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CS/CS/HB 601, Engrossed 3

2008 Legislature

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

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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

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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

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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

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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

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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

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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

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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

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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

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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.

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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.

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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,

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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.

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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,

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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

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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

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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

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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

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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~~

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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.~~

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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~~

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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~~

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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

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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.

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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.

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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

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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:

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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.

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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:

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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.

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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

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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

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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

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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:

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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

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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;

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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.

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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

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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

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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:

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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:

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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

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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

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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

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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

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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:

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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

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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~~

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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

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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~~

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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

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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

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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~~

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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.

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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.

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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

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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

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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:

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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;⁷ 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

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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

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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

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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;

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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; -

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,

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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.

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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.--

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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:

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- 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

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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

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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

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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

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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

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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

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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

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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,

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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

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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

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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

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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.

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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

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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.

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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:

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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

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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

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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:

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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

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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.

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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.

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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.

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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,

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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

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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

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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

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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

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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

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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

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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

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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.

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- 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

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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.

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- 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.

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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.

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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.

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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

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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

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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

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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

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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:

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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

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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;

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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~~

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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.

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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.

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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.

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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.

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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.

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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

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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

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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

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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.

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- 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.

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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.

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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

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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

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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.

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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.

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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

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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

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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.

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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:

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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

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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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

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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

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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

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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.

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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

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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.

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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

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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

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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.~~

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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.

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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

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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.