of the Division of Florida ~~Land~~  
 4157 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund.

4158 2. If a violator fails to pay the civil penalty, the  
 4159 division shall thereupon issue an order directing that such  
 4160 violator cease and desist from further violation until such time  
 4161 as the civil penalty is paid or may pursue enforcement of the

4162 penalty in a court of competent jurisdiction. If a homeowners'  
 4163 association fails to pay the civil penalty, the division shall  
 4164 thereupon pursue enforcement in a court of competent  
 4165 jurisdiction, and the order imposing the civil penalty or the  
 4166 cease and desist order shall not become effective until 20 days  
 4167 after the date of such order. Any action commenced by the  
 4168 division shall be brought in the county in which the division  
 4169 has its executive offices or in which the violation occurred.

4170 Section 74. Section 723.009, Florida Statutes, is amended  
 4171 to read:

4172 723.009 Division of Florida ~~Land Sales~~, Condominiums,  
 4173 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the  
 4174 fees, penalties, and fines imposed pursuant to this chapter  
 4175 shall be deposited into the Division of Florida ~~Land Sales~~,  
 4176 Condominiums, Timeshares, and Mobile Homes Trust Fund created by  
 4177 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the  
 4178 Legislature pursuant to chapter 216, may be used to defray the  
 4179 expenses incurred by the division in administering the  
 4180 provisions of this chapter.

4181 Section 75. Paragraph (c) of subsection (2) of section  
 4182 723.0611, Florida Statutes, is amended to read:

4183 723.0611 Florida Mobile Home Relocation Corporation.--  
 4184 (2)

4185 (c) The corporation shall, for purposes of s. 768.28, be  
 4186 considered an agency of the state. Agents or employees of the  
 4187 corporation, members of the board of directors of the  
 4188 corporation, or representatives of the Division of Florida ~~Land~~  
 4189 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be

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4190 considered officers, employees, or agents of the state, and  
4191 actions against them and the corporation shall be governed by s.  
4192 768.28.

4193 Section 76. Except as otherwise expressly provided in this  
4194 act, this act shall take effect July 1, 2008.