

By Senator Soto

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1 A bill to be entitled  
2 An act relating to homeowners' associations; amending  
3 s. 20.165, F.S.; renaming the Division of Florida  
4 Condominiums, Timeshares, and Mobile Homes as the  
5 Division of Florida Condominiums, Homeowners'  
6 Associations, Timeshares, and Mobile Homes; amending  
7 s. 718.509, F.S.; renaming the Division of Florida  
8 Condominiums, Timeshares, and Mobile Homes Trust Fund  
9 as the Division of Florida Condominiums, Homeowners'  
10 Associations, Timeshares, and Mobile Homes Trust Fund;  
11 amending s. 720.301, F.S.; revising and defining  
12 terms; creating s. 720.3011, F.S.; providing that the  
13 Legislature reserves the power to amend or repeal ch.  
14 720, F.S.; requiring that homeowners' associations be  
15 governed by such amendment or repeal; amending s.  
16 720.302, F.S.; clarifying legislative intent; creating  
17 s. 720.3021, F.S.; providing division powers and  
18 duties; creating s. 720.3022, F.S.; authorizing the  
19 division to investigate complaints relating to  
20 developer control and improper turnover; providing a  
21 procedure for taking action on such complaints;  
22 authorizing the division to conduct investigations to  
23 determine whether ch. 720, F.S., or rules adopted  
24 thereto have been violated; providing a procedure for  
25 conducting and administering an investigation;  
26 specifying conditions under which the division is  
27 authorized to institute enforcement proceedings in its  
28 own name; providing for service of process; requiring  
29 the division to adopt penalty guidelines; establishing  
30 factors the division must consider to adopt the  
31 guidelines; creating s. 720.3023, F.S.; requiring  
32 funds collected by the division to be deposited into

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33 the Florida Condominiums, Homeowners' Associations,  
34 Timeshares, and Mobile Homes Trust Fund; creating s.  
35 720.3029, F.S.; requiring the payment of certain fees  
36 by homeowners' associations; amending s. 720.303,  
37 F.S.; requiring written notice of a board meeting at  
38 which increases in assessments or amendments to  
39 governing documents will be considered; specifying  
40 notice requirements; amending s. 720.305, F.S.;  
41 authorizing a homeowners' association to impose fines  
42 if its original governing documents authorized the  
43 imposition of such fines; prohibiting a fine from  
44 becoming a lien against a parcel; amending s. 720.306,  
45 F.S.; restricting the amendment of the declaration of  
46 a homeowners' association to a specified vote of the  
47 affected parcels; revising annual meeting  
48 requirements; providing requirements for voting by  
49 general and limited proxy; revising provisions  
50 relating to board elections and vacancies; amending s.  
51 720.307, F.S.; revising the applicability of certain  
52 provisions that relate to the transition of  
53 association control in a community; amending ss.  
54 73.073, 192.037, 213.053, 326.002, 326.006, 380.0651,  
55 455.116, 475.455, 509.512, 559.935, 718.103, 718.105,  
56 718.1255, 718.501, 718.5011, 718.502, 718.503,  
57 718.504, 718.508, 718.608, 719.103, 719.1255, 719.501,  
58 719.502, 719.504, 719.508, 719.608, 721.05, 721.07,  
59 721.08, 721.26, 721.28, 721.301, 723.003, 723.006,  
60 723.009, 723.0611, and 723.1255, F.S.; conforming  
61 provisions to changes made by the act; providing an

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62 effective date.

63  
64 Be It Enacted by the Legislature of the State of Florida:

65  
66 Section 1. Paragraph (e) of subsection (2) of section  
67 20.165, Florida Statutes, is amended to read:

68 20.165 Department of Business and Professional Regulation.—  
69 There is created a Department of Business and Professional  
70 Regulation.

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

73 (e) Division of Florida Condominiums, Homeowners'  
74 Associations, Timeshares, and Mobile Homes. The executive  
75 offices of the division shall be located in Tallahassee. The  
76 division may establish and maintain branch offices throughout  
77 the state.

78 Section 2. Section 718.509, Florida Statutes, is amended to  
79 read:

80 718.509 Division of Florida Condominiums, Homeowners'  
81 Associations, Timeshares, and Mobile Homes Trust Fund.—

82 (1) The Division of Florida Condominiums, Homeowners'  
83 Associations, Timeshares, and Mobile Homes Trust Fund ~~There~~ is  
84 created within the State Treasury ~~the Division of Florida~~  
85 ~~Condominiums, Timeshares, and Mobile Homes Trust Fund~~ to be used  
86 for the administration and operation of this chapter and  
87 chapters ~~718,~~ 719, 721, and 723 by the division.

88 (2) All moneys collected by the division from fees, fines,  
89 or penalties or from costs awarded to the division by a court or  
90 administrative final order shall be paid into the Division of

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91 Florida Condominiums, Homeowners' Associations, Timeshares, and  
92 Mobile Homes Trust Fund. The Legislature shall appropriate funds  
93 from this trust fund sufficient to carry out ~~the provisions of~~  
94 this chapter and the provisions of law with respect to each  
95 category of business covered by the trust fund. The division  
96 shall maintain separate revenue accounts in the trust fund for  
97 each of the businesses regulated by the division. The division  
98 shall provide for the proportionate allocation among the  
99 accounts of expenses incurred by the division in the performance  
100 of its duties with respect to each of these businesses. As part  
101 of its normal budgetary process, the division shall prepare an  
102 annual report of revenue and allocated expenses related to the  
103 operation of each of these businesses which may be used to  
104 determine fees charged by the division. This subsection shall  
105 operate pursuant to ~~the provisions of~~ s. 215.20.

106 Section 3. Subsection (7) of section 720.301, Florida  
107 Statutes, is amended, present subsection (13) is renumbered as  
108 subsection (14), and a new subsection (13) is added to that  
109 section, to read:

110 720.301 Definitions.—As used in this chapter, the term:

111 (7) "Division" means the Division of Florida Condominiums,  
112 Homeowners' Associations, Timeshares, and Mobile Homes in the  
113 Department of Business and Professional Regulation.

114 (13) "Special assessment" means any assessment levied  
115 against a parcel owner other than the assessment required by a  
116 budget adopted annually.

117 Section 4. Section 720.3011, Florida Statutes, is created  
118 to read:

119 720.3011 Reservation of power to amend or repeal.—The

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120 Legislature has the power to amend or repeal all or part of this  
121 chapter at any time, and all homeowners' associations subject to  
122 this chapter shall be governed by the amendment or repeal.

123 Section 5. Subsections (1) and (2) of section 720.302,  
124 Florida Statutes, are amended to read:

125 720.302 Purposes, scope, and application.—

126 (1) The purposes of this chapter are to give statutory  
127 recognition to corporations not for profit that administer or  
128 operate residential communities in this state, to provide  
129 regulations ~~procedures~~ for operating homeowners' associations,  
130 and to protect the rights of association members without unduly  
131 impairing the ability of such associations to perform their  
132 functions as authorized by federal, state, and local laws and  
133 the governing documents of the association.

134 (2) Having provided certain powers and authority to  
135 homeowners' associations and in deed restrictions created by  
136 developers of mandated properties in residential communities,  
137 the Legislature recognizes that it is necessary to provide  
138 regulatory oversight of such associations to ensure compliance  
139 with federal and state laws and local ordinances. It is the  
140 intent of the Legislature to protect the rights of parcel owners  
141 by ensuring that the powers and authority granted to homeowners'  
142 associations and in deed restrictions created by developers of  
143 mandated properties in residential communities conform to a  
144 system of checks and balances in order to prevent abuses by  
145 these governing authorities. Further ~~The Legislature recognizes~~  
146 ~~that it is not in the best interest of homeowners' associations~~  
147 ~~or the individual association members thereof to create or~~  
148 ~~impose a bureau or other agency of state government to regulate~~

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149 ~~the affairs of homeowners' associations. However, in accordance~~  
 150 ~~with s. 720.311,~~ the Legislature finds that homeowners'  
 151 associations and their individual members will benefit from an  
 152 expedited alternative process for the resolution of election and  
 153 recall disputes and presuit mediation of other disputes  
 154 involving covenant enforcement and authorizes the department to  
 155 hear, administer, and determine these disputes as more fully set  
 156 forth in this chapter. ~~Further,~~ The Legislature recognizes that  
 157 ~~certain~~ contract rights that were created before June 14, 1995,  
 158 were have been created for the benefit of homeowners'  
 159 associations and their members ~~thereof before the effective date~~  
 160 ~~of this act~~ and that this chapter is ss. 720.301-720.407 are not  
 161 intended to impair such contract rights, including, but not  
 162 limited to, the rights of the developer to complete the  
 163 community as initially contemplated.

164 Section 6. Section 720.3021, Florida Statutes, is created  
 165 to read:

166 720.3021 Division powers and duties.-

167 (1) The division has jurisdiction for, and may enforce  
 168 compliance with, this chapter and the adopted rules relating to  
 169 homeowners' associations. The division may also:

170 (a) Issue a notice to show cause, which must provide for a  
 171 hearing, upon written request, in accordance with chapter 120.

172 (b) Accept grants-in-aid from any source.

173 (c) Prepare and disseminate a prospectus and other  
 174 information to assist prospective owners, purchasers, lessees,  
 175 and developers of homeowners' associations in assessing  
 176 associated rights, privileges, and duties.

177 (2) The division shall:

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178 (a) Respond to complaints, conduct investigations, and  
179 impose penalties as provided under s. 720.3022.

180 (b) Establish procedures for providing notice to an  
181 association and the developer during the period the developer  
182 controls the association if the division is considering the  
183 issuance of a declaratory statement with respect to the  
184 homeowners' association or any related document governing such  
185 community.

186 (c) Annually provide each association with a summary of  
187 declaratory statements and formal legal opinions relating to the  
188 operations of homeowners' associations which were rendered by  
189 the division during the previous year.

190 (d) Provide training and educational programs for  
191 homeowners' association board members and parcel owners. The  
192 training may include web-based electronic media and live  
193 training and seminars in various locations throughout the state.  
194 The division may review and approve education and training  
195 programs offered by providers and shall maintain a current list  
196 of approved programs and providers and make such list available  
197 to board members and parcel owners in a reasonable and cost-  
198 effective manner.

199 (e) Maintain a toll-free telephone number accessible to  
200 homeowners' association parcel owners.

201 (f) Develop a program to certify both volunteer and paid  
202 mediators to provide mediation of homeowners' association  
203 disputes. Upon request, the division shall provide a list of  
204 such mediators to any association, parcel owner, or other  
205 participant in arbitration proceedings under s. 718.1255.

206 1. Only volunteer mediators who have received at least 20

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207 hours of training in mediation techniques or who have mediated  
208 at least 20 disputes may be included on the list.

209 2. For initial certification by the division, paid  
210 mediators must be certified by the Supreme Court to mediate  
211 court cases in county or circuit courts. However, the division  
212 may adopt by rule additional factors related to the mediator's  
213 experience, education, or background. To maintain certification,  
214 a person initially certified as a paid mediator by the division  
215 must comply with the factors or requirements adopted by rule.

216 (g) Cooperate with similar agencies in other jurisdictions  
217 to establish uniform filing procedures and forms, public  
218 offering statements, advertising standards, and rules and common  
219 administrative practices.

220 (h) Consider notice to a developer to be complete when it  
221 is delivered to the address of the developer currently on file  
222 with the division.

223 (i) Adopt a seal by which it shall authenticate its  
224 records. Copies of the records of the division, and certificates  
225 purporting to relate the facts contained in those records, if  
226 authenticated by the seal, shall be prima facie evidence of the  
227 records in the courts of this state.

228 (j) Submit to the Governor, the President of the Senate,  
229 and the Speaker of the House of Representatives an annual report  
230 that includes, at a minimum, the number of training programs  
231 provided for homeowners' association board members and parcel  
232 owners under paragraph (d); and the number of complaints  
233 received by type, the number and percent of complaints  
234 acknowledged in writing within 30 days, the number and percent  
235 of resulting investigations conducted within 90 days, and the



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236 number of investigations exceeding the 90-day requirement as  
237 required under s. 720.3022(1). The annual report must also  
238 include an evaluation of the division's core business processes  
239 and make recommendations for improvements, including statutory  
240 changes. The report shall be submitted by September 30 following  
241 the end of the fiscal year.

242 (3) The department may adopt rules to administer and  
243 enforce this chapter.

244 Section 7. Section 720.3022, Florida Statutes, is created  
245 to read:

246 720.3022 Complaints; investigations; service of process;  
247 penalty guidelines.—

248 (1) COMPLAINTS.—The division may investigate complaints and  
249 enforce compliance with respect to homeowners' associations that  
250 are still under developer control and complaints against  
251 developers involving improper turnover or failure to turn over  
252 pursuant to s. 720.307. After turnover has occurred, the  
253 division may only investigate complaints related to financial  
254 issues, elections, and parcel owner access to association  
255 records pursuant to s. 720.303(4) and (5). If a complaint is  
256 made, the division must conduct its inquiry with due regard for  
257 the interests of the affected parties. Within 30 days after  
258 receiving a complaint:

259 (a) The division shall acknowledge the complaint in writing  
260 and notify the complainant as to whether the complaint is within  
261 the jurisdiction of the division and whether additional  
262 information is needed by the division from the complainant.

263 (b) The division shall conduct its investigation and,  
264 within 90 days after receipt of the original complaint or timely

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265 requested additional information, take action upon the  
266 complaint. However, the failure to complete the investigation  
267 within 90 days does not prevent the division from continuing the  
268 investigation, accepting or considering evidence obtained or  
269 received after 90 days, or taking administrative action if  
270 reasonable cause exists to believe that a violation of this  
271 chapter or related rule has occurred.

272 (c) If an investigation is not completed within the time  
273 limits established in this subsection, the division shall, on a  
274 monthly basis, notify the complainant in writing of the status  
275 of the investigation.

276 (d) When reporting its action to the complainant, the  
277 division shall inform the complainant of any right to a hearing  
278 pursuant to ss. 120.569 and 120.57.

279 (2) INVESTIGATIONS.—The division may conduct necessary  
280 public or private investigations within or outside this state to  
281 determine whether there has been a violation of this chapter or  
282 related rules or orders, and to aid in the adoption of needed  
283 rules or forms.

284 (a) For the purpose of conducting an investigation, the  
285 division director, or officer or employee designated by the  
286 division director, may administer oaths or affirmations,  
287 subpoena witnesses and compel their attendance, take evidence,  
288 and require the production of any matter that is relevant to an  
289 investigation, including the existence, description, nature,  
290 custody, condition, and location of any books, documents, or  
291 other tangible things and the identity and location of persons  
292 having knowledge of relevant facts or any other matter  
293 reasonably calculated to lead to the discovery of material

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294 evidence. Upon the failure by a person to obey a subpoena or to  
295 answer questions propounded by the investigating officer and  
296 upon reasonable notice to all affected persons, the division may  
297 apply to the circuit court for an order compelling compliance.

298 (b) The division may require or permit any person to file a  
299 statement in writing, under oath or otherwise, as determined by  
300 the division, as to the facts and circumstances concerning a  
301 matter to be investigated.

302 (c) The division may submit any official written report,  
303 worksheet, or other related paper, or a certified copy thereof,  
304 compiled, prepared, drafted, or otherwise made and authenticated  
305 by a financial examiner or analyst to be admitted as competent  
306 evidence in any hearing in which the financial examiner or  
307 analyst is available for cross-examination and attests under  
308 oath that such documents were prepared as a result of an  
309 examination or inspection conducted pursuant to this chapter.

310 (d) Notwithstanding any remedies available to parcel owners  
311 and associations, if the division has reasonable cause to  
312 believe that a violation of this chapter or related rule has  
313 occurred, the division may institute enforcement proceedings in  
314 its own name against any developer, association, officer, or  
315 member of the board of administration, or its assignees or  
316 agents, as follows:

317 1. The division may permit a person whose conduct or  
318 actions may be under investigation to waive formal proceedings  
319 and enter into a consent proceeding whereby orders, rules, or  
320 letters of censure or warning, whether formal or informal, may  
321 be entered against the person.

322 2. The division may issue an order requiring the developer,

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323 association, developer-designated officer, or developer-  
324 designated member of the board of administration, developer-  
325 designated assignees or agents, community association manager,  
326 or community association management firm to cease and desist  
327 from the unlawful practice and take such affirmative action as  
328 the division determines will carry out the purposes of this  
329 chapter. If the division finds that a developer, association,  
330 officer, or member of the board of administration, or its  
331 assignees or agents, is violating or is about to violate this  
332 chapter, any rule adopted or order issued by the division, or  
333 any written agreement entered into with the division, and such  
334 violation presents an immediate danger to the public requiring  
335 an immediate final order, it may issue an emergency cease and  
336 desist order reciting with particularity the facts underlying  
337 such findings. The emergency cease and desist order is effective  
338 for 90 days. If the division begins nonemergency cease and  
339 desist proceedings, the emergency cease and desist order remains  
340 effective until the conclusion of the proceedings under ss.  
341 120.569 and 120.57.

342 3. If a developer fails to pay restitution determined by  
343 the division to be owed, plus any accrued interest at the  
344 highest rate permitted by law, within 30 days after expiration  
345 of any appellate time period of a final order requiring payment  
346 of restitution or the conclusion of any appeal, whichever is  
347 later, the division shall bring an action in circuit or county  
348 court on behalf of any association, class of parcel owners,  
349 lessees, or purchasers for restitution, declaratory relief,  
350 injunctive relief, or any other available remedy. The division  
351 may also temporarily revoke its acceptance of the filing for the

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352 developer to which the restitution relates until payment of  
353 restitution is made.

354 4. The division may petition the court for the appointment  
355 of a receiver or conservator. If appointed, the receiver or  
356 conservator may take action to implement the court order to  
357 ensure the performance of and to remedy any breach of the order.  
358 In addition to all other means provided by law for the  
359 enforcement of an injunction or temporary restraining order, the  
360 circuit court may impound or sequester the property of a party  
361 defendant, including books, papers, documents, and related  
362 records, and allow the examination and use of the property by  
363 the division and a court-appointed receiver or conservator.

364 5. The division may apply to the circuit court for an order  
365 of restitution whereby the defendant in an action brought  
366 pursuant to subparagraph 4. is ordered to make restitution of  
367 those sums shown by the division to have been obtained by the  
368 defendant in violation of this chapter. At the option of the  
369 court, such restitution is payable to the conservator or  
370 receiver or directly to the persons whose funds or assets were  
371 obtained in violation of this chapter.

372 6. The division may impose a civil penalty against a  
373 developer or association, or its assignee or agent, for any  
374 violation of this chapter or related rule. The division may  
375 impose a civil penalty individually against an officer or board  
376 member who willfully and knowingly violates this chapter, an  
377 adopted rule, or a final order of the division; may order the  
378 removal of such individual as an officer or from the board of  
379 administration or as an officer of the association; and may  
380 prohibit such individual from serving as an officer or on the

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381 board of a community association for a period of time. For  
382 purposes of this section, the term "willfully and knowingly"  
383 means that the division informed the officer or board member  
384 that his or her action or intended action violates this chapter,  
385 a related rule, or a final order of the division and that the  
386 officer or board member refused to comply with this chapter, the  
387 related rule, or the final order of the division. Before  
388 initiating formal agency action under chapter 120, the division  
389 must afford the officer or board member an opportunity to  
390 voluntarily comply, and if he or she complies within 10 days,  
391 the officer or board member is not subject to a civil penalty. A  
392 penalty may be imposed for each day of continuing violation, but  
393 may not exceed a total of \$5,000.

394 7. If a parcel owner presents the division with proof that  
395 the parcel owner has requested access to official records in  
396 writing by certified mail, and that after 10 days the parcel  
397 owner again made the same request for access to official records  
398 in writing by certified mail, and that more than 10 days has  
399 elapsed since the second request and the association has still  
400 failed or refused to provide access to official records as  
401 required by this chapter, the division shall issue a subpoena  
402 requiring production of the requested records where the records  
403 are kept pursuant to s. 720.303.

404 8. In addition to subparagraph 6., the division may seek  
405 the imposition of a civil penalty through the circuit court for  
406 any violation for which the division may issue a notice to show  
407 cause under s. 720.302(11). The civil penalty must be at least  
408 \$500 but may not exceed \$5,000 for each violation. The court may  
409 also award to the prevailing party court costs and reasonable

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410 attorney fees and, if the division prevails, may also award  
411 reasonable costs of investigation.

412 (e) Homeowners' association directors, officers, and  
413 employees; homeowners' association developers and community  
414 association managers; and community association management firms  
415 have an ongoing duty to reasonably cooperate with the division  
416 in any investigation pursuant to this chapter. The division  
417 shall refer to local law enforcement any person who the division  
418 believes has altered, destroyed, concealed, or removed any  
419 record, document, or thing required to be kept or maintained  
420 under this chapter for the purpose of impairing its verity or  
421 availability to the department's investigation.

422 (f) The division may contract with agencies in this state  
423 or other jurisdictions to perform investigative functions.

424 (g) The division shall establish by rule the standards for  
425 reimbursement of actual verified expenses incurred in connection  
426 with an onsite review or investigation.

427 (3) SERVICE OF PROCESS.—

428 (a) In addition to the methods of service provided for in  
429 the Florida Rules of Civil Procedure and under state law,  
430 service may be made and is binding upon a defendant or  
431 respondent if the division:

432 1. Acting as the petitioner or plaintiff, immediately sends  
433 a copy of the process and the pleading by certified mail to the  
434 defendant or respondent at his or her last known address; and

435 2. Files an affidavit of compliance with this subsection on  
436 or before the return date of the process or within the time set  
437 by the court.

438 (b) If a person, including a nonresident of this state,

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439 allegedly engages in conduct prohibited by this chapter or any  
440 rule or order of the division, has not filed a consent to  
441 service of process, and personal jurisdiction over him or her  
442 cannot otherwise be obtained in this state, the director may  
443 receive service of process in any noncriminal proceeding against  
444 that person or his or her successor which grows out of the  
445 conduct and which is brought by the division under this chapter  
446 or any rule or order of the division. Such process has the same  
447 force and validity as if personally served. Notice shall be  
448 given as provided in paragraph (a).

449 (4) PENALTY GUIDELINES.—The division shall adopt by rule  
450 penalty guidelines applicable to violations or to categories of  
451 violations of this chapter or related rules. The guidelines must  
452 specify a meaningful range of civil penalties for each such  
453 violation of statute and rule and must be based upon the harm  
454 caused by the violation, the repetition of the violation, and  
455 upon such other factors deemed relevant by the division, such as  
456 the size of the association or whether the violations were  
457 committed by a developer- or owner-controlled association. The  
458 guidelines must designate possible mitigating or aggravating  
459 circumstances that might justify a departure from the range of  
460 penalties provided by the rules. It is the Legislature's intent  
461 that minor violations be distinguished from those that endanger  
462 the health, safety, or welfare of parcel owners or other persons  
463 and that such guidelines provide reasonable and meaningful  
464 notice to the public of likely penalties that may be imposed for  
465 the proscribed conduct. This subsection does not limit the  
466 ability of the division to informally dispose of administrative  
467 actions or complaints by stipulation, agreed settlement, or



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468 consent order. All amounts collected shall be deposited into the  
469 Division of Florida Condominiums, Homeowners' Associations,  
470 Timeshares, and Mobile Homes Trust Fund. If a developer fails to  
471 pay the civil penalty and the amount owed to the association,  
472 the division shall issue an order directing that such developer  
473 cease and desist from further operation until the civil penalty  
474 is paid or shall pursue enforcement of the penalty through court  
475 order. If an association fails to pay the civil penalty, the  
476 division shall pursue enforcement through court order, and the  
477 order imposing the civil penalty or the cease and desist order  
478 is not effective until 20 days after the date of such order. Any  
479 action commenced by the division shall be brought in the county  
480 in which the division has its executive offices or in the county  
481 where the violation occurred.

482 Section 8. Section 720.3023, Florida Statutes, is created  
483 to read:

484 720.3023 Depositing funds.—All funds collected by the  
485 division and any amounts paid as fees, fines, or penalties or  
486 from costs awarded to the division by a court or administrative  
487 final order under this chapter shall be deposited into the  
488 Division of Florida Condominiums, Homeowners' Associations,  
489 Timeshares, and Mobile Homes Trust Fund created by s. 718.509.

490 Section 9. Section 720.3029, Florida Statutes, is created  
491 to read:

492 720.3029 Homeowners' association fees.—Effective January 1,  
493 2017, each homeowners' association that operates more than two  
494 parcels must pay to the division an annual fee of \$4 for each  
495 residential parcel operated by the association. Beginning  
496 January 1, 2017, the division may increase the fee to reflect

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497 changes in the cost of living under s. 401(a)(17) of the  
498 Internal Revenue Code.

499 (1) If the fee is not paid by March 1, the association  
500 shall be assessed a penalty of 10 percent of the amount due and  
501 will not have standing to maintain or defend any action in the  
502 courts of this state until the amount due, plus any penalty, is  
503 paid.

504 (2) Funds collected shall be deposited into the Division of  
505 Florida Condominiums, Homeowners' Associations, Timeshares, and  
506 Mobile Homes Trust Fund. Funds shall be used by the division  
507 for, but their use is not limited to, the review and approval of  
508 deed restrictions before being recorded at the county level by  
509 the developer or owner of the initial lots to be developed;  
510 education; enforcement; investigation; and prosecution of  
511 policies and procedures related to mandated properties.

512 (3) The division shall furnish each association that pays  
513 fees under this section with a copy of this chapter, as amended,  
514 and related rules on an annual basis.

515 Section 10. Paragraph (c) of subsection (2) of section  
516 720.303, Florida Statutes, is amended to read:

517 720.303 Association powers and duties; meetings of board;  
518 official records; budgets; financial reporting; association  
519 funds; recalls.—

520 (2) BOARD MEETINGS.—

521 (c) The bylaws shall provide for giving notice to parcel  
522 owners and members of all board meetings and, if they do not do  
523 so, shall be deemed to provide the following:

524 1. Notices of all board meetings must be posted in a  
525 conspicuous place in the community at least 48 hours in advance

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526 of a meeting, except in an emergency. In the alternative, if  
527 notice is not posted in a conspicuous place in the community,  
528 notice of each board meeting must be mailed or delivered to each  
529 member at least 7 days before the meeting, except in an  
530 emergency. Notwithstanding this general notice requirement, for  
531 communities with more than 100 members, the bylaws may provide  
532 for a reasonable alternative to posting or mailing of notice for  
533 each board meeting, including publication of notice, provision  
534 of a schedule of board meetings, or the conspicuous posting and  
535 repeated broadcasting of the notice on a closed-circuit cable  
536 television system serving the homeowners' association. However,  
537 if broadcast notice is used in lieu of a notice posted  
538 physically in the community, the notice must be broadcast at  
539 least four times every broadcast hour of each day that a posted  
540 notice is otherwise required. When broadcast notice is provided,  
541 the notice and agenda must be broadcast in a manner and for a  
542 sufficient continuous length of time so as to allow an average  
543 reader to observe the notice and read and comprehend the entire  
544 content of the notice and the agenda. The association may  
545 provide notice by electronic transmission in a manner authorized  
546 by law for meetings of the board of directors, committee  
547 meetings requiring notice under this section, and annual and  
548 special meetings of the members; however, a member must consent  
549 in writing to receiving notice by electronic transmission.

550 2. An assessment may not be levied at a board meeting  
551 unless the notice of the meeting includes a statement that  
552 assessments will be considered and the nature of the  
553 assessments. Written notice of any meeting at which special  
554 assessments, increases in assessments, or amendments to

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555 governing documents will be considered or at which amendments to  
556 rules regarding parcel use will be considered must be mailed,  
557 delivered, or electronically transmitted to the members and  
558 parcel owners and posted conspicuously on the property or  
559 broadcast on closed-circuit cable television not less than 14  
560 days before the meeting regardless of contrary notice  
561 requirements in a governing document.

562 3. Directors may not vote by proxy or by secret ballot at  
563 board meetings, except that secret ballots may be used in the  
564 election of officers. This subsection also applies to the  
565 meetings of a any committee or other similar body, ~~if when~~ a  
566 final decision will be made regarding the expenditure of  
567 association funds, and to a any body vested with the power to  
568 approve or disapprove architectural decisions with respect to a  
569 specific parcel of residential property owned by a member of the  
570 community.

571 Section 11. Subsection (2) of section 720.305, Florida  
572 Statutes, is amended to read:

573 720.305 Obligations of members; remedies at law or in  
574 equity; levy of fines and suspension of use rights.—

575 (2) If the association is authorized by its original  
576 governing documents to impose fines, it may levy reasonable  
577 fines. A fine may not exceed \$100 per violation against any  
578 member or any member's tenant, guest, or invitee for the failure  
579 of the owner of the parcel or its occupant, licensee, or invitee  
580 to comply with any provision of the declaration, the association  
581 bylaws, or reasonable rules of the association unless otherwise  
582 provided in the governing documents. A fine may be levied by the  
583 board for each day of a continuing violation, with a single

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584 notice and opportunity for hearing, except that the fine may not  
585 exceed \$1,000 in the aggregate unless otherwise provided in the  
586 governing documents. A fine ~~of less than \$1,000~~ may not become a  
587 lien against a parcel. In any action to recover a fine, the  
588 prevailing party is entitled to reasonable attorney fees and  
589 costs from the nonprevailing party as determined by the court.

590 (a) An association may suspend, for a reasonable period of  
591 time, the right of a member, or a member's tenant, guest, or  
592 invitee, to use common areas and facilities for the failure of  
593 the owner of the parcel or its occupant, licensee, or invitee to  
594 comply with any provision of the declaration, the association  
595 bylaws, or reasonable rules of the association. This paragraph  
596 does not apply to that portion of common areas used to provide  
597 access or utility services to the parcel. A suspension may not  
598 prohibit an owner or tenant of a parcel from having vehicular  
599 and pedestrian ingress to and egress from the parcel, including,  
600 but not limited to, the right to park.

601 (b) A fine or suspension may not be imposed by the board of  
602 administration without at least 14 days' notice to the person  
603 sought to be fined or suspended and an opportunity for a hearing  
604 before a committee of at least three members appointed by the  
605 board who are not officers, directors, or employees of the  
606 association, or the spouse, parent, child, brother, or sister of  
607 an officer, director, or employee. If the committee, by majority  
608 vote, does not approve a proposed fine or suspension, it may not  
609 be imposed. The role of the committee is limited to determining  
610 whether to confirm or reject the fine or suspension levied by  
611 the board. If the board of administration imposes a fine or  
612 suspension, the association must provide written notice of such

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613 fine or suspension by mail or hand delivery to the parcel owner  
614 and, if applicable, to any tenant, licensee, or invitee of the  
615 parcel owner.

616 Section 12. Paragraphs (a) and (b) of subsection (1) and  
617 subsections (2), (4), (5), (6), (8), and (9) of section 720.306,  
618 Florida Statutes, are amended to read:

619 720.306 Meetings of members; voting and election  
620 procedures; amendments.—

621 (1) QUORUM; AMENDMENTS.—

622 (a) Unless a lower number is provided in the bylaws, the  
623 percentage of voting interests required for ~~to constitute~~ a  
624 quorum at a meeting of the members is ~~shall be~~ 30 percent of the  
625 total voting interests. Unless otherwise provided in this  
626 chapter or in the articles of incorporation or bylaws, decisions  
627 that require a vote of the members must be approved ~~made by the~~  
628 ~~concurrence of~~ at least a majority of the voting interests  
629 present, in person or by proxy, at a meeting at which a quorum  
630 is present ~~has been attained~~. A meeting of the members must be  
631 held at a location that is accessible to a physically  
632 handicapped person if requested by a physically handicapped  
633 person who has a right to attend the meeting.

634 (b) Unless otherwise provided in the governing documents or  
635 required by law, and other than those matters set forth in  
636 paragraph (c), the bylaws or articles of incorporation any  
637 ~~governing document~~ of an association may be amended by the  
638 affirmative vote of two-thirds of the voting interests of the  
639 association, and the declaration may be amended by the  
640 affirmative vote of parcel owners representing two-thirds of the  
641 voting interests of the affected parcels. Within 30 days after

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642 recording an amendment to the governing documents, the  
643 association shall provide copies of the amendment to the  
644 members. However, if a copy of the proposed amendment is  
645 provided to the members before they vote on the amendment and  
646 the proposed amendment is not changed before the vote, the  
647 association, in lieu of providing a copy of the amendment, may  
648 provide notice to the members that the amendment was adopted,  
649 identifying the official book and page number or instrument  
650 number of the recorded amendment and that a copy of the  
651 amendment is available at no charge to the member upon written  
652 request to the association. The copies and notice described in  
653 this paragraph may be provided electronically to those owners  
654 who previously consented to receive notice electronically. The  
655 failure to timely provide notice of the recording of the  
656 amendment does not affect the validity or enforceability of the  
657 amendment.

658 (2) ANNUAL MEETING.—The members ~~association~~ shall hold an  
659 annual ~~a meeting of its members annually~~ for the transaction of  
660 any and all proper business at a time, date, and place stated  
661 in, or fixed in accordance with, the bylaws. If the bylaws are  
662 silent as to the location, the annual meeting and all other  
663 membership meetings shall be held within 45 miles of the  
664 association property. The election of directors, if one is  
665 required to be held, must be held at, or in conjunction with,  
666 the annual meeting or as provided in the governing documents.

667 (4) CONTENT OF NOTICE.—Unless law or the governing  
668 documents require otherwise, notice of an annual meeting is not  
669 required to ~~need not~~ include a description of the purpose ~~or~~  
670 ~~purposes~~ for which the meeting is called. Notice of a special

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671 meeting must include a description of the purpose ~~or purposes~~  
672 for which the meeting is called.

673 (5) NOTICE OF MEETINGS.—The bylaws must ~~shall~~ provide for  
674 giving notice to members of all member meetings, and if they do  
675 not do so shall be deemed to provide the following: The  
676 association shall give all parcel owners and members actual  
677 notice of all membership meetings, which shall be mailed,  
678 delivered, or electronically transmitted to the members not less  
679 than 14 days before ~~prior to~~ the meeting. Evidence of compliance  
680 with this 14-day notice shall be made by an affidavit executed  
681 by the person providing the notice and filed upon execution  
682 among the official records of the association. In addition to  
683 mailing, delivering, or electronically transmitting the notice  
684 of any meeting, the association may, by reasonable rule, adopt a  
685 procedure for conspicuously posting and repeatedly broadcasting  
686 the notice and the agenda on a closed-circuit cable television  
687 system serving the association. If ~~When~~ broadcast notice is  
688 provided, the notice and agenda must be broadcast in a manner  
689 and for a sufficient continuous length of time so as to allow an  
690 average reader to observe the notice and read and comprehend the  
691 entire content of the notice and the agenda.

692 (6) RIGHT TO SPEAK.—Members and parcel owners have the  
693 right to attend all membership meetings and to speak at any  
694 meeting with reference to all items opened for discussion or  
695 included on the agenda. Notwithstanding any provision ~~to the~~  
696 ~~contrary~~ in the governing documents or any rules adopted by the  
697 board or by the membership, a member and a parcel owner have the  
698 right to speak for at least 3 minutes on any item. The  
699 association may adopt ~~written~~ reasonable written rules governing



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700 the frequency, duration, and other manner of member and parcel  
701 owner statements, and which are ~~rules must be~~ consistent with  
702 this subsection.

703 (8) PROXY VOTING.—The members have the right, unless  
704 otherwise provided in this subsection or in the governing  
705 documents, to vote in person or by proxy.

706 (a) Members voting by limited proxy must use a form  
707 substantially conforming to a limited proxy form adopted by the  
708 division. Limited proxies must be used for:

709 1. Votes taken to waive or reduce reserves in accordance  
710 with s. 720.303(6);

711 2. Votes taken to waive the financial reporting  
712 requirements of s. 720.303(7);

713 3. Votes taken to amend the declaration;

714 4. Votes taken to amend the articles of incorporation or  
715 bylaws pursuant to this section; and

716 5. Any other matter for which this chapter requires or  
717 permits a vote of the parcel owners.

718 (b) General proxies may be used for other matters for which  
719 limited proxies are not required and also may be used in voting  
720 for nonsubstantive changes to items for which a limited proxy is  
721 required and given.

722 (c) Limited proxies and general proxies may be used to  
723 establish a quorum.

724 (d) Voting interests or consent rights allocated to a  
725 parcel owned by the association may not be exercised or  
726 considered for any purpose, whether for a quorum, an election,  
727 or otherwise.

728 (e) Any proxy given is effective only for the specific

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729 meeting for which originally given and any lawfully adjourned  
730 meetings thereof. In no event is a proxy valid for longer than  
731 90 days after the date of the first meeting for which it was  
732 given. Every proxy is revocable at any time at the pleasure of  
733 the parcel owner executing it.

734 (f) This subsection does not limit the use of general  
735 proxies, require the use of limited proxies for any agenda item  
736 or election at any meeting of a homeowners' association, or  
737 prohibit parcel owners from voting in person at parcel owner  
738 meetings.

739 ~~(a) To be valid, a proxy must be dated, must state the~~  
740 ~~date, time, and place of the meeting for which it was given, and~~  
741 ~~must be signed by the authorized person who executed the proxy.~~  
742 ~~A proxy is effective only for the specific meeting for which it~~  
743 ~~was originally given, as the meeting may lawfully be adjourned~~  
744 ~~and reconvened from time to time, and automatically expires 90~~  
745 ~~days after the date of the meeting for which it was originally~~  
746 ~~given. A proxy is revocable at any time at the pleasure of the~~  
747 ~~person who executes it. If the proxy form expressly so provides,~~  
748 ~~any proxy holder may appoint, in writing, a substitute to act in~~  
749 ~~his or her place.~~

750 ~~(b) If the governing documents permit voting by secret~~  
751 ~~ballot by members who are not in attendance at a meeting of the~~  
752 ~~members for the election of directors, such ballots must be~~  
753 ~~placed in an inner envelope with no identifying markings and~~  
754 ~~mailed or delivered to the association in an outer envelope~~  
755 ~~bearing identifying information reflecting the name of the~~  
756 ~~member, the lot or parcel for which the vote is being cast, and~~  
757 ~~the signature of the lot or parcel owner casting that ballot. If~~

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758 ~~the eligibility of the member to vote is confirmed and no other~~  
759 ~~ballot has been submitted for that lot or parcel, the inner~~  
760 ~~envelope shall be removed from the outer envelope bearing the~~  
761 ~~identification information, placed with the ballots which were~~  
762 ~~personally cast, and opened when the ballots are counted. If~~  
763 ~~more than one ballot is submitted for a lot or parcel, the~~  
764 ~~ballots for that lot or parcel shall be disqualified. Any vote~~  
765 ~~by ballot received after the closing of the balloting may not be~~  
766 ~~considered.~~

767 (9) ELECTIONS AND BOARD VACANCIES.—

768 (a) Unless the governing documents provide otherwise, a  
769 vacancy on the board of directors caused by the expiration of a  
770 director's term shall be filled by electing a new board member.  
771 This section applies to any mandatory association that governs  
772 10 parcels or more. The election must occur on the date of the  
773 annual meeting.

774 1. An election is not required unless more candidates file  
775 notices of intent to run or are nominated than board vacancies  
776 exist. If the number of board members whose terms expire at the  
777 annual meeting equals or exceeds the number of candidates, the  
778 candidates become members of the board effective upon the  
779 adjournment of the annual meeting.

780 2. If the governing documents permit staggered terms of up  
781 to 2 years, and upon approval of a majority of the total voting  
782 interests, the association board members may serve 2-year  
783 staggered terms. If the staggered term of a board member does  
784 not expire until a later annual meeting, or if all members'  
785 terms would otherwise expire but there are no candidates, the  
786 terms of all board members expire at the annual meeting, and

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787 such members may stand for reelection unless prohibited by the  
788 governing documents.

789 3. Unless the governing documents provide otherwise, any  
790 remaining vacancies shall be filled by the affirmative vote of  
791 the majority of the directors making up the newly constituted  
792 board even if the directors constitute less than a quorum or  
793 there is only one director.

794 4. For purposes of this paragraph, the term "candidate"  
795 means an eligible person who has timely submitted the written  
796 notice, as described in subparagraph (c)2., of his or her  
797 intention to become a candidate.

798 (b) Any parcel owner desiring to be a candidate for board  
799 membership must be eligible to serve on the board of directors  
800 at the time of the deadline for submitting a notice of intent to  
801 run as provided in subparagraph (c)2. in order to have his or  
802 her name listed as a proper candidate on the ballot. A parcel  
803 owner may not be a candidate for or serve on the board of  
804 directors if:

805 1. He or she is delinquent in the payment of any fee, fine,  
806 or special or regular assessment as provided in paragraph (d).

807 2. In a homeowners' association of more than 10 parcels, he  
808 or she is the co-owner of a parcel and another co-owner of the  
809 same parcel is a member of the board of directors at the same  
810 time unless they own more than one parcel or there are not  
811 enough eligible candidates to fill the vacancies on the board at  
812 the time of the vacancy.

813 (c) The members of the board shall be elected by secret  
814 ballot using a written ballot or voting machine. Proxies may not  
815 be used in electing the board in general elections or elections

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816 to fill vacancies caused by recall or resignation unless  
817 otherwise provided in this chapter.

818 1. At least 60 days before a scheduled election, the  
819 association shall mail, deliver, or electronically transmit by  
820 separate association mailing or by inclusion in another  
821 association mailing, delivery, or transmission, including  
822 regularly published newsletters, to each parcel owner entitled  
823 to a vote a first notice of the date of the election.

824 2. Any parcel owner or other eligible person desiring to be  
825 a candidate for the board must give written notice of his or her  
826 intent to be a candidate to the association at least 40 days  
827 before the scheduled election.

828 3. Together with the notice and agenda required under  
829 subsection (5), the association shall mail, deliver, or  
830 electronically transmit a second notice of the election to all  
831 parcel owners entitled to vote which includes a ballot that  
832 lists all candidates. Upon request of a candidate, an  
833 information sheet no larger than 8 1/2 inches by 11 inches,  
834 which must be furnished by the candidate at least 35 days before  
835 the election, must be included with the mailing, delivery, or  
836 transmission of the ballot, with the costs of mailing, delivery,  
837 or electronic transmission and copying to be borne by the  
838 association. The association is not liable for the contents of  
839 an information sheet prepared by a candidate. In order to reduce  
840 costs, the association may print or duplicate the information  
841 sheets on both sides of the paper.

842 4. Elections shall be decided by a plurality of ballots  
843 cast. There is no quorum requirement; however, at least 20  
844 percent of the eligible voters must cast a ballot in order to

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845 have a valid election. A parcel owner may not permit any other  
846 person to vote his or her ballot, and any ballots improperly  
847 cast are invalid. A parcel owner who violates this provision may  
848 be fined by the association in accordance with s. 720.305. A  
849 parcel owner who needs assistance in casting the ballot for the  
850 reasons stated in s. 101.051 may obtain such assistance.

851 5. The division shall establish by rule voting procedures  
852 consistent with this paragraph, including rules establishing  
853 procedures for giving notice by electronic transmission and  
854 rules providing for the secrecy of ballots.

855 ~~(a) Elections of directors must be conducted in accordance~~  
856 ~~with the procedures set forth in the governing documents of the~~  
857 ~~association. Except as provided in paragraph (b), all members of~~  
858 ~~the association are eligible to serve on the board of directors,~~  
859 ~~and a member may nominate himself or herself as a candidate for~~  
860 ~~the board at a meeting where the election is to be held;~~  
861 ~~provided, however, that if the election process allows~~  
862 ~~candidates to be nominated in advance of the meeting, the~~  
863 ~~association is not required to allow nominations at the meeting.~~  
864 ~~An election is not required unless more candidates are nominated~~  
865 ~~than vacancies exist. Except as otherwise provided in the~~  
866 ~~governing documents, boards of directors must be elected by a~~  
867 ~~plurality of the votes cast by eligible voters. Any challenge to~~  
868 ~~the election process must be commenced within 60 days after the~~  
869 ~~election results are announced.~~

870 (d) ~~(b)~~ A person who is delinquent in the payment of any  
871 fee, fine, or other monetary obligation to the association on  
872 the day that he or she could last nominate himself or herself or  
873 be nominated for the board may not seek election to the board,

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874 and his or her name shall not be listed on the ballot. A person  
875 serving as a board member who becomes more than 90 days  
876 delinquent in the payment of any fee, fine, or other monetary  
877 obligation to the association shall be deemed to have abandoned  
878 his or her seat on the board, creating a vacancy on the board to  
879 be filled according to law. For purposes of this paragraph, the  
880 term "any fee, fine, or other monetary obligation" means any  
881 delinquency to the association with respect to any parcel. A  
882 person who has been convicted of any felony in this state or in  
883 a United States District or Territorial Court, or has been  
884 convicted of any offense in another jurisdiction which would be  
885 considered a felony if committed in this state, may not seek  
886 election to the board and is not eligible for board membership  
887 unless such felon's civil rights have been restored for at least  
888 5 years as of the date on which such person seeks election to  
889 the board. The validity of any action by the board is not  
890 affected if it is later determined that a person was ineligible  
891 to seek election to the board or that a member of the board is  
892 ineligible for board membership.

893 (e)~~(e)~~ Any election dispute between a member and an  
894 association must be submitted to mandatory binding arbitration  
895 with the division. Such proceedings must be conducted in the  
896 manner provided by s. 718.1255 and the procedural rules adopted  
897 by the division. Any challenge to the election process must be  
898 commenced within 60 days after the election results are  
899 announced.

900 1. Unless otherwise provided in the governing documents  
901 ~~bylaws~~, any vacancy occurring on the board before the expiration  
902 of a term may be filled by an affirmative vote of the majority

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903 of the remaining directors, even if the remaining directors  
904 constitute less than a quorum, or by the sole remaining  
905 director. In the alternative, a board may hold an election to  
906 fill the vacancy, in which case the election procedures must  
907 conform to the requirements of the governing documents.

908 2. Unless otherwise provided in the governing documents  
909 ~~bylaws~~, a board member appointed or elected under this section  
910 is appointed for the unexpired term of the seat being filled.  
911 Filling vacancies created by recall is governed by s.  
912 720.303(10) and rules adopted by the division.

913 Section 13. Subsection (5) of section 720.307, Florida  
914 Statutes, is amended to read:

915 720.307 Transition of association control in a community.-  
916 With respect to homeowners' associations:

917 (5) This section does not apply to a homeowners'  
918 association ~~in existence on the effective date of this act, or~~  
919 ~~to a homeowners' association, no matter when created, if such~~  
920 ~~association is~~ created in a community that is included in an  
921 effective development-of-regional-impact development order as of  
922 the effective date of this act, together with any approved  
923 modifications thereof.

924 Section 14. Subsection (2) of section 73.073, Florida  
925 Statutes, is amended to read:

926 73.073 Eminent domain procedure with respect to condominium  
927 common elements.-

928 (2) With respect to the exercise of eminent domain or a  
929 negotiated sale for the purchase or taking of a portion of the  
930 common elements of a condominium, the condemning authority shall  
931 have the responsibility of contacting the condominium



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932 association and acquiring the most recent rolls indicating the  
933 names of the unit owners or contacting the appropriate taxing  
934 authority to obtain the names of the owners of record on the tax  
935 rolls. Notification shall be sent by certified mail, return  
936 receipt requested, to the unit owners of record of the  
937 condominium units by the condemning authority indicating the  
938 intent to purchase or take the required property and requesting  
939 a response from the unit owner. The condemning authority shall  
940 be responsible for the expense of sending notification pursuant  
941 to this section. Such notice shall, at a minimum, include:

- 942 (a) The name and address of the condemning authority.  
943 (b) A written or visual description of the property.  
944 (c) The public purpose for which the property is needed.  
945 (d) The appraisal value of the property.  
946 (e) A clear, concise statement relating to the unit owner's  
947 right to object to the taking or appraisal value and the  
948 procedures and effects of exercising that right.  
949 (f) A clear, concise statement relating to the power of the  
950 association to convey the property on behalf of the unit owners  
951 if no objection to the taking or appraisal value is raised, and  
952 the effects of this alternative on the unit owner.

953

954 The Division of Florida Condominiums, Homeowners' Associations,  
955 Timeshares, and Mobile Homes of the Department of Business and  
956 Professional Regulation may adopt~~7~~ by rule~~7~~ a standard form for  
957 such notice and may require the notice to include any additional  
958 relevant information.

959 Section 15. Paragraph (e) of subsection (6) of section  
960 192.037, Florida Statutes, is amended to read:

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961 192.037 Fee timeshare real property; taxes and assessments;  
 962 escrow.—

963 (6)

964 (e) On or before May 1 of each year, a statement of  
 965 receipts and disbursements of the escrow account must be filed  
 966 with the Division of Florida Condominiums, Homeowners'  
 967 Associations, Timeshares, and Mobile Homes of the Department of  
 968 Business and Professional Regulation, which may enforce this  
 969 paragraph pursuant to s. 721.26. This statement must  
 970 appropriately show the amount of principal and interest in such  
 971 account.

972 Section 16. Paragraph (i) of subsection (8) of section  
 973 213.053, Florida Statutes, is amended to read:

974 213.053 Confidentiality and information sharing.—

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

977 (i) Information relative to chapters 212 and 326 to the  
 978 Division of Florida Condominiums, Homeowners' Associations,  
 979 Timeshares, and Mobile Homes of the Department of Business and  
 980 Professional Regulation in the conduct of its official duties.

981  
 982 Disclosure of information under this subsection shall be  
 983 pursuant to a written agreement between the executive director  
 984 and the agency. Such agencies, governmental or nongovernmental,  
 985 shall be bound by the same requirements of confidentiality as  
 986 the Department of Revenue. Breach of confidentiality is a  
 987 misdemeanor of the first degree, punishable as provided by s.  
 988 775.082 or s. 775.083.

989 Section 17. Subsection (2) of section 326.002, Florida

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990 Statutes, is amended to read:

991 326.002 Definitions.—As used in ss. 326.001-326.006, the  
992 term:

993 (2) "Division" means the Division of Florida Condominiums,  
994 Homeowners' Associations, Timeshares, and Mobile Homes of the  
995 Department of Business and Professional Regulation.

996 Section 18. Paragraph (d) of subsection (2) and subsection  
997 (3) of section 326.006, Florida Statutes, are amended to read:

998 326.006 Powers and duties of division.—

999 (2) The division has the power to enforce and ensure  
1000 compliance with ~~the provisions of~~ this chapter and rules adopted  
1001 under this chapter relating to the sale and ownership of yachts  
1002 and ships. In performing its duties, the division has the  
1003 following powers and duties:

1004 (d) Notwithstanding any remedies available to a yacht or  
1005 ship purchaser, if the division has reasonable cause to believe  
1006 that a violation of any provision of this chapter or rule  
1007 adopted under this chapter has occurred, the division may  
1008 institute enforcement proceedings in its own name against any  
1009 broker or salesperson or any of his or her assignees or agents,  
1010 or against any unlicensed person or any of his or her assignees  
1011 or agents, as follows:

1012 1. The division may permit a person whose conduct or  
1013 actions are under investigation to waive formal proceedings and  
1014 enter into a consent proceeding whereby orders, rules, or  
1015 letters of censure or warning, whether formal or informal, may  
1016 be entered against the person.

1017 2. The division may issue an order requiring the broker or  
1018 salesperson or any of his or her assignees or agents, or

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1019 requiring any unlicensed person or any of his or her assignees  
1020 or agents, to cease and desist from the unlawful practice and  
1021 take such affirmative action as in the judgment of the division  
1022 will carry out the purposes of this chapter.

1023 3. The division may bring an action in circuit court on  
1024 behalf of a class of yacht or ship purchasers for declaratory  
1025 relief, injunctive relief, or restitution.

1026 4. The division may impose a civil penalty against a broker  
1027 or salesperson or any of his or her assignees or agents, or  
1028 against an unlicensed person or any of his or her assignees or  
1029 agents, for any violation of this chapter or a rule adopted  
1030 under this chapter. A penalty may be imposed for each day of  
1031 continuing violation, but in no event may the penalty for any  
1032 offense exceed \$10,000. All amounts collected must be deposited  
1033 with the Chief Financial Officer to the credit of the Division  
1034 of Florida Condominiums, Homeowners' Associations, Timeshares,  
1035 and Mobile Homes Trust Fund. If a broker, salesperson, or  
1036 unlicensed person working for a broker, fails to pay the civil  
1037 penalty, the division shall issue an order suspending the  
1038 broker's license until such time as the civil penalty is paid or  
1039 may pursue enforcement of the penalty in a court of competent  
1040 jurisdiction. The order imposing the civil penalty or the order  
1041 of suspension may not become effective until 20 days after the  
1042 date of such order. Any action commenced by the division must be  
1043 brought in the county in which the division has its executive  
1044 offices or in the county where the violation occurred.

1045 (3) All fees must be deposited in the Division of Florida  
1046 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
1047 Homes Trust Fund as provided by law.

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1048 Section 19. Paragraph (a) of subsection (4) of section  
1049 380.0651, Florida Statutes, is amended to read:

1050 380.0651 Statewide guidelines and standards.—

1051 (4) Two or more developments, represented by their owners  
1052 or developers to be separate developments, shall be aggregated  
1053 and treated as a single development under this chapter when they  
1054 are determined to be part of a unified plan of development and  
1055 are physically proximate to one other.

1056 (a) The criteria of three of the following subparagraphs  
1057 must be met in order for the state land planning agency to  
1058 determine that there is a unified plan of development:

1059 1.a. The same person has retained or shared control of the  
1060 developments;

1061 b. The same person has ownership or a significant legal or  
1062 equitable interest in the developments; or

1063 c. There is common management of the developments  
1064 controlling the form of physical development or disposition of  
1065 parcels of the development.

1066 2. There is a reasonable closeness in time between the  
1067 completion of 80 percent or less of one development and the  
1068 submission to a governmental agency of a master plan or series  
1069 of plans or drawings for the other development which is  
1070 indicative of a common development effort.

1071 3. A master plan or series of plans or drawings exists  
1072 covering the developments sought to be aggregated which have  
1073 been submitted to a local general-purpose government, water  
1074 management district, the Florida Department of Environmental  
1075 Protection, or the Division of Florida Condominiums, Homeowners'  
1076 Associations, Timeshares, and Mobile Homes for authorization to

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1077 commence development. The existence or implementation of a  
1078 utility's master utility plan required by the Public Service  
1079 Commission or general-purpose local government or a master  
1080 drainage plan may ~~shall~~ not be the sole determinant of the  
1081 existence of a master plan.

1082 4. There is a common advertising scheme or promotional plan  
1083 in effect for the developments sought to be aggregated.

1084 Section 20. Subsection (5) of section 455.116, Florida  
1085 Statutes, is amended to read:

1086 455.116 Regulation trust funds.—The following trust funds  
1087 shall be placed in the department:

1088 (5) Division of Florida Condominiums, Homeowners'  
1089 Associations, Timeshares, and Mobile Homes Trust Fund.

1090 Section 21. Section 475.455, Florida Statutes, is amended  
1091 to read:

1092 475.455 Exchange of disciplinary information.—The  
1093 commission shall inform the Division of Florida Condominiums,  
1094 Homeowners' Associations, Timeshares, and Mobile Homes of the  
1095 Department of Business and Professional Regulation of any  
1096 disciplinary action the commission has taken against any of its  
1097 licensees. The division shall inform the commission of any  
1098 disciplinary action the division has taken against any broker or  
1099 sales associate registered with the division.

1100 Section 22. Section 509.512, Florida Statutes, is amended  
1101 to read:

1102 509.512 Timeshare plan developer and exchange company  
1103 exemption.—Sections 509.501-509.511 do not apply to a developer  
1104 of a timeshare plan or an exchange company approved by the  
1105 Division of Florida Condominiums, Homeowners' Associations,

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1106 Timeshares, and Mobile Homes pursuant to chapter 721, but only  
1107 to the extent that the developer or exchange company engages in  
1108 conduct regulated under chapter 721.

1109 Section 23. Subsection (1) of section 559.935, Florida  
1110 Statutes, is amended to read:

1111 559.935 Exemptions.—

1112 (1) This part does not apply to:

1113 (a) A bona fide employee of a seller of travel who is  
1114 engaged solely in the business of her or his employer;

1115 (b) Any direct common carrier of passengers or property  
1116 regulated by an agency of the Federal Government or employees of  
1117 such carrier when engaged solely in the transportation business  
1118 of the carrier as identified in the carrier's certificate;

1119 (c) An intrastate common carrier of passengers or property  
1120 selling only transportation as defined in the applicable state  
1121 or local registration or certification, or employees of such  
1122 carrier when engaged solely in the transportation business of  
1123 the carrier;

1124 (d) Hotels, motels, or other places of public accommodation  
1125 selling public accommodations, or employees of such hotels,  
1126 motels, or other places of public accommodation, when engaged  
1127 solely in making arrangements for lodging, accommodations, or  
1128 sightseeing tours within the state, or taking reservations for  
1129 the traveler with times, dates, locations, and accommodations  
1130 certain at the time the reservations are made, provided that  
1131 hotels and motels registered with the Department of Business and  
1132 Professional Regulation pursuant to chapter 509 are excluded  
1133 from ~~the provisions of~~ this chapter;

1134 (e) Persons involved solely in the rental, leasing, or sale

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1135 of residential property;

1136 (f) Persons involved solely in the rental, leasing, or sale  
1137 of transportation vehicles;

1138 (g) Persons who make travel arrangements for themselves;  
1139 for their employees or agents; for distributors, franchisees, or  
1140 dealers of the persons' products or services; for entities which  
1141 are financially related to the persons; or for the employees or  
1142 agents of the distributor, franchisee, or dealer or financially  
1143 related entity;

1144 (h) A developer of a timeshare plan or an exchange company  
1145 approved by the Division of Florida Condominiums, Homeowners'  
1146 Associations, Timeshares, and Mobile Homes pursuant to chapter  
1147 721, but only to the extent that the developer or exchange  
1148 company engages in conduct regulated under chapter 721; or

1149 (i) Persons or entities engaged solely in offering diving  
1150 services, including classes and sales or rentals of equipment,  
1151 when engaged in making any prearranged travel-related or  
1152 tourist-related services in conjunction with a primarily dive-  
1153 related event.

1154 Section 24. Subsection (17) of section 718.103, Florida  
1155 Statutes, is amended to read:

1156 718.103 Definitions.—As used in this chapter, the term:

1157 (17) "Division" means the Division of Florida Condominiums,  
1158 Homeowners' Associations, Timeshares, and Mobile Homes of the  
1159 Department of Business and Professional Regulation.

1160 Section 25. Paragraph (c) of subsection (4) of section  
1161 718.105, Florida Statutes, is amended to read:

1162 718.105 Recording of declaration.—

1163 (4)



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1164 (c) If the sum of money held by the clerk has not been paid  
1165 to the developer or association as provided in paragraph (b)  
1166 within 5 years after the date the declaration was originally  
1167 recorded, the clerk may notify, in writing, the registered agent  
1168 of the association that the sum is still available and the  
1169 purpose for which it was deposited. If the association does not  
1170 record the certificate within 90 days after the clerk has given  
1171 the notice, the clerk may disburse the money to the developer.  
1172 If the developer cannot be located, the clerk shall disburse the  
1173 money to the Division of Florida Condominiums, Homeowners'  
1174 Associations, Timeshares, and Mobile Homes for deposit in the  
1175 Division of Florida Condominiums, Homeowners' Associations,  
1176 Timeshares, and Mobile Homes Trust Fund.

1177 Section 26. Subsection (4) of section 718.1255, Florida  
1178 Statutes, is amended to read:

1179 718.1255 Alternative dispute resolution; voluntary  
1180 mediation; mandatory nonbinding arbitration; legislative  
1181 findings.—

1182 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
1183 DISPUTES.—The Division of Florida Condominiums, Homeowners'  
1184 Associations, Timeshares, and Mobile Homes of the Department of  
1185 Business and Professional Regulation shall employ full-time  
1186 attorneys to act as arbitrators to conduct the arbitration  
1187 hearings provided by this chapter. The division may also certify  
1188 attorneys who are not employed by the division to act as  
1189 arbitrators to conduct the arbitration hearings provided by this  
1190 section. No person may be employed by the department as a full-  
1191 time arbitrator unless he or she is a member in good standing of  
1192 The Florida Bar. The department shall adopt rules of procedure

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1193 to govern such arbitration hearings including mediation incident  
1194 thereto. The decision of an arbitrator shall be final but may~~r~~  
1195 ~~however, a decision shall~~ not be deemed final agency action.  
1196 Nothing in this subsection may ~~provision shall~~ be construed to  
1197 foreclose parties from proceeding in a trial de novo unless the  
1198 parties have agreed that the arbitration is binding. If judicial  
1199 proceedings are initiated, the final decision of the arbitrator  
1200 shall be admissible in evidence in the trial de novo.

1201 (a) Before ~~prior to~~ the institution of court litigation, a  
1202 party to a dispute shall petition the division for nonbinding  
1203 arbitration. The petition must be accompanied by a filing fee in  
1204 the amount of \$50. Filing fees collected under this section must  
1205 be used to defray the expenses of the alternative dispute  
1206 resolution program.

1207 (b) The petition must recite, and have attached thereto,  
1208 supporting proof that the petitioner gave the respondents:

1209 1. Advance written notice of the specific nature of the  
1210 dispute;

1211 2. A demand for relief, and a reasonable opportunity to  
1212 comply or to provide the relief; and

1213 3. Notice of the intention to file an arbitration petition  
1214 or other legal action in the absence of a resolution of the  
1215 dispute.

1216  
1217 Failure to include the allegations or proof of compliance with  
1218 these prerequisites requires dismissal of the petition without  
1219 prejudice.

1220 (c) Upon receipt, the petition shall be promptly reviewed  
1221 by the division to determine the existence of a dispute and

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1222 compliance with the requirements of paragraphs (a) and (b). If  
1223 emergency relief is required and is not available through  
1224 arbitration, a motion to stay the arbitration may be filed. The  
1225 motion must be accompanied by a verified petition alleging facts  
1226 that, if proven, would support entry of a temporary injunction,  
1227 and if an appropriate motion and supporting papers are filed,  
1228 the division may abate the arbitration pending a court hearing  
1229 and disposition of a motion for temporary injunction.

1230 (d) Upon determination by the division that a dispute  
1231 exists and that the petition substantially meets the  
1232 requirements of paragraphs (a) and (b) and any other applicable  
1233 rules, a copy of the petition shall be served by the division  
1234 upon all respondents.

1235 (e) Before or after the filing of the respondents' answer  
1236 to the petition, any party may request that the arbitrator refer  
1237 the case to mediation under this section and any rules adopted  
1238 by the division. Upon receipt of a request for mediation, the  
1239 division shall promptly contact the parties to determine if  
1240 there is agreement that mediation would be appropriate. If all  
1241 parties agree, the dispute must be referred to mediation.  
1242 Notwithstanding a lack of an agreement by all parties, the  
1243 arbitrator may refer a dispute to mediation at any time.

1244 (f) Upon referral of a case to mediation, the parties must  
1245 select a mutually acceptable mediator. To assist in the  
1246 selection, the arbitrator shall provide the parties with a list  
1247 of both volunteer and paid mediators that have been certified by  
1248 the division under s. 718.501. If the parties are unable to  
1249 agree on a mediator within the time allowed by the arbitrator,  
1250 the arbitrator shall appoint a mediator from the list of

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1251 certified mediators. If a case is referred to mediation, the  
1252 parties shall attend a mediation conference, as scheduled by the  
1253 parties and the mediator. If any party fails to attend a duly  
1254 noticed mediation conference, without the permission or approval  
1255 of the arbitrator or mediator, the arbitrator must impose  
1256 sanctions against the party, including the striking of any  
1257 pleadings filed, the entry of an order of dismissal or default  
1258 if appropriate, and the award of costs and attorney ~~attorneys'~~  
1259 fees incurred by the other parties. Unless otherwise agreed to  
1260 by the parties or as provided by order of the arbitrator, a  
1261 party is deemed to have appeared at a mediation conference by  
1262 the physical presence of the party or its representative having  
1263 full authority to settle without further consultation, provided  
1264 that an association may comply by having one or more  
1265 representatives present with full authority to negotiate a  
1266 settlement and recommend that the board of administration ratify  
1267 and approve such a settlement within 5 days from the date of the  
1268 mediation conference. The parties shall share equally the  
1269 expense of mediation, unless they agree otherwise.

1270 (g) The purpose of mediation as provided for by this  
1271 section is to present the parties with an opportunity to resolve  
1272 the underlying dispute in good faith, and with a minimum  
1273 expenditure of time and resources.

1274 (h) Mediation proceedings must generally be conducted in  
1275 accordance with the Florida Rules of Civil Procedure, and these  
1276 proceedings are privileged and confidential to the same extent  
1277 as court-ordered mediation. Persons who are not parties to the  
1278 dispute are not allowed to attend the mediation conference  
1279 without the consent of all parties, with the exception of

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1280 counsel for the parties and corporate representatives designated  
1281 to appear for a party. If the mediator declares an impasse after  
1282 a mediation conference has been held, the arbitration proceeding  
1283 terminates, unless all parties agree in writing to continue the  
1284 arbitration proceeding, in which case the arbitrator's decision  
1285 shall be binding or nonbinding, as agreed upon by the parties;  
1286 in the arbitration proceeding, the arbitrator may ~~shall~~ not  
1287 consider any evidence relating to the unsuccessful mediation  
1288 except in a proceeding to impose sanctions for failure to appear  
1289 at the mediation conference. If the parties do not agree to  
1290 continue arbitration, the arbitrator shall enter an order of  
1291 dismissal, and either party may institute a suit in a court of  
1292 competent jurisdiction. The parties may seek to recover any  
1293 costs and attorney ~~attorneys'~~ fees incurred in connection with  
1294 arbitration and mediation proceedings under this section as part  
1295 of the costs and fees that may be recovered by the prevailing  
1296 party in any subsequent litigation.

1297 (i) Arbitration shall be conducted according to rules  
1298 adopted by the division. The filing of a petition for  
1299 arbitration shall toll the applicable statute of limitations.

1300 (j) At the request of any party to the arbitration, the  
1301 arbitrator shall issue subpoenas for the attendance of witnesses  
1302 and the production of books, records, documents, and other  
1303 evidence and any party on whose behalf a subpoena is issued may  
1304 apply to the court for orders compelling such attendance and  
1305 production. Subpoenas shall be served and shall be enforceable  
1306 in the manner provided by the Florida Rules of Civil Procedure.  
1307 Discovery may, in the discretion of the arbitrator, be permitted  
1308 in the manner provided by the Florida Rules of Civil Procedure.

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1309 Rules adopted by the division may authorize any reasonable  
1310 sanctions except contempt for a violation of the arbitration  
1311 procedural rules of the division or for the failure of a party  
1312 to comply with a reasonable nonfinal order issued by an  
1313 arbitrator which is not under judicial review.

1314 (k) The arbitration decision shall be presented to the  
1315 parties in writing. An arbitration decision is final in those  
1316 disputes in which the parties have agreed to be bound. An  
1317 arbitration decision is also final if a complaint for a trial de  
1318 novo is not filed in a court of competent jurisdiction in which  
1319 the condominium is located within 30 days. The right to file for  
1320 a trial de novo entitles the parties to file a complaint in the  
1321 appropriate trial court for a judicial resolution of the  
1322 dispute. The prevailing party in an arbitration proceeding shall  
1323 be awarded the costs of the arbitration and reasonable attorney  
1324 ~~attorney's~~ fees in an amount determined by the arbitrator. Such  
1325 an award shall include the costs and reasonable attorney  
1326 ~~attorney's~~ fees incurred in the arbitration proceeding as well  
1327 as the costs and reasonable attorney ~~attorney's~~ fees incurred in  
1328 preparing for and attending any scheduled mediation.

1329 (l) The party who files a complaint for a trial de novo  
1330 shall be assessed the other party's arbitration costs, court  
1331 costs, and other reasonable costs, including attorney ~~attorney's~~  
1332 fees, investigation expenses, and expenses for expert or other  
1333 testimony or evidence incurred after the arbitration hearing if  
1334 the judgment upon the trial de novo is not more favorable than  
1335 the arbitration decision. If the judgment is more favorable, the  
1336 party who filed a complaint for trial de novo shall be awarded  
1337 reasonable court costs and attorney ~~attorney's~~ fees.

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1338 (m) Any party to an arbitration proceeding may enforce an  
1339 arbitration award by filing a petition in a court of competent  
1340 jurisdiction in which the condominium is located. A petition may  
1341 not be granted unless the time for appeal by the filing of a  
1342 complaint for trial de novo has expired. If a complaint for a  
1343 trial de novo has been filed, a petition may not be granted with  
1344 respect to an arbitration award that has been stayed. If the  
1345 petition for enforcement is granted, the petitioner shall  
1346 recover reasonable attorney ~~attorney's~~ fees and costs incurred  
1347 in enforcing the arbitration award. A mediation settlement may  
1348 also be enforced through the county or circuit court, as  
1349 applicable, and any costs and fees incurred in the enforcement  
1350 of a settlement agreement reached at mediation must be awarded  
1351 to the prevailing party in any enforcement action.

1352 Section 27. Section 718.501, Florida Statutes, is amended  
1353 to read:

1354 718.501 Authority, responsibility, and duties of Division  
1355 of Florida Condominiums, Homeowners' Associations, Timeshares,  
1356 and Mobile Homes.—

1357 (1) The division may enforce and ensure compliance with ~~the~~  
1358 ~~provisions of~~ this chapter and rules relating to the  
1359 development, construction, sale, lease, ownership, operation,  
1360 and management of residential condominium units. In performing  
1361 its duties, the division has complete jurisdiction to  
1362 investigate complaints and enforce compliance with respect to  
1363 associations that are still under developer control or the  
1364 control of a bulk assignee or bulk buyer pursuant to part VII of  
1365 this chapter and complaints against developers, bulk assignees,  
1366 or bulk buyers involving improper turnover or failure to

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1367 turnover, pursuant to s. 718.301. However, after turnover has  
1368 occurred, the division has jurisdiction to investigate  
1369 complaints related only to financial issues, elections, and unit  
1370 owner access to association records pursuant to s. 718.111(12).

1371 (a)1. The division may make necessary public or private  
1372 investigations within or outside this state to determine whether  
1373 any person has violated this chapter or any rule or order  
1374 hereunder, to aid in the enforcement of this chapter, or to aid  
1375 in the adoption of rules or forms.

1376 2. The division may submit any official written report,  
1377 worksheet, or other related paper, or a duly certified copy  
1378 thereof, compiled, prepared, drafted, or otherwise made by and  
1379 duly authenticated by a financial examiner or analyst to be  
1380 admitted as competent evidence in any hearing in which the  
1381 financial examiner or analyst is available for cross-examination  
1382 and attests under oath that such documents were prepared as a  
1383 result of an examination or inspection conducted pursuant to  
1384 this chapter.

1385 (b) The division may require or permit any person to file a  
1386 statement in writing, under oath or otherwise, as the division  
1387 determines, as to the facts and circumstances concerning a  
1388 matter to be investigated.

1389 (c) For the purpose of any investigation under this  
1390 chapter, the division director or any officer or employee  
1391 designated by the division director may administer oaths or  
1392 affirmations, subpoena witnesses and compel their attendance,  
1393 take evidence, and require the production of any matter which is  
1394 relevant to the investigation, including the existence,  
1395 description, nature, custody, condition, and location of any



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1396 books, documents, or other tangible things and the identity and  
1397 location of persons having knowledge of relevant facts or any  
1398 other matter reasonably calculated to lead to the discovery of  
1399 material evidence. Upon the failure by a person to obey a  
1400 subpoena or to answer questions propounded by the investigating  
1401 officer and upon reasonable notice to all affected persons, the  
1402 division may apply to the circuit court for an order compelling  
1403 compliance.

1404 (d) Notwithstanding any remedies available to unit owners  
1405 and associations, if the division has reasonable cause to  
1406 believe that a violation of any provision of this chapter or  
1407 related rule has occurred, the division may institute  
1408 enforcement proceedings in its own name against any developer,  
1409 bulk assignee, bulk buyer, association, officer, or member of  
1410 the board of administration, or its assignees or agents, as  
1411 follows:

1412 1. The division may permit a person whose conduct or  
1413 actions may be under investigation to waive formal proceedings  
1414 and enter into a consent proceeding whereby orders, rules, or  
1415 letters of censure or warning, whether formal or informal, may  
1416 be entered against the person.

1417 2. The division may issue an order requiring the developer,  
1418 bulk assignee, bulk buyer, association, developer-designated  
1419 officer, or developer-designated member of the board of  
1420 administration, developer-designated assignees or agents, bulk  
1421 assignee-designated assignees or agents, bulk buyer-designated  
1422 assignees or agents, community association manager, or community  
1423 association management firm to cease and desist from the  
1424 unlawful practice and take such affirmative action as in the

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1425 judgment of the division carry out the purposes of this chapter.  
1426 If the division finds that a developer, bulk assignee, bulk  
1427 buyer, association, officer, or member of the board of  
1428 administration, or its assignees or agents, is violating or is  
1429 about to violate any provision of this chapter, any rule adopted  
1430 or order issued by the division, or any written agreement  
1431 entered into with the division, and presents an immediate danger  
1432 to the public requiring an immediate final order, it may issue  
1433 an emergency cease and desist order reciting with particularity  
1434 the facts underlying such findings. The emergency cease and  
1435 desist order is effective for 90 days. If the division begins  
1436 nonemergency cease and desist proceedings, the emergency cease  
1437 and desist order remains effective until the conclusion of the  
1438 proceedings under ss. 120.569 and 120.57.

1439       3. If a developer, bulk assignee, or bulk buyer, fails to  
1440 pay any restitution determined by the division to be owed, plus  
1441 any accrued interest at the highest rate permitted by law,  
1442 within 30 days after expiration of any appellate time period of  
1443 a final order requiring payment of restitution or the conclusion  
1444 of any appeal thereof, whichever is later, the division must  
1445 bring an action in circuit or county court on behalf of any  
1446 association, class of unit owners, lessees, or purchasers for  
1447 restitution, declaratory relief, injunctive relief, or any other  
1448 available remedy. The division may also temporarily revoke its  
1449 acceptance of the filing for the developer to which the  
1450 restitution relates until payment of restitution is made.

1451       4. The division may petition the court for appointment of a  
1452 receiver or conservator. If appointed, the receiver or  
1453 conservator may take action to implement the court order to

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1454 ensure the performance of the order and to remedy any breach  
1455 thereof. In addition to all other means provided by law for the  
1456 enforcement of an injunction or temporary restraining order, the  
1457 circuit court may impound or sequester the property of a party  
1458 defendant, including books, papers, documents, and related  
1459 records, and allow the examination and use of the property by  
1460 the division and a court-appointed receiver or conservator.

1461 5. The division may apply to the circuit court for an order  
1462 of restitution whereby the defendant in an action brought  
1463 pursuant to subparagraph 4. is ordered to make restitution of  
1464 those sums shown by the division to have been obtained by the  
1465 defendant in violation of this chapter. At the option of the  
1466 court, such restitution is payable to the conservator or  
1467 receiver appointed pursuant to subparagraph 4. or directly to  
1468 the persons whose funds or assets were obtained in violation of  
1469 this chapter.

1470 6. The division may impose a civil penalty against a  
1471 developer, bulk assignee, or bulk buyer, or association, or its  
1472 assignee or agent, for any violation of this chapter or related  
1473 rule. The division may impose a civil penalty individually  
1474 against an officer or board member who willfully and knowingly  
1475 violates a provision of this chapter, adopted rule, or a final  
1476 order of the division; may order the removal of such individual  
1477 as an officer or from the board of administration or as an  
1478 officer of the association; and may prohibit such individual  
1479 from serving as an officer or on the board of a community  
1480 association for a period of time. The term "willfully and  
1481 knowingly" means that the division informed the officer or board  
1482 member that his or her action or intended action violates this

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1483 chapter, a rule adopted under this chapter, or a final order of  
1484 the division and that the officer or board member refused to  
1485 comply with the requirements of this chapter, a rule adopted  
1486 under this chapter, or a final order of the division. The  
1487 division, before initiating formal agency action under chapter  
1488 120, must afford the officer or board member an opportunity to  
1489 voluntarily comply, and an officer or board member who complies  
1490 within 10 days is not subject to a civil penalty. A penalty may  
1491 be imposed on the basis of each day of continuing violation, but  
1492 the penalty for any offense may not exceed \$5,000. By January 1,  
1493 1998, the division shall adopt, by rule, penalty guidelines  
1494 applicable to possible violations or to categories of violations  
1495 of this chapter or rules adopted by the division. The guidelines  
1496 must specify a meaningful range of civil penalties for each such  
1497 violation of the statute and rules and must be based upon the  
1498 harm caused by the violation, the repetition of the violation,  
1499 and upon such other factors deemed relevant by the division. For  
1500 example, the division may consider whether the violations were  
1501 committed by a developer, bulk assignee, or bulk buyer, or  
1502 owner-controlled association, the size of the association, and  
1503 other factors. The guidelines must designate the possible  
1504 mitigating or aggravating circumstances that justify a departure  
1505 from the range of penalties provided by the rules. It is the  
1506 legislative intent that minor violations be distinguished from  
1507 those which endanger the health, safety, or welfare of the  
1508 condominium residents or other persons and that such guidelines  
1509 provide reasonable and meaningful notice to the public of likely  
1510 penalties that may be imposed for proscribed conduct. This  
1511 subsection does not limit the ability of the division to

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1512 informally dispose of administrative actions or complaints by  
1513 stipulation, agreed settlement, or consent order. All amounts  
1514 collected shall be deposited with the Chief Financial Officer to  
1515 the credit of the Division of Florida Condominiums, Homeowners'  
1516 Associations, Timeshares, and Mobile Homes Trust Fund. If a  
1517 developer, bulk assignee, or bulk buyer fails to pay the civil  
1518 penalty and the amount deemed to be owed to the association, the  
1519 division shall issue an order directing that such developer,  
1520 bulk assignee, or bulk buyer cease and desist from further  
1521 operation until such time as the civil penalty is paid or may  
1522 pursue enforcement of the penalty in a court of competent  
1523 jurisdiction. If an association fails to pay the civil penalty,  
1524 the division shall pursue enforcement in a court of competent  
1525 jurisdiction, and the order imposing the civil penalty or the  
1526 cease and desist order is not effective until 20 days after the  
1527 date of such order. Any action commenced by the division shall  
1528 be brought in the county in which the division has its executive  
1529 offices or in the county where the violation occurred.

1530       7. If a unit owner presents the division with proof that  
1531 the unit owner has requested access to official records in  
1532 writing by certified mail, and that after 10 days the unit owner  
1533 again made the same request for access to official records in  
1534 writing by certified mail, and that more than 10 days has  
1535 elapsed since the second request and the association has still  
1536 failed or refused to provide access to official records as  
1537 required by this chapter, the division shall issue a subpoena  
1538 requiring production of the requested records where the records  
1539 are kept pursuant to s. 718.112.

1540       8. In addition to subparagraph 6., the division may seek

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1541 the imposition of a civil penalty through the circuit court for  
1542 any violation for which the division may issue a notice to show  
1543 cause under paragraph (r). The civil penalty shall be at least  
1544 \$500 but no more than \$5,000 for each violation. The court may  
1545 also award to the prevailing party court costs and reasonable  
1546 attorney ~~attorney's~~ fees and, if the division prevails, may also  
1547 award reasonable costs of investigation.

1548 (e) The division may prepare and disseminate a prospectus  
1549 and other information to assist prospective owners, purchasers,  
1550 lessees, and developers of residential condominiums in assessing  
1551 the rights, privileges, and duties pertaining thereto.

1552 (f) The division may adopt rules to administer and enforce  
1553 ~~the provisions of~~ this chapter.

1554 (g) The division shall establish procedures for providing  
1555 notice to an association and the developer, bulk assignee, or  
1556 bulk buyer during the period in which the developer, bulk  
1557 assignee, or bulk buyer controls the association if the division  
1558 is considering the issuance of a declaratory statement with  
1559 respect to the declaration of condominium or any related  
1560 document governing such condominium community.

1561 (h) The division shall furnish each association that pays  
1562 the fees required by paragraph (2) (a) a copy of this chapter, as  
1563 amended, and the rules adopted thereto on an annual basis.

1564 (i) The division shall annually provide each association  
1565 with a summary of declaratory statements and formal legal  
1566 opinions relating to the operations of condominiums which were  
1567 rendered by the division during the previous year.

1568 (j) The division shall provide training and educational  
1569 programs for condominium association board members and unit

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1570 owners. The training may, in the division's discretion, include  
1571 web-based electronic media, and live training and seminars in  
1572 various locations throughout the state. The division may review  
1573 and approve education and training programs for board members  
1574 and unit owners offered by providers and shall maintain a  
1575 current list of approved programs and providers and make such  
1576 list available to board members and unit owners in a reasonable  
1577 and cost-effective manner.

1578 (k) The division shall maintain a toll-free telephone  
1579 number accessible to condominium unit owners.

1580 (l) The division shall develop a program to certify both  
1581 volunteer and paid mediators to provide mediation of condominium  
1582 disputes. The division shall provide, upon request, a list of  
1583 such mediators to any association, unit owner, or other  
1584 participant in arbitration proceedings under s. 718.1255  
1585 requesting a copy of the list. The division shall include on the  
1586 list of volunteer mediators only the names of persons who have  
1587 received at least 20 hours of training in mediation techniques  
1588 or who have mediated at least 20 disputes. In order to become  
1589 initially certified by the division, paid mediators must be  
1590 certified by the Supreme Court to mediate court cases in county  
1591 or circuit courts. However, the division may adopt, by rule,  
1592 additional factors for the certification of paid mediators,  
1593 which must be related to experience, education, or background.  
1594 Any person initially certified as a paid mediator by the  
1595 division must, in order to continue to be certified, comply with  
1596 the factors or requirements adopted by rule.

1597 (m) If a complaint is made, the division must conduct its  
1598 inquiry with due regard for the interests of the affected

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1599 parties. Within 30 days after receipt of a complaint, the  
1600 division shall acknowledge the complaint in writing and notify  
1601 the complainant whether the complaint is within the jurisdiction  
1602 of the division and whether additional information is needed by  
1603 the division from the complainant. The division shall conduct  
1604 its investigation and, within 90 days after receipt of the  
1605 original complaint or of timely requested additional  
1606 information, take action upon the complaint. However, the  
1607 failure to complete the investigation within 90 days does not  
1608 prevent the division from continuing the investigation,  
1609 accepting or considering evidence obtained or received after 90  
1610 days, or taking administrative action if reasonable cause exists  
1611 to believe that a violation of this chapter or a rule has  
1612 occurred. If an investigation is not completed within the time  
1613 limits established in this paragraph, the division shall, on a  
1614 monthly basis, notify the complainant in writing of the status  
1615 of the investigation. When reporting its action to the  
1616 complainant, the division shall inform the complainant of any  
1617 right to a hearing pursuant to ss. 120.569 and 120.57.

1618 (n) Condominium association directors, officers, and  
1619 employees; condominium developers; bulk assignees, bulk buyers,  
1620 and community association managers; and community association  
1621 management firms have an ongoing duty to reasonably cooperate  
1622 with the division in any investigation pursuant to this section.  
1623 The division shall refer to local law enforcement authorities  
1624 any person whom the division believes has altered, destroyed,  
1625 concealed, or removed any record, document, or thing required to  
1626 be kept or maintained by this chapter with the purpose to impair  
1627 its verity or availability in the department's investigation.



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1628 (o) The division may:  
1629 1. Contract with agencies in this state or other  
1630 jurisdictions to perform investigative functions; or  
1631 2. Accept grants-in-aid from any source.

1632 (p) The division shall cooperate with similar agencies in  
1633 other jurisdictions to establish uniform filing procedures and  
1634 forms, public offering statements, advertising standards, and  
1635 rules and common administrative practices.

1636 (q) The division shall consider notice to a developer, bulk  
1637 assignee, or bulk buyer to be complete when it is delivered to  
1638 the address of the developer, bulk assignee, or bulk buyer  
1639 currently on file with the division.

1640 (r) In addition to its enforcement authority, the division  
1641 may issue a notice to show cause, which must provide for a  
1642 hearing, upon written request, in accordance with chapter 120.

1643 (s) The division shall submit to the Governor, the  
1644 President of the Senate, the Speaker of the House of  
1645 Representatives, and the chairs of the legislative  
1646 appropriations committees an annual report that includes, but  
1647 need not be limited to, the number of training programs provided  
1648 for condominium association board members and unit owners, the  
1649 number of complaints received by type, the number and percent of  
1650 complaints acknowledged in writing within 30 days and the number  
1651 and percent of investigations acted upon within 90 days in  
1652 accordance with paragraph (m), and the number of investigations  
1653 exceeding the 90-day requirement. The annual report must also  
1654 include an evaluation of the division's core business processes  
1655 and make recommendations for improvements, including statutory  
1656 changes. The report shall be submitted by September 30 following

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1657 the end of the fiscal year.

1658 (2) (a) Each condominium association which operates more  
1659 than two units shall pay to the division an annual fee in the  
1660 amount of \$4 for each residential unit in condominiums operated  
1661 by the association. If the fee is not paid by March 1, the  
1662 association shall be assessed a penalty of 10 percent of the  
1663 amount due, and the association will not have standing to  
1664 maintain or defend any action in the courts of this state until  
1665 the amount due, plus any penalty, is paid.

1666 (b) All fees shall be deposited in the Division of Florida  
1667 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
1668 Homes Trust Fund as provided by law.

1669 Section 28. Subsection (1) of section 718.5011, Florida  
1670 Statutes, is amended to read:

1671 718.5011 Ombudsman; appointment; administration.-

1672 (1) There is created an Office of the Condominium  
1673 Ombudsman, to be located for administrative purposes within the  
1674 Division of Florida Condominiums, Homeowners' Associations,  
1675 Timeshares, and Mobile Homes. The functions of the office shall  
1676 be funded by the Division of Florida Condominiums, Homeowners'  
1677 Associations, Timeshares, and Mobile Homes Trust Fund. The  
1678 ombudsman shall be a bureau chief of the division, and the  
1679 office shall be set within the division in the same manner as  
1680 any other bureau is staffed and funded.

1681 Section 29. Paragraph (a) of subsection (2) of section  
1682 718.502, Florida Statutes, is amended to read:

1683 718.502 Filing prior to sale or lease.-

1684 (2) (a) Before ~~prior to~~ filing as required by subsection  
1685 (1), and before ~~prior to~~ acquiring an ownership, leasehold, or

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1686 contractual interest in the land upon which the condominium is  
1687 to be developed, a developer may ~~shall~~ not offer a contract for  
1688 purchase of a unit or lease of a unit for more than 5 years.  
1689 However, the developer may accept deposits for reservations upon  
1690 the approval of a fully executed escrow agreement and  
1691 reservation agreement form properly filed with the Division of  
1692 Florida Condominiums, Homeowners' Associations, Timeshares, and  
1693 Mobile Homes. Each filing of a proposed reservation program  
1694 shall be accompanied by a filing fee of \$250. Reservations may  
1695 ~~shall~~ not be taken on a proposed condominium unless the  
1696 developer has an ownership, leasehold, or contractual interest  
1697 in the land upon which the condominium is to be developed. The  
1698 division shall notify the developer within 20 days of receipt of  
1699 the reservation filing of any deficiencies contained therein.  
1700 Such notification does ~~shall~~ not preclude the determination of  
1701 reservation filing deficiencies at a later date, nor shall it  
1702 relieve the developer of any responsibility under the law. The  
1703 escrow agreement and the reservation agreement form shall  
1704 include a statement of the right of the prospective purchaser to  
1705 an immediate unqualified refund of the reservation deposit  
1706 moneys upon written request to the escrow agent by the  
1707 prospective purchaser or the developer.

1708 Section 30. Paragraph (a) of subsection (2) of section  
1709 718.503, Florida Statutes, is amended to read:

1710 718.503 Developer disclosure prior to sale; nondeveloper  
1711 unit owner disclosure prior to sale; voidability.—

1712 (2) NONDEVELOPER DISCLOSURE.—

1713 (a) Each unit owner who is not a developer as defined by  
1714 this chapter shall comply with ~~the provisions of~~ this subsection

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1715 before ~~prior to~~ the sale of his or her unit. Each prospective  
1716 purchaser who has entered into a contract for the purchase of a  
1717 condominium unit is entitled, at the seller's expense, to a  
1718 current copy of the declaration of condominium, articles of  
1719 incorporation of the association, bylaws and rules of the  
1720 association, financial information required by s. 718.111, and  
1721 the document entitled "Frequently Asked Questions and Answers"  
1722 required by s. 718.504. On and after January 1, 2009, the  
1723 prospective purchaser shall also be entitled to receive from the  
1724 seller a copy of a governance form. Such form shall be provided  
1725 by the division summarizing governance of condominium  
1726 associations. In addition to such other information as the  
1727 division considers helpful to a prospective purchaser in  
1728 understanding association governance, the governance form shall  
1729 address the following subjects:

1730 1. The role of the board in conducting the day-to-day  
1731 affairs of the association on behalf of, and in the best  
1732 interests of, the owners.

1733 2. The board's responsibility to provide advance notice of  
1734 board and membership meetings.

1735 3. The rights of owners to attend and speak at board and  
1736 membership meetings.

1737 4. The responsibility of the board and of owners with  
1738 respect to maintenance of the condominium property.

1739 5. The responsibility of the board and owners to abide by  
1740 the condominium documents, this chapter, rules adopted by the  
1741 division, and reasonable rules adopted by the board.

1742 6. Owners' rights to inspect and copy association records  
1743 and the limitations on such rights.

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1744 7. Remedies available to owners with respect to actions by  
1745 the board which may be abusive or beyond the board's power and  
1746 authority.

1747 8. The right of the board to hire a property management  
1748 firm, subject to its own primary responsibility for such  
1749 management.

1750 9. The responsibility of owners with regard to payment of  
1751 regular or special assessments necessary for the operation of  
1752 the property and the potential consequences of failure to pay  
1753 such assessments.

1754 10. The voting rights of owners.

1755 11. Rights and obligations of the board in enforcement of  
1756 rules in the condominium documents and rules adopted by the  
1757 board.

1758

1759 The governance form shall also include the following statement  
1760 in conspicuous type: "This publication is intended as an  
1761 informal educational overview of condominium governance. In the  
1762 event of a conflict, this ~~the provisions of~~ chapter 718, ~~Florida~~  
1763 ~~Statutes~~, rules adopted by the Division of Florida Condominiums,  
1764 Homeowners' Associations, Timeshares, and Mobile Homes of the  
1765 Department of Business and Professional Regulation, the  
1766 provisions of the condominium documents, and reasonable rules  
1767 adopted by the condominium association's board of administration  
1768 prevail over the contents of this publication."

1769 Section 31. Section 718.504, Florida Statutes, is amended  
1770 to read:

1771 718.504 Prospectus or offering circular.—Every developer of  
1772 a residential condominium which contains more than 20

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1773 residential units, or which is part of a group of residential  
1774 condominiums which will be served by property to be used in  
1775 common by unit owners of more than 20 residential units, shall  
1776 prepare a prospectus or offering circular and file it with the  
1777 Division of Florida Condominiums, Homeowners' Associations,  
1778 Timeshares, and Mobile Homes before ~~prior to~~ entering into an  
1779 enforceable contract of purchase and sale of any unit or lease  
1780 of a unit for more than 5 years and shall furnish a copy of the  
1781 prospectus or offering circular to each buyer. In addition to  
1782 the prospectus or offering circular, each buyer shall be  
1783 furnished a separate page entitled "Frequently Asked Questions  
1784 and Answers," which shall be in accordance with a format  
1785 approved by the division and a copy of the financial information  
1786 required by s. 718.111. This page shall, in readable language,  
1787 inform prospective purchasers regarding their voting rights and  
1788 unit use restrictions, including restrictions on the leasing of  
1789 a unit; shall indicate whether and in what amount the unit  
1790 owners or the association is obligated to pay rent or land use  
1791 fees for recreational or other commonly used facilities; shall  
1792 contain a statement identifying that amount of assessment which,  
1793 pursuant to the budget, would be levied upon each unit type,  
1794 exclusive of any special assessments, and which shall further  
1795 identify the basis upon which assessments are levied, whether  
1796 monthly, quarterly, or otherwise; shall state and identify any  
1797 court cases in which the association is currently a party of  
1798 record in which the association may face liability in excess of  
1799 \$100,000; and which shall further state whether membership in a  
1800 recreational facilities association is mandatory, and if so,  
1801 shall identify the fees currently charged per unit type. The

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1802 division shall by rule require such other disclosure as in its  
1803 judgment will assist prospective purchasers. The prospectus or  
1804 offering circular may include more than one condominium,  
1805 although not all such units are being offered for sale as of the  
1806 date of the prospectus or offering circular. The prospectus or  
1807 offering circular must contain the following information:

1808 (1) The front cover or the first page must contain only:

1809 (a) The name of the condominium.

1810 (b) The following statements in conspicuous type:

1811 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
1812 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

1813 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
1814 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
1815 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
1816 MATERIALS.

1817 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
1818 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
1819 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
1820 REPRESENTATIONS.

1821 (2) Summary: The next page must contain all statements  
1822 required to be in conspicuous type in the prospectus or offering  
1823 circular.

1824 (3) A separate index of the contents and exhibits of the  
1825 prospectus.

1826 (4) Beginning on the first page of the text (not including  
1827 the summary and index), a description of the condominium,  
1828 including, but not limited to, the following information:

1829 (a) Its name and location.

1830 (b) A description of the condominium property, including,

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1831 without limitation:

1832 1. The number of buildings, the number of units in each  
1833 building, the number of bathrooms and bedrooms in each unit, and  
1834 the total number of units, if the condominium is not a phase  
1835 condominium, or the maximum number of buildings that may be  
1836 contained within the condominium, the minimum and maximum  
1837 numbers of units in each building, the minimum and maximum  
1838 numbers of bathrooms and bedrooms that may be contained in each  
1839 unit, and the maximum number of units that may be contained  
1840 within the condominium, if the condominium is a phase  
1841 condominium.

1842 2. The page in the condominium documents where a copy of  
1843 the plot plan and survey of the condominium is located.

1844 3. The estimated latest date of completion of constructing,  
1845 finishing, and equipping. In lieu of a date, the description  
1846 shall include a statement that the estimated date of completion  
1847 of the condominium is in the purchase agreement and a reference  
1848 to the article or paragraph containing that information.

1849 (c) The maximum number of units that will use facilities in  
1850 common with the condominium. If the maximum number of units will  
1851 vary, a description of the basis for variation and the minimum  
1852 amount of dollars per unit to be spent for additional  
1853 recreational facilities or enlargement of such facilities. If  
1854 the addition or enlargement of facilities will result in a  
1855 material increase of a unit owner's maintenance expense or  
1856 rental expense, if any, the maximum increase and limitations  
1857 thereon shall be stated.

1858 (5) (a) A statement in conspicuous type describing whether  
1859 the condominium is created and being sold as fee simple



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1860 interests or as leasehold interests. If the condominium is  
1861 created or being sold on a leasehold, the location of the lease  
1862 in the disclosure materials shall be stated.

1863 (b) If timeshare estates are or may be created with respect  
1864 to any unit in the condominium, a statement in conspicuous type  
1865 stating that timeshare estates are created and being sold in  
1866 units in the condominium.

1867 (6) A description of the recreational and other commonly  
1868 used facilities that will be used only by unit owners of the  
1869 condominium, including, but not limited to, the following:

1870 (a) Each room and its intended purposes, location,  
1871 approximate floor area, and capacity in numbers of people.

1872 (b) Each swimming pool, as to its general location,  
1873 approximate size and depths, approximate deck size and capacity,  
1874 and whether heated.

1875 (c) Additional facilities, as to the number of each  
1876 facility, its approximate location, approximate size, and  
1877 approximate capacity.

1878 (d) A general description of the items of personal property  
1879 and the approximate number of each item of personal property  
1880 that the developer is committing to furnish for each room or  
1881 other facility or, in the alternative, a representation as to  
1882 the minimum amount of expenditure that will be made to purchase  
1883 the personal property for the facility.

1884 (e) The estimated date when each room or other facility  
1885 will be available for use by the unit owners.

1886 (f) 1. An identification of each room or other facility to  
1887 be used by unit owners that will not be owned by the unit owners  
1888 or the association;

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1889           2. A reference to the location in the disclosure materials  
1890 of the lease or other agreements providing for the use of those  
1891 facilities; and

1892           3. A description of the terms of the lease or other  
1893 agreements, including the length of the term; the rent payable,  
1894 directly or indirectly, by each unit owner, and the total rent  
1895 payable to the lessor, stated in monthly and annual amounts for  
1896 the entire term of the lease; and a description of any option to  
1897 purchase the property leased under any such lease, including the  
1898 time the option may be exercised, the purchase price or how it  
1899 is to be determined, the manner of payment, and whether the  
1900 option may be exercised for a unit owner's share or only as to  
1901 the entire leased property.

1902           (g) A statement as to whether the developer may provide  
1903 additional facilities not described above; their general  
1904 locations and types; improvements or changes that may be made;  
1905 the approximate dollar amount to be expended; and the maximum  
1906 additional common expense or cost to the individual unit owners  
1907 that may be charged during the first annual period of operation  
1908 of the modified or added facilities.

1909  
1910 Descriptions as to locations, areas, capacities, numbers,  
1911 volumes, or sizes may be stated as approximations or minimums.

1912           (7) A description of the recreational and other facilities  
1913 that will be used in common with other condominiums, community  
1914 associations, or planned developments which require the payment  
1915 of the maintenance and expenses of such facilities, directly or  
1916 indirectly, by the unit owners. The description shall include,  
1917 but not be limited to, the following:

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- 1918 (a) Each building and facility committed to be built.
- 1919 (b) Facilities not committed to be built except under  
1920 certain conditions, and a statement of those conditions or  
1921 contingencies.
- 1922 (c) As to each facility committed to be built, or which  
1923 will be committed to be built upon the happening of one of the  
1924 conditions in paragraph (b), a statement of whether it will be  
1925 owned by the unit owners having the use thereof or by an  
1926 association or other entity which will be controlled by them, or  
1927 others, and the location in the exhibits of the lease or other  
1928 document providing for use of those facilities.
- 1929 (d) The year in which each facility will be available for  
1930 use by the unit owners or, in the alternative, the maximum  
1931 number of unit owners in the project at the time each of all of  
1932 the facilities is committed to be completed.
- 1933 (e) A general description of the items of personal  
1934 property, and the approximate number of each item of personal  
1935 property, that the developer is committing to furnish for each  
1936 room or other facility or, in the alternative, a representation  
1937 as to the minimum amount of expenditure that will be made to  
1938 purchase the personal property for the facility.
- 1939 (f) If there are leases, a description thereof, including  
1940 the length of the term, the rent payable, and a description of  
1941 any option to purchase.
- 1942
- 1943 Descriptions shall include location, areas, capacities, numbers,  
1944 volumes, or sizes and may be stated as approximations or  
1945 minimums.
- 1946 (8) Recreation lease or associated club membership:

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1947 (a) If any recreational facilities or other facilities  
1948 offered by the developer and available to, or to be used by,  
1949 unit owners are to be leased or have club membership associated,  
1950 the following statement in conspicuous type shall be included:  
1951 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
1952 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
1953 CONDOMINIUM. There shall be a reference to the location in the  
1954 disclosure materials where the recreation lease or club  
1955 membership is described in detail.

1956 (b) If it is mandatory that unit owners pay a fee, rent,  
1957 dues, or other charges under a recreational facilities lease or  
1958 club membership for the use of facilities, there shall be in  
1959 conspicuous type the applicable statement:

1960 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
1961 MANDATORY FOR UNIT OWNERS; or

1962 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
1963 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

1964 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS  
1965 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,  
1966 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE  
1967 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

1968 4. A similar statement of the nature of the organization or  
1969 the manner in which the use rights are created, and that unit  
1970 owners are required to pay.

1971  
1972 Immediately following the applicable statement, the location in  
1973 the disclosure materials where the development is described in  
1974 detail shall be stated.

1975 (c) If the developer, or any other person other than the

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1976 unit owners and other persons having use rights in the  
1977 facilities, reserves, or is entitled to receive, any rent, fee,  
1978 or other payment for the use of the facilities, then there shall  
1979 be the following statement in conspicuous type: THE UNIT OWNERS  
1980 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
1981 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
1982 following this statement, the location in the disclosure  
1983 materials where the rent or land use fees are described in  
1984 detail shall be stated.

1985 (d) If, in any recreation format, whether leasehold, club,  
1986 or other, any person other than the association has the right to  
1987 a lien on the units to secure the payment of assessments, rent,  
1988 or other exactions, there shall appear a statement in  
1989 conspicuous type in substantially the following form:

1990 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
1991 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
1992 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
1993 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

1994 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
1995 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
1996 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
1997 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
1998 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

1999  
2000 Immediately following the applicable statement, the location in  
2001 the disclosure materials where the lien or lien right is  
2002 described in detail shall be stated.

2003 (9) If the developer or any other person has the right to  
2004 increase or add to the recreational facilities at any time after

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2005 the establishment of the condominium whose unit owners have use  
2006 rights therein, without the consent of the unit owners or  
2007 associations being required, there shall appear a statement in  
2008 conspicuous type in substantially the following form:  
2009 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
2010 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
2011 statement, the location in the disclosure materials where such  
2012 reserved rights are described shall be stated.

2013 (10) A statement of whether the developer's plan includes a  
2014 program of leasing units rather than selling them, or leasing  
2015 units and selling them subject to such leases. If so, there  
2016 shall be a description of the plan, including the number and  
2017 identification of the units and the provisions and term of the  
2018 proposed leases, and a statement in boldfaced type that: THE  
2019 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2020 (11) The arrangements for management of the association and  
2021 maintenance and operation of the condominium property and of  
2022 other property that will serve the unit owners of the  
2023 condominium property, and a description of the management  
2024 contract and all other contracts for these purposes having a  
2025 term in excess of 1 year, including the following:

2026 (a) The names of contracting parties.

2027 (b) The term of the contract.

2028 (c) The nature of the services included.

2029 (d) The compensation, stated on a monthly and annual basis,  
2030 and provisions for increases in the compensation.

2031 (e) A reference to the volumes and pages of the condominium  
2032 documents and of the exhibits containing copies of such  
2033 contracts.

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2034  
2035 Copies of all described contracts shall be attached as exhibits.  
2036 If there is a contract for the management of the condominium  
2037 property, then a statement in conspicuous type in substantially  
2038 the following form shall appear, identifying the proposed or  
2039 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
2040 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE  
2041 CONTRACT MANAGER). Immediately following this statement, the  
2042 location in the disclosure materials of the contract for  
2043 management of the condominium property shall be stated.

2044 (12) If the developer or any other person or persons other  
2045 than the unit owners has the right to retain control of the  
2046 board of administration of the association for a period of time  
2047 which can exceed 1 year after the closing of the sale of a  
2048 majority of the units in that condominium to persons other than  
2049 successors or alternate developers, then a statement in  
2050 conspicuous type in substantially the following form shall be  
2051 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
2052 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
2053 HAVE BEEN SOLD. Immediately following this statement, the  
2054 location in the disclosure materials where this right to control  
2055 is described in detail shall be stated.

2056 (13) If there are any restrictions upon the sale, transfer,  
2057 conveyance, or leasing of a unit, then a statement in  
2058 conspicuous type in substantially the following form shall be  
2059 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
2060 CONTROLLED. Immediately following this statement, the location  
2061 in the disclosure materials where the restriction, limitation,  
2062 or control on the sale, lease, or transfer of units is described

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2063 in detail shall be stated.

2064 (14) If the condominium is part of a phase project, the  
2065 following information shall be stated:

2066 (a) A statement in conspicuous type in substantially the  
2067 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
2068 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
2069 this statement, the location in the disclosure materials where  
2070 the phasing is described shall be stated.

2071 (b) A summary of the provisions of the declaration which  
2072 provide for the phasing.

2073 (c) A statement as to whether or not residential buildings  
2074 and units which are added to the condominium may be  
2075 substantially different from the residential buildings and units  
2076 originally in the condominium. If the added residential  
2077 buildings and units may be substantially different, there shall  
2078 be a general description of the extent to which such added  
2079 residential buildings and units may differ, and a statement in  
2080 conspicuous type in substantially the following form shall be  
2081 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM  
2082 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
2083 UNITS IN THE CONDOMINIUM. Immediately following this statement,  
2084 the location in the disclosure materials where the extent to  
2085 which added residential buildings and units may substantially  
2086 differ is described shall be stated.

2087 (d) A statement of the maximum number of buildings  
2088 containing units, the maximum and minimum numbers of units in  
2089 each building, the maximum number of units, and the minimum and  
2090 maximum square footage of the units that may be contained within  
2091 each parcel of land which may be added to the condominium.



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2092 (15) If a condominium created on or after July 1, 2000, is  
2093 or may become part of a multicondominium, the following  
2094 information must be provided:

2095 (a) A statement in conspicuous type in substantially the  
2096 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
2097 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
2098 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following  
2099 this statement, the location in the prospectus or offering  
2100 circular and its exhibits where the multicondominium aspects of  
2101 the offering are described must be stated.

2102 (b) A summary of the provisions in the declaration,  
2103 articles of incorporation, and bylaws which establish and  
2104 provide for the operation of the multicondominium, including a  
2105 statement as to whether unit owners in the condominium will have  
2106 the right to use recreational or other facilities located or  
2107 planned to be located in other condominiums operated by the same  
2108 association, and the manner of sharing the common expenses  
2109 related to such facilities.

2110 (c) A statement of the minimum and maximum number of  
2111 condominiums, and the minimum and maximum number of units in  
2112 each of those condominiums, which will or may be operated by the  
2113 association, and the latest date by which the exact number will  
2114 be finally determined.

2115 (d) A statement as to whether any of the condominiums in  
2116 the multicondominium may include units intended to be used for  
2117 nonresidential purposes and the purpose or purposes permitted  
2118 for such use.

2119 (e) A general description of the location and approximate  
2120 acreage of any land on which any additional condominiums to be

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2121 operated by the association may be located.

2122 (16) If the condominium is created by conversion of  
2123 existing improvements, the following information shall be  
2124 stated:

2125 (a) The information required by s. 718.616.

2126 (b) A caveat that there are no express warranties unless  
2127 they are stated in writing by the developer.

2128 (17) A summary of the restrictions, if any, to be imposed  
2129 on units concerning the use of any of the condominium property,  
2130 including statements as to whether there are restrictions upon  
2131 children and pets, and reference to the volumes and pages of the  
2132 condominium documents where such restrictions are found, or if  
2133 such restrictions are contained elsewhere, then a copy of the  
2134 documents containing the restrictions shall be attached as an  
2135 exhibit.

2136 (18) If there is any land that is offered by the developer  
2137 for use by the unit owners and that is neither owned by them nor  
2138 leased to them, the association, or any entity controlled by  
2139 unit owners and other persons having the use rights to such  
2140 land, a statement shall be made as to how such land will serve  
2141 the condominium. If any part of such land will serve the  
2142 condominium, the statement shall describe the land and the  
2143 nature and term of service, and the declaration or other  
2144 instrument creating such servitude shall be included as an  
2145 exhibit.

2146 (19) The manner in which utility and other services,  
2147 including, but not limited to, sewage and waste disposal, water  
2148 supply, and storm drainage, will be provided and the person or  
2149 entity furnishing them.

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2150 (20) An explanation of the manner in which the  
2151 apportionment of common expenses and ownership of the common  
2152 elements has been determined.

2153 (21) An estimated operating budget for the condominium and  
2154 the association, and a schedule of the unit owner's expenses  
2155 shall be attached as an exhibit and shall contain the following  
2156 information:

2157 (a) The estimated monthly and annual expenses of the  
2158 condominium and the association that are collected from unit  
2159 owners by assessments.

2160 (b) The estimated monthly and annual expenses of each unit  
2161 owner for a unit, other than common expenses paid by all unit  
2162 owners, payable by the unit owner to persons or entities other  
2163 than the association, as well as to the association, including  
2164 fees assessed pursuant to s. 718.113(1) for maintenance of  
2165 limited common elements where such costs are shared only by  
2166 those entitled to use the limited common element, and the total  
2167 estimated monthly and annual expense. There may be excluded from  
2168 this estimate expenses which are not provided for or  
2169 contemplated by the condominium documents, including, but not  
2170 limited to, the costs of private telephone; maintenance of the  
2171 interior of condominium units, which is not the obligation of  
2172 the association; maid or janitorial services privately  
2173 contracted for by the unit owners; utility bills billed directly  
2174 to each unit owner for utility services to his or her unit;  
2175 insurance premiums other than those incurred for policies  
2176 obtained by the condominium; and similar personal expenses of  
2177 the unit owner. A unit owner's estimated payments for  
2178 assessments shall also be stated in the estimated amounts for

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2179 the times when they will be due.

2180 (c) The estimated items of expenses of the condominium and  
2181 the association, except as excluded under paragraph (b),  
2182 including, but not limited to, the following items, which shall  
2183 be stated as an association expense collectible by assessments  
2184 or as unit owners' expenses payable to persons other than the  
2185 association:

2186 1. Expenses for the association and condominium:

2187 a. Administration of the association.

2188 b. Management fees.

2189 c. Maintenance.

2190 d. Rent for recreational and other commonly used  
2191 facilities.

2192 e. Taxes upon association property.

2193 f. Taxes upon leased areas.

2194 g. Insurance.

2195 h. Security provisions.

2196 i. Other expenses.

2197 j. Operating capital.

2198 k. Reserves.

2199 1. Fees payable to the division.

2200 2. Expenses for a unit owner:

2201 a. Rent for the unit, if subject to a lease.

2202 b. Rent payable by the unit owner directly to the lessor or  
2203 agent under any recreational lease or lease for the use of  
2204 commonly used facilities, which use and payment is a mandatory  
2205 condition of ownership and is not included in the common expense  
2206 or assessments for common maintenance paid by the unit owners to  
2207 the association.

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2208 (d) The following statement in conspicuous type: THE BUDGET  
2209 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
2210 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE  
2211 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
2212 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
2213 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
2214 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
2215 THE OFFERING.

2216 (e) Each budget for an association prepared by a developer  
2217 consistent with this subsection shall be prepared in good faith  
2218 and shall reflect accurate estimated amounts for the required  
2219 items in paragraph (c) at the time of the filing of the offering  
2220 circular with the division, and subsequent increased amounts of  
2221 any item included in the association's estimated budget that are  
2222 beyond the control of the developer may ~~shall~~ not be considered  
2223 an amendment that would give rise to rescission rights set forth  
2224 in s. 718.503(1)(a) or (b), nor shall such increases modify,  
2225 void, or otherwise affect any guarantee of the developer  
2226 contained in the offering circular or any purchase contract. It  
2227 is the intent of this paragraph to clarify existing law.

2228 (f) The estimated amounts shall be stated for a period of  
2229 at least 12 months and may distinguish between the period before  
2230 ~~prior to~~ the time unit owners other than the developer elect a  
2231 majority of the board of administration and the period after  
2232 that date.

2233 (22) A schedule of estimated closing expenses to be paid by  
2234 a buyer or lessee of a unit and a statement of whether title  
2235 opinion or title insurance policy is available to the buyer and,  
2236 if so, at whose expense.

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2237 (23) The identity of the developer and the chief operating  
2238 officer or principal directing the creation and sale of the  
2239 condominium and a statement of its and his or her experience in  
2240 this field.

2241 (24) Copies of the following, to the extent they are  
2242 applicable, shall be included as exhibits:

2243 (a) The declaration of condominium, or the proposed  
2244 declaration if the declaration has not been recorded.

2245 (b) The articles of incorporation creating the association.

2246 (c) The bylaws of the association.

2247 (d) The ground lease or other underlying lease of the  
2248 condominium.

2249 (e) The management agreement and all maintenance and other  
2250 contracts for management of the association and operation of the  
2251 condominium and facilities used by the unit owners having a  
2252 service term in excess of 1 year.

2253 (f) The estimated operating budget for the condominium and  
2254 the required schedule of unit owners' expenses.

2255 (g) A copy of the floor plan of the unit and the plot plan  
2256 showing the location of the residential buildings and the  
2257 recreation and other common areas.

2258 (h) The lease of recreational and other facilities that  
2259 will be used only by unit owners of the subject condominium.

2260 (i) The lease of facilities used by owners and others.

2261 (j) The form of unit lease, if the offer is of a leasehold.

2262 (k) A declaration of servitude of properties serving the  
2263 condominium but not owned by unit owners or leased to them or  
2264 the association.

2265 (l) The statement of condition of the existing building or

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2266 buildings, if the offering is of units in an operation being  
2267 converted to condominium ownership.

2268 (m) The statement of inspection for termite damage and  
2269 treatment of the existing improvements, if the condominium is a  
2270 conversion.

2271 (n) The form of agreement for sale or lease of units.

2272 (o) A copy of the agreement for escrow of payments made to  
2273 the developer before ~~prior to~~ closing.

2274 (p) A copy of the documents containing any restrictions on  
2275 use of the property required by subsection (17).

2276 (25) Any prospectus or offering circular complying, before  
2277 ~~prior to~~ the effective date of this act, with the provisions of  
2278 former ss. 711.69 and 711.802 may continue to be used without  
2279 amendment or may be amended to comply with this chapter.

2280 (26) A brief narrative description of the location and  
2281 effect of all existing and intended easements located or to be  
2282 located on the condominium property other than those described  
2283 in the declaration.

2284 (27) If the developer is required by state or local  
2285 authorities to obtain acceptance or approval of any dock or  
2286 marina facilities intended to serve the condominium, a copy of  
2287 any such acceptance or approval acquired by the time of filing  
2288 with the division under s. 718.502(1) or a statement that such  
2289 acceptance or approval has not been acquired or received.

2290 (28) Evidence demonstrating that the developer has an  
2291 ownership, leasehold, or contractual interest in the land upon  
2292 which the condominium is to be developed.

2293 Section 32. Section 718.508, Florida Statutes, is amended  
2294 to read:

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2295           718.508 Regulation by Division of Hotels and Restaurants.-  
2296 In addition to the authority, regulation, or control exercised  
2297 by the Division of Florida Condominiums, Homeowners'  
2298 Associations, Timeshares, and Mobile Homes pursuant to this act  
2299 with respect to condominiums, buildings included in a  
2300 condominium property are subject to the authority, regulation,  
2301 or control of the Division of Hotels and Restaurants of the  
2302 Department of Business and Professional Regulation, to the  
2303 extent provided in chapter 399.

2304           Section 33. Paragraph (a) of subsection (2) of section  
2305 718.608, Florida Statutes, is amended to read:

2306           718.608 Notice of intended conversion; time of delivery;  
2307 content.-

2308           (2) (a) Each notice of intended conversion shall be dated  
2309 and in writing. The notice shall contain the following  
2310 statement, with the phrases of the following statement which  
2311 appear in upper case printed in conspicuous type:

2312  
2313           These apartments are being converted to condominium by  
2314 ... (name of developer) ..., the developer.

2315           1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
2316 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
2317 AGREEMENT AS FOLLOWS:

2318           a. If you have continuously been a resident of these  
2319 apartments during the last 180 days and your rental agreement  
2320 expires during the next 270 days, you may extend your rental  
2321 agreement for up to 270 days after the date of this notice.

2322           b. If you have not been a continuous resident of these  
2323 apartments for the last 180 days and your rental agreement



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2324 expires during the next 180 days, you may extend your rental  
2325 agreement for up to 180 days after the date of this notice.

2326 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
2327 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
2328 DATE OF THIS NOTICE.

2329 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
2330 you may extend your rental agreement for up to 45 days after the  
2331 date of this notice while you decide whether to extend your  
2332 rental agreement as explained above. To do so, you must notify  
2333 the developer in writing. You will then have the full 45 days to  
2334 decide whether to extend your rental agreement as explained  
2335 above.

2336 3. During the extension of your rental agreement you will  
2337 be charged the same rent that you are now paying.

2338 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
2339 OF THE RENTAL AGREEMENT AS FOLLOWS:

2340 a. If your rental agreement began or was extended or  
2341 renewed after May 1, 1980, and your rental agreement, including  
2342 extensions and renewals, has an unexpired term of 180 days or  
2343 less, you may cancel your rental agreement upon 30 days' written  
2344 notice and move. Also, upon 30 days' written notice, you may  
2345 cancel any extension of the rental agreement.

2346 b. If your rental agreement was not begun or was not  
2347 extended or renewed after May 1, 1980, you may not cancel the  
2348 rental agreement without the consent of the developer. If your  
2349 rental agreement, including extensions and renewals, has an  
2350 unexpired term of 180 days or less, you may, however, upon 30  
2351 days' written notice cancel any extension of the rental  
2352 agreement.

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2353           5. All notices must be given in writing and sent by mail,  
2354 return receipt requested, or delivered in person to the  
2355 developer at this address: ...(name and address of  
2356 developer)....

2357           6. If you have continuously been a resident of these  
2358 apartments during the last 180 days:

2359           a. You have the right to purchase your apartment and will  
2360 have 45 days to decide whether to purchase. If you do not buy  
2361 the unit at that price and the unit is later offered at a lower  
2362 price, you will have the opportunity to buy the unit at the  
2363 lower price. However, in all events your right to purchase the  
2364 unit ends when the rental agreement or any extension of the  
2365 rental agreement ends or when you waive this right in writing.

2366           b. Within 90 days you will be provided purchase information  
2367 relating to your apartment, including the price of your unit and  
2368 the condition of the building. If you do not receive this  
2369 information within 90 days, your rental agreement and any  
2370 extension will be extended 1 day for each day over 90 days until  
2371 you are given the purchase information. If you do not want this  
2372 rental agreement extension, you must notify the developer in  
2373 writing.

2374           7. If you have any questions regarding this conversion or  
2375 the Condominium Act, you may contact the developer or the state  
2376 agency which regulates condominiums: The Division of Florida  
2377 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
2378 Homes, ...(Tallahassee address and telephone number of  
2379 division)....

2380           Section 34. Subsection (17) of section 719.103, Florida  
2381 Statutes, is amended to read:

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2382 719.103 Definitions.—As used in this chapter:

2383 (17) "Division" means the Division of Florida Condominiums,  
2384 Homeowners' Associations, Timeshares, and Mobile Homes of the  
2385 Department of Business and Professional Regulation.

2386 Section 35. Section 719.1255, Florida Statutes, is amended  
2387 to read:

2388 719.1255 Alternative resolution of disputes.—The Division  
2389 of Florida Condominiums, Homeowners' Associations, Timeshares,  
2390 and Mobile Homes of the Department of Business and Professional  
2391 Regulation shall provide for alternative dispute resolution in  
2392 accordance with s. 718.1255.

2393 Section 36. Section 719.501, Florida Statutes, is amended  
2394 to read:

2395 719.501 Powers and duties of Division of Florida  
2396 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
2397 Homes.—

2398 (1) The Division of Florida Condominiums, Homeowners'  
2399 Associations, Timeshares, and Mobile Homes of the Department of  
2400 Business and Professional Regulation, referred to as the  
2401 "division" in this part, in addition to other powers and duties  
2402 prescribed by chapter 718, has the power to enforce and ensure  
2403 compliance with this chapter and adopted rules relating to the  
2404 development, construction, sale, lease, ownership, operation,  
2405 and management of residential cooperative units. In performing  
2406 its duties, the division shall have the following powers and  
2407 duties:

2408 (a) The division may make necessary public or private  
2409 investigations within or outside this state to determine whether  
2410 any person has violated this chapter or any rule or order

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2411 hereunder, to aid in the enforcement of this chapter, or to aid  
2412 in the adoption of rules or forms hereunder.

2413 (b) The division may require or permit any person to file a  
2414 statement in writing, under oath or otherwise, as the division  
2415 determines, as to the facts and circumstances concerning a  
2416 matter to be investigated.

2417 (c) For the purpose of any investigation under this  
2418 chapter, the division director or any officer or employee  
2419 designated by the division director may administer oaths or  
2420 affirmations, subpoena witnesses and compel their attendance,  
2421 take evidence, and require the production of any matter which is  
2422 relevant to the investigation, including the existence,  
2423 description, nature, custody, condition, and location of any  
2424 books, documents, or other tangible things and the identity and  
2425 location of persons having knowledge of relevant facts or any  
2426 other matter reasonably calculated to lead to the discovery of  
2427 material evidence. Upon failure by a person to obey a subpoena  
2428 or to answer questions propounded by the investigating officer  
2429 and upon reasonable notice to all persons affected thereby, the  
2430 division may apply to the circuit court for an order compelling  
2431 compliance.

2432 (d) Notwithstanding any remedies available to unit owners  
2433 and associations, if the division has reasonable cause to  
2434 believe that a violation of any provision of this chapter or  
2435 related rule has occurred, the division may institute  
2436 enforcement proceedings in its own name against a developer,  
2437 association, officer, or member of the board, or its assignees  
2438 or agents, as follows:

2439 1. The division may permit a person whose conduct or

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2440 actions may be under investigation to waive formal proceedings  
2441 and enter into a consent proceeding whereby orders, rules, or  
2442 letters of censure or warning, whether formal or informal, may  
2443 be entered against the person.

2444 2. The division may issue an order requiring the developer,  
2445 association, officer, or member of the board, or its assignees  
2446 or agents, to cease and desist from the unlawful practice and  
2447 take such affirmative action as in the judgment of the division  
2448 will carry out the purposes of this chapter. Such affirmative  
2449 action may include, but is not limited to, an order requiring a  
2450 developer to pay moneys determined to be owed to a condominium  
2451 association.

2452 3. The division may bring an action in circuit court on  
2453 behalf of a class of unit owners, lessees, or purchasers for  
2454 declaratory relief, injunctive relief, or restitution.

2455 4. The division may impose a civil penalty against a  
2456 developer or association, or its assignees or agents, for any  
2457 violation of this chapter or related rule. The division may  
2458 impose a civil penalty individually against any officer or board  
2459 member who willfully and knowingly violates a provision of this  
2460 chapter, a rule adopted pursuant to this chapter, or a final  
2461 order of the division. The term "willfully and knowingly" means  
2462 that the division informed the officer or board member that his  
2463 or her action or intended action violates this chapter, a rule  
2464 adopted under this chapter, or a final order of the division,  
2465 and that the officer or board member refused to comply with the  
2466 requirements of this chapter, a rule adopted under this chapter,  
2467 or a final order of the division. The division, before ~~prior to~~  
2468 initiating formal agency action under chapter 120, shall afford

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2469 the officer or board member an opportunity to voluntarily comply  
2470 with this chapter, a rule adopted under this chapter, or a final  
2471 order of the division. An officer or board member who complies  
2472 within 10 days is not subject to a civil penalty. A penalty may  
2473 be imposed on the basis of each day of continuing violation, but  
2474 in no event shall the penalty for any offense exceed \$5,000. By  
2475 January 1, 1998, the division shall adopt, by rule, penalty  
2476 guidelines applicable to possible violations or to categories of  
2477 violations of this chapter or rules adopted by the division. The  
2478 guidelines must specify a meaningful range of civil penalties  
2479 for each such violation of the statute and rules and must be  
2480 based upon the harm caused by the violation, the repetition of  
2481 the violation, and upon such other factors deemed relevant by  
2482 the division. For example, the division may consider whether the  
2483 violations were committed by a developer or owner-controlled  
2484 association, the size of the association, and other factors. The  
2485 guidelines must designate the possible mitigating or aggravating  
2486 circumstances that justify a departure from the range of  
2487 penalties provided by the rules. It is the legislative intent  
2488 that minor violations be distinguished from those which endanger  
2489 the health, safety, or welfare of the cooperative residents or  
2490 other persons and that such guidelines provide reasonable and  
2491 meaningful notice to the public of likely penalties that may be  
2492 imposed for proscribed conduct. This subsection does not limit  
2493 the ability of the division to informally dispose of  
2494 administrative actions or complaints by stipulation, agreed  
2495 settlement, or consent order. All amounts collected shall be  
2496 deposited with the Chief Financial Officer to the credit of the  
2497 Division of Florida Condominiums, Homeowners' Associations,

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2498 Timeshares, and Mobile Homes Trust Fund. If a developer fails to  
2499 pay the civil penalty, the division shall ~~thereupon~~ issue an  
2500 order directing that the ~~such~~ developer cease and desist from  
2501 further operation until such time as the civil penalty is paid  
2502 or shall ~~may~~ pursue enforcement of the penalty in a court of  
2503 competent jurisdiction. If an association fails to pay the civil  
2504 penalty, the division shall thereupon pursue enforcement in a  
2505 court of competent jurisdiction, and the order imposing the  
2506 civil penalty or the cease and desist order does ~~shall~~ not  
2507 become effective until 20 days after the date of such order. Any  
2508 action commenced by the division shall be brought in the county  
2509 in which the division has its executive offices or in the county  
2510 where the violation occurred.

2511 (e) The division may prepare and disseminate a prospectus  
2512 and other information to assist prospective owners, purchasers,  
2513 lessees, and developers of residential cooperatives in assessing  
2514 the rights, privileges, and duties pertaining thereto.

2515 (f) The division has authority to adopt rules pursuant to  
2516 ss. 120.536(1) and 120.54 to implement and enforce ~~the~~  
2517 ~~provisions of~~ this chapter.

2518 (g) The division shall establish procedures for providing  
2519 notice to an association when the division is considering the  
2520 issuance of a declaratory statement with respect to the  
2521 cooperative documents governing such cooperative community.

2522 (h) The division shall furnish each association which pays  
2523 the fees required by paragraph (2) (a) a copy of this act,  
2524 subsequent changes to this act on an annual basis, an amended  
2525 version of this act as it becomes available from the Secretary  
2526 of State's office on a biennial basis, and the rules adopted

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2527 thereto on an annual basis.

2528 (i) The division shall annually provide each association  
2529 with a summary of declaratory statements and formal legal  
2530 opinions relating to the operations of cooperatives which were  
2531 rendered by the division during the previous year.

2532 (j) The division shall adopt uniform accounting principles,  
2533 policies, and standards to be used by all associations in the  
2534 preparation and presentation of all financial statements  
2535 required by this chapter. The principles, policies, and  
2536 standards shall take into consideration the size of the  
2537 association and the total revenue collected by the association.

2538 (k) The division shall provide training and educational  
2539 programs for cooperative association board members and unit  
2540 owners. The training may, in the division's discretion, include  
2541 web-based electronic media, and live training and seminars in  
2542 various locations throughout the state. The division may review  
2543 and approve education and training programs for board members  
2544 and unit owners offered by providers and shall maintain a  
2545 current list of approved programs and providers and make such  
2546 list available to board members and unit owners in a reasonable  
2547 and cost-effective manner.

2548 (l) The division shall maintain a toll-free telephone  
2549 number accessible to cooperative unit owners.

2550 (m) When a complaint is made to the division, the division  
2551 shall conduct its inquiry with reasonable dispatch and with due  
2552 regard to the interests of the affected parties. Within 30 days  
2553 after receipt of a complaint, the division shall acknowledge the  
2554 complaint in writing and notify the complainant whether the  
2555 complaint is within the jurisdiction of the division and whether



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

2572 (n) The division shall develop a program to certify both  
2573 volunteer and paid mediators to provide mediation of cooperative  
2574 disputes. The division shall provide, upon request, a list of  
2575 such mediators to any association, unit owner, or other  
2576 participant in arbitration proceedings under s. 718.1255  
2577 requesting a copy of the list. The division shall include on the  
2578 list of voluntary mediators only persons who have received at  
2579 least 20 hours of training in mediation techniques or have  
2580 mediated at least 20 disputes. In order to become initially  
2581 certified by the division, paid mediators must be certified by  
2582 the Supreme Court to mediate court cases in county or circuit  
2583 courts. However, the division may adopt, by rule, additional  
2584 factors for the certification of paid mediators, which factors

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2585 must be related to experience, education, or background. Any  
2586 person initially certified as a paid mediator by the division  
2587 must, in order to continue to be certified, comply with the  
2588 factors or requirements imposed by rules adopted by the  
2589 division.

2590 (2) (a) Each cooperative association shall pay to the  
2591 division, on or before January 1 of each year, an annual fee in  
2592 the amount of \$4 for each residential unit in cooperatives  
2593 operated by the association. If the fee is not paid by March 1,  
2594 then the association shall be assessed a penalty of 10 percent  
2595 of the amount due, and the association shall not have the  
2596 standing to maintain or defend any action in the courts of this  
2597 state until the amount due is paid.

2598 (b) All fees shall be deposited in the Division of Florida  
2599 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
2600 Homes Trust Fund as provided by law.

2601 Section 37. Paragraph (a) of subsection (2) of section  
2602 719.502, Florida Statutes, is amended to read:

2603 719.502 Filing prior to sale or lease.—

2604 (2) (a) Before ~~Prior to~~ filing as required by subsection  
2605 (1), and before ~~prior to~~ acquiring an ownership, leasehold, or  
2606 contractual interest in the land upon which the cooperative is  
2607 to be developed, a developer may ~~shall~~ not offer a contract for  
2608 purchase or lease of a unit for more than 5 years. However, the  
2609 developer may accept deposits for reservations upon the approval  
2610 of a fully executed escrow agreement and reservation agreement  
2611 form properly filed with the Division of Florida Condominiums,  
2612 Homeowners' Associations, Timeshares, and Mobile Homes. Each  
2613 filing of a proposed reservation program shall be accompanied by

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2614 a filing fee of \$250. Reservations may ~~shall~~ not be taken on a  
2615 proposed cooperative unless the developer has an ownership,  
2616 leasehold, or contractual interest in the land upon which the  
2617 cooperative is to be developed. The division shall notify the  
2618 developer within 20 days of receipt of the reservation filing of  
2619 any deficiencies contained therein. Such notification does ~~shall~~  
2620 not preclude the determination of reservation filing  
2621 deficiencies at a later date, nor shall it relieve the developer  
2622 of any responsibility under the law. The escrow agreement and  
2623 the reservation agreement form shall include a statement of the  
2624 right of the prospective purchaser to an immediate unqualified  
2625 refund of the reservation deposit moneys upon written request to  
2626 the escrow agent by the prospective purchaser or the developer.

2627 Section 38. Section 719.504, Florida Statutes, is amended  
2628 to read:

2629 719.504 Prospectus or offering circular.—Every developer of  
2630 a residential cooperative which contains more than 20  
2631 residential units, or which is part of a group of residential  
2632 cooperatives which will be served by property to be used in  
2633 common by unit owners of more than 20 residential units, shall  
2634 prepare a prospectus or offering circular and file it with the  
2635 Division of Florida Condominiums, Homeowners' Associations,  
2636 Timeshares, and Mobile Homes before ~~prior to~~ entering into an  
2637 enforceable contract of purchase and sale of any unit or lease  
2638 of a unit for more than 5 years and shall furnish a copy of the  
2639 prospectus or offering circular to each buyer. In addition to  
2640 the prospectus or offering circular, each buyer shall be  
2641 furnished a separate page entitled "Frequently Asked Questions  
2642 and Answers," which must be in accordance with a format approved

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2643 by the division. This page must, in readable language: inform  
2644 prospective purchasers regarding their voting rights and unit  
2645 use restrictions, including restrictions on the leasing of a  
2646 unit; indicate whether and in what amount the unit owners or the  
2647 association is obligated to pay rent or land use fees for  
2648 recreational or other commonly used facilities; contain a  
2649 statement identifying that amount of assessment which, pursuant  
2650 to the budget, would be levied upon each unit type, exclusive of  
2651 any special assessments, and which identifies the basis upon  
2652 which assessments are levied, whether monthly, quarterly, or  
2653 otherwise; state and identify any court cases in which the  
2654 association is currently a party of record in which the  
2655 association may face liability in excess of \$100,000; and state  
2656 whether membership in a recreational facilities association is  
2657 mandatory and, if so, identify the fees currently charged per  
2658 unit type. The division shall by rule require such other  
2659 disclosure as in its judgment will assist prospective  
2660 purchasers. The prospectus or offering circular may include more  
2661 than one cooperative, although not all such units are being  
2662 offered for sale as of the date of the prospectus or offering  
2663 circular. The prospectus or offering circular must contain the  
2664 following information:

2665 (1) The front cover or the first page must contain only:

2666 (a) The name of the cooperative.

2667 (b) The following statements in conspicuous type:

2668 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
2669 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2670 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
2671 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,

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2672 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
2673 MATERIALS.

2674 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
2675 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
2676 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
2677 REPRESENTATIONS.

2678 (2) Summary: The next page must contain all statements  
2679 required to be in conspicuous type in the prospectus or offering  
2680 circular.

2681 (3) A separate index of the contents and exhibits of the  
2682 prospectus.

2683 (4) Beginning on the first page of the text (not including  
2684 the summary and index), a description of the cooperative,  
2685 including, but not limited to, the following information:

2686 (a) Its name and location.

2687 (b) A description of the cooperative property, including,  
2688 without limitation:

2689 1. The number of buildings, the number of units in each  
2690 building, the number of bathrooms and bedrooms in each unit, and  
2691 the total number of units, if the cooperative is not a phase  
2692 cooperative; or, if the cooperative is a phase cooperative, the  
2693 maximum number of buildings that may be contained within the  
2694 cooperative, the minimum and maximum number of units in each  
2695 building, the minimum and maximum number of bathrooms and  
2696 bedrooms that may be contained in each unit, and the maximum  
2697 number of units that may be contained within the cooperative.

2698 2. The page in the cooperative documents where a copy of  
2699 the survey and plot plan of the cooperative is located.

2700 3. The estimated latest date of completion of constructing,

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2701 finishing, and equipping. In lieu of a date, a statement that  
2702 the estimated date of completion of the cooperative is in the  
2703 purchase agreement and a reference to the article or paragraph  
2704 containing that information.

2705 (c) The maximum number of units that will use facilities in  
2706 common with the cooperative. If the maximum number of units will  
2707 vary, a description of the basis for variation and the minimum  
2708 amount of dollars per unit to be spent for additional  
2709 recreational facilities or enlargement of such facilities. If  
2710 the addition or enlargement of facilities will result in a  
2711 material increase of a unit owner's maintenance expense or  
2712 rental expense, if any, the maximum increase and limitations  
2713 thereon shall be stated.

2714 (5) (a) A statement in conspicuous type describing whether  
2715 the cooperative is created and being sold as fee simple  
2716 interests or as leasehold interests. If the cooperative is  
2717 created or being sold on a leasehold, the location of the lease  
2718 in the disclosure materials shall be stated.

2719 (b) If timeshare estates are or may be created with respect  
2720 to any unit in the cooperative, a statement in conspicuous type  
2721 stating that timeshare estates are created and being sold in  
2722 such specified units in the cooperative.

2723 (6) A description of the recreational and other common  
2724 areas that will be used only by unit owners of the cooperative,  
2725 including, but not limited to, the following:

2726 (a) Each room and its intended purposes, location,  
2727 approximate floor area, and capacity in numbers of people.

2728 (b) Each swimming pool, as to its general location,  
2729 approximate size and depths, approximate deck size and capacity,

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2730 and whether heated.

2731 (c) Additional facilities, as to the number of each  
2732 facility, its approximate location, approximate size, and  
2733 approximate capacity.

2734 (d) A general description of the items of personal property  
2735 and the approximate number of each item of personal property  
2736 that the developer is committing to furnish for each room or  
2737 other facility or, in the alternative, a representation as to  
2738 the minimum amount of expenditure that will be made to purchase  
2739 the personal property for the facility.

2740 (e) The estimated date when each room or other facility  
2741 will be available for use by the unit owners.

2742 (f)1. An identification of each room or other facility to  
2743 be used by unit owners that will not be owned by the unit owners  
2744 or the association;

2745 2. A reference to the location in the disclosure materials  
2746 of the lease or other agreements providing for the use of those  
2747 facilities; and

2748 3. A description of the terms of the lease or other  
2749 agreements, including the length of the term; the rent payable,  
2750 directly or indirectly, by each unit owner, and the total rent  
2751 payable to the lessor, stated in monthly and annual amounts for  
2752 the entire term of the lease; and a description of any option to  
2753 purchase the property leased under any such lease, including the  
2754 time the option may be exercised, the purchase price or how it  
2755 is to be determined, the manner of payment, and whether the  
2756 option may be exercised for a unit owner's share or only as to  
2757 the entire leased property.

2758 (g) A statement as to whether the developer may provide

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2759 additional facilities not described above, their general  
2760 locations and types, improvements or changes that may be made,  
2761 the approximate dollar amount to be expended, and the maximum  
2762 additional common expense or cost to the individual unit owners  
2763 that may be charged during the first annual period of operation  
2764 of the modified or added facilities.

2765  
2766 Descriptions as to locations, areas, capacities, numbers,  
2767 volumes, or sizes may be stated as approximations or minimums.

2768 (7) A description of the recreational and other facilities  
2769 that will be used in common with other cooperatives, community  
2770 associations, or planned developments which require the payment  
2771 of the maintenance and expenses of such facilities, directly or  
2772 indirectly, by the unit owners. The description shall include,  
2773 but not be limited to, the following:

2774 (a) Each building and facility committed to be built.

2775 (b) Facilities not committed to be built except under  
2776 certain conditions, and a statement of those conditions or  
2777 contingencies.

2778 (c) As to each facility committed to be built, or which  
2779 will be committed to be built upon the happening of one of the  
2780 conditions in paragraph (b), a statement of whether it will be  
2781 owned by the unit owners having the use thereof or by an  
2782 association or other entity which will be controlled by them, or  
2783 others, and the location in the exhibits of the lease or other  
2784 document providing for use of those facilities.

2785 (d) The year in which each facility will be available for  
2786 use by the unit owners or, in the alternative, the maximum  
2787 number of unit owners in the project at the time each of all of



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2788 the facilities is committed to be completed.

2789 (e) A general description of the items of personal  
2790 property, and the approximate number of each item of personal  
2791 property, that the developer is committing to furnish for each  
2792 room or other facility or, in the alternative, a representation  
2793 as to the minimum amount of expenditure that will be made to  
2794 purchase the personal property for the facility.

2795 (f) If there are leases, a description thereof, including  
2796 the length of the term, the rent payable, and a description of  
2797 any option to purchase.

2798  
2799 Descriptions shall include location, areas, capacities, numbers,  
2800 volumes, or sizes and may be stated as approximations or  
2801 minimums.

2802 (8) Recreation lease or associated club membership:

2803 (a) If any recreational facilities or other common areas  
2804 offered by the developer and available to, or to be used by,  
2805 unit owners are to be leased or have club membership associated,  
2806 the following statement in conspicuous type shall be included:  
2807 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
2808 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
2809 COOPERATIVE. There shall be a reference to the location in the  
2810 disclosure materials where the recreation lease or club  
2811 membership is described in detail.

2812 (b) If it is mandatory that unit owners pay a fee, rent,  
2813 dues, or other charges under a recreational facilities lease or  
2814 club membership for the use of facilities, there shall be in  
2815 conspicuous type the applicable statement:

2816 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS

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2817 MANDATORY FOR UNIT OWNERS; or

2818         2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
2819 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2820         3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS  
2821 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,  
2822 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE  
2823 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2824         4. A similar statement of the nature of the organization or  
2825 manner in which the use rights are created, and that unit owners  
2826 are required to pay.

2827

2828 Immediately following the applicable statement, the location in  
2829 the disclosure materials where the development is described in  
2830 detail shall be stated.

2831         (c) If the developer, or any other person other than the  
2832 unit owners and other persons having use rights in the  
2833 facilities, reserves, or is entitled to receive, any rent, fee,  
2834 or other payment for the use of the facilities, then there shall  
2835 be the following statement in conspicuous type: THE UNIT OWNERS  
2836 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
2837 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this  
2838 statement, the location in the disclosure materials where the  
2839 rent or land use fees are described in detail shall be stated.

2840         (d) If, in any recreation format, whether leasehold, club,  
2841 or other, any person other than the association has the right to  
2842 a lien on the units to secure the payment of assessments, rent,  
2843 or other exactions, there shall appear a statement in  
2844 conspicuous type in substantially the following form:

2845         1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO

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2846 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
2847 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
2848 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2849 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2850 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
2851 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
2852 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
2853 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2854

2855 Immediately following the applicable statement, the location in  
2856 the disclosure materials where the lien or lien right is  
2857 described in detail shall be stated.

2858 (9) If the developer or any other person has the right to  
2859 increase or add to the recreational facilities at any time after  
2860 the establishment of the cooperative whose unit owners have use  
2861 rights therein, without the consent of the unit owners or  
2862 associations being required, there shall appear a statement in  
2863 conspicuous type in substantially the following form:

2864 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
2865 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
2866 statement, the location in the disclosure materials where such  
2867 reserved rights are described shall be stated.

2868 (10) A statement of whether the developer's plan includes a  
2869 program of leasing units rather than selling them, or leasing  
2870 units and selling them subject to such leases. If so, there  
2871 shall be a description of the plan, including the number and  
2872 identification of the units and the provisions and term of the  
2873 proposed leases, and a statement in boldfaced type that: THE  
2874 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

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2875 (11) The arrangements for management of the association and  
2876 maintenance and operation of the cooperative property and of  
2877 other property that will serve the unit owners of the  
2878 cooperative property, and a description of the management  
2879 contract and all other contracts for these purposes having a  
2880 term in excess of 1 year, including the following:

2881 (a) The names of contracting parties.

2882 (b) The term of the contract.

2883 (c) The nature of the services included.

2884 (d) The compensation, stated on a monthly and annual basis,  
2885 and provisions for increases in the compensation.

2886 (e) A reference to the volumes and pages of the cooperative  
2887 documents and of the exhibits containing copies of such  
2888 contracts.

2889

2890 Copies of all described contracts shall be attached as exhibits.  
2891 If there is a contract for the management of the cooperative  
2892 property, then a statement in conspicuous type in substantially  
2893 the following form shall appear, identifying the proposed or  
2894 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
2895 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE  
2896 CONTRACT MANAGER). Immediately following this statement, the  
2897 location in the disclosure materials of the contract for  
2898 management of the cooperative property shall be stated.

2899 (12) If the developer or any other person or persons other  
2900 than the unit owners has the right to retain control of the  
2901 board of administration of the association for a period of time  
2902 which can exceed 1 year after the closing of the sale of a  
2903 majority of the units in that cooperative to persons other than

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2904 successors or alternate developers, then a statement in  
2905 conspicuous type in substantially the following form shall be  
2906 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
2907 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
2908 HAVE BEEN SOLD. Immediately following this statement, the  
2909 location in the disclosure materials where this right to control  
2910 is described in detail shall be stated.

2911 (13) If there are any restrictions upon the sale, transfer,  
2912 conveyance, or leasing of a unit, then a statement in  
2913 conspicuous type in substantially the following form shall be  
2914 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
2915 CONTROLLED. Immediately following this statement, the location  
2916 in the disclosure materials where the restriction, limitation,  
2917 or control on the sale, lease, or transfer of units is described  
2918 in detail shall be stated.

2919 (14) If the cooperative is part of a phase project, the  
2920 following shall be stated:

2921 (a) A statement in conspicuous type in substantially the  
2922 following form shall be included: THIS IS A PHASE COOPERATIVE.  
2923 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
2924 Immediately following this statement, the location in the  
2925 disclosure materials where the phasing is described shall be  
2926 stated.

2927 (b) A summary of the provisions of the declaration  
2928 providing for the phasing.

2929 (c) A statement as to whether or not residential buildings  
2930 and units which are added to the cooperative may be  
2931 substantially different from the residential buildings and units  
2932 originally in the cooperative, and, if the added residential

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2933 buildings and units may be substantially different, there shall  
2934 be a general description of the extent to which such added  
2935 residential buildings and units may differ, and a statement in  
2936 conspicuous type in substantially the following form shall be  
2937 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE  
2938 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
2939 UNITS IN THE COOPERATIVE. Immediately following this statement,  
2940 the location in the disclosure materials where the extent to  
2941 which added residential buildings and units may substantially  
2942 differ is described shall be stated.

2943 (d) A statement of the maximum number of buildings  
2944 containing units, the maximum and minimum number of units in  
2945 each building, the maximum number of units, and the minimum and  
2946 maximum square footage of the units that may be contained within  
2947 each parcel of land which may be added to the cooperative.

2948 (15) If the cooperative is created by conversion of  
2949 existing improvements, the following information shall be  
2950 stated:

2951 (a) The information required by s. 719.616.

2952 (b) A caveat that there are no express warranties unless  
2953 they are stated in writing by the developer.

2954 (16) A summary of the restrictions, if any, to be imposed  
2955 on units concerning the use of any of the cooperative property,  
2956 including statements as to whether there are restrictions upon  
2957 children and pets, and reference to the volumes and pages of the  
2958 cooperative documents where such restrictions are found, or if  
2959 such restrictions are contained elsewhere, then a copy of the  
2960 documents containing the restrictions shall be attached as an  
2961 exhibit.

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2962 (17) If there is any land that is offered by the developer  
2963 for use by the unit owners and that is neither owned by them nor  
2964 leased to them, the association, or any entity controlled by  
2965 unit owners and other persons having the use rights to such  
2966 land, a statement shall be made as to how such land will serve  
2967 the cooperative. If any part of such land will serve the  
2968 cooperative, the statement shall describe the land and the  
2969 nature and term of service, and the cooperative documents or  
2970 other instrument creating such servitude shall be included as an  
2971 exhibit.

2972 (18) The manner in which utility and other services,  
2973 including, but not limited to, sewage and waste disposal, water  
2974 supply, and storm drainage, will be provided and the person or  
2975 entity furnishing them.

2976 (19) An explanation of the manner in which the  
2977 apportionment of common expenses and ownership of the common  
2978 areas have been determined.

2979 (20) An estimated operating budget for the cooperative and  
2980 the association, and a schedule of the unit owner's expenses  
2981 shall be attached as an exhibit and shall contain the following  
2982 information:

2983 (a) The estimated monthly and annual expenses of the  
2984 cooperative and the association that are collected from unit  
2985 owners by assessments.

2986 (b) The estimated monthly and annual expenses of each unit  
2987 owner for a unit, other than assessments payable to the  
2988 association, payable by the unit owner to persons or entities  
2989 other than the association, and the total estimated monthly and  
2990 annual expense. There may be excluded from this estimate

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2991 expenses that are personal to unit owners, which are not  
2992 uniformly incurred by all unit owners, or which are not provided  
2993 for or contemplated by the cooperative documents, including, but  
2994 not limited to, the costs of private telephone; maintenance of  
2995 the interior of cooperative units, which is not the obligation  
2996 of the association; maid or janitorial services privately  
2997 contracted for by the unit owners; utility bills billed directly  
2998 to each unit owner for utility services to his or her unit;  
2999 insurance premiums other than those incurred for policies  
3000 obtained by the cooperative; and similar personal expenses of  
3001 the unit owner. A unit owner's estimated payments for  
3002 assessments shall also be stated in the estimated amounts for  
3003 the times when they will be due.

3004 (c) The estimated items of expenses of the cooperative and  
3005 the association, except as excluded under paragraph (b),  
3006 including, but not limited to, the following items, which shall  
3007 be stated as an association expense collectible by assessments  
3008 or as unit owners' expenses payable to persons other than the  
3009 association:

- 3010 1. Expenses for the association and cooperative:
  - 3011 a. Administration of the association.
  - 3012 b. Management fees.
  - 3013 c. Maintenance.
  - 3014 d. Rent for recreational and other commonly used areas.
  - 3015 e. Taxes upon association property.
  - 3016 f. Taxes upon leased areas.
  - 3017 g. Insurance.
  - 3018 h. Security provisions.
  - 3019 i. Other expenses.



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3020           j. Operating capital.

3021           k. Reserves.

3022           1. Fee payable to the division.

3023           2. Expenses for a unit owner:

3024           a. Rent for the unit, if subject to a lease.

3025           b. Rent payable by the unit owner directly to the lessor or

3026 agent under any recreational lease or lease for the use of

3027 commonly used areas, which use and payment are a mandatory

3028 condition of ownership and are not included in the common

3029 expense or assessments for common maintenance paid by the unit

3030 owners to the association.

3031           (d) The following statement in conspicuous type: THE BUDGET

3032 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN

3033 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE

3034 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON

3035 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.

3036 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH

3037 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN

3038 THE OFFERING.

3039           (e) Each budget for an association prepared by a developer

3040 consistent with this subsection shall be prepared in good faith

3041 and shall reflect accurate estimated amounts for the required

3042 items in paragraph (c) at the time of the filing of the offering

3043 circular with the division, and subsequent increased amounts of

3044 any item included in the association's estimated budget that are

3045 beyond the control of the developer may ~~shall~~ not be considered

3046 an amendment that would give rise to rescission rights set forth

3047 in s. 719.503(1)(a) or (b), nor shall such increases modify,

3048 void, or otherwise affect any guarantee of the developer

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3049 contained in the offering circular or any purchase contract. It  
3050 is the intent of this paragraph to clarify existing law.

3051 (f) The estimated amounts shall be stated for a period of  
3052 at least 12 months and may distinguish between the period before  
3053 ~~prior to~~ the time unit owners other than the developer elect a  
3054 majority of the board of administration and the period after  
3055 that date.

3056 (21) A schedule of estimated closing expenses to be paid by  
3057 a buyer or lessee of a unit and a statement of whether title  
3058 opinion or title insurance policy is available to the buyer and,  
3059 if so, at whose expense.

3060 (22) The identity of the developer and the chief operating  
3061 officer or principal directing the creation and sale of the  
3062 cooperative and a statement of its and his or her experience in  
3063 this field.

3064 (23) Copies of the following, to the extent they are  
3065 applicable, shall be included as exhibits:

3066 (a) The cooperative documents, or the proposed cooperative  
3067 documents if the documents have not been recorded.

3068 (b) The articles of incorporation creating the association.

3069 (c) The bylaws of the association.

3070 (d) The ground lease or other underlying lease of the  
3071 cooperative.

3072 (e) The management agreement and all maintenance and other  
3073 contracts for management of the association and operation of the  
3074 cooperative and facilities used by the unit owners having a  
3075 service term in excess of 1 year.

3076 (f) The estimated operating budget for the cooperative and  
3077 the required schedule of unit owners' expenses.

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3078 (g) A copy of the floor plan of the unit and the plot plan  
3079 showing the location of the residential buildings and the  
3080 recreation and other common areas.

3081 (h) The lease of recreational and other facilities that  
3082 will be used only by unit owners of the subject cooperative.

3083 (i) The lease of facilities used by owners and others.

3084 (j) The form of unit lease, if the offer is of a leasehold.

3085 (k) A declaration of servitude of properties serving the  
3086 cooperative but not owned by unit owners or leased to them or  
3087 the association.

3088 (l) The statement of condition of the existing building or  
3089 buildings, if the offering is of units in an operation being  
3090 converted to cooperative ownership.

3091 (m) The statement of inspection for termite damage and  
3092 treatment of the existing improvements, if the cooperative is a  
3093 conversion.

3094 (n) The form of agreement for sale or lease of units.

3095 (o) A copy of the agreement for escrow of payments made to  
3096 the developer before ~~prior to~~ closing.

3097 (p) A copy of the documents containing any restrictions on  
3098 use of the property required by subsection (16).

3099 (24) Any prospectus or offering circular complying with the  
3100 provisions of former ss. 711.69 and 711.802 may continue to be  
3101 used without amendment, or may be amended to comply with this  
3102 chapter.

3103 (25) A brief narrative description of the location and  
3104 effect of all existing and intended easements located or to be  
3105 located on the cooperative property other than those in the  
3106 declaration.

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3107 (26) If the developer is required by state or local  
3108 authorities to obtain acceptance or approval of any dock or  
3109 marina facility intended to serve the cooperative, a copy of  
3110 such acceptance or approval acquired by the time of filing with  
3111 the division pursuant to s. 719.502 or a statement that such  
3112 acceptance has not been acquired or received.

3113 (27) Evidence demonstrating that the developer has an  
3114 ownership, leasehold, or contractual interest in the land upon  
3115 which the cooperative is to be developed.

3116 Section 39. Section 719.508, Florida Statutes, is amended  
3117 to read:

3118 719.508 Regulation by Division of Hotels and Restaurants.—  
3119 In addition to the authority, regulation, or control exercised  
3120 by the Division of Florida Condominiums, Homeowners'  
3121 Associations, Timeshares, and Mobile Homes pursuant to this act  
3122 with respect to cooperatives, buildings included in a  
3123 cooperative property shall be subject to the authority,  
3124 regulation, or control of the Division of Hotels and Restaurants  
3125 of the Department of Business and Professional Regulation, to  
3126 the extent provided in chapters 399 and 509.

3127 Section 40. Paragraph (a) of subsection (2) of section  
3128 719.608, Florida Statutes, is amended to read:

3129 719.608 Notice of intended conversion; time of delivery;  
3130 content.—

3131 (2) (a) Each notice of intended conversion shall be dated  
3132 and in writing. The notice shall contain the following  
3133 statement, with the phrases of the following statement which  
3134 appear in upper case printed in conspicuous type:

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3136           These apartments are being converted to cooperative by  
3137           ...(name of developer)..., the developer.

3138           1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
3139           YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
3140           AGREEMENT AS FOLLOWS:

3141           a. If you have continuously been a resident of these  
3142           apartments during the last 180 days and your rental agreement  
3143           expires during the next 270 days, you may extend your rental  
3144           agreement for up to 270 days after the date of this notice.

3145           b. If you have not been a continuous resident of these  
3146           apartments for the last 180 days and your rental agreement  
3147           expires during the next 180 days, you may extend your rental  
3148           agreement for up to 180 days after the date of this notice.

3149           c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
3150           MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
3151           DATE OF THIS NOTICE.

3152           2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
3153           you may extend your rental agreement for up to 45 days after the  
3154           date of this notice while you decide whether to extend your  
3155           rental agreement as explained above. To do so, you must notify  
3156           the developer in writing. You will then have the full 45 days to  
3157           decide whether to extend your rental agreement as explained  
3158           above.

3159           3. During the extension of your rental agreement you will  
3160           be charged the same rent that you are now paying.

3161           4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
3162           OF THE RENTAL AGREEMENT AS FOLLOWS:

3163           a. If your rental agreement began or was extended or  
3164           renewed after May 1, 1980, and your rental agreement, including

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3165 extensions and renewals, has an unexpired term of 180 days or  
3166 less, you may cancel your rental agreement upon 30 days' written  
3167 notice and move. Also, upon 30 days' written notice, you may  
3168 cancel any extension of the rental agreement.

3169 b. If your rental agreement was not begun or was not  
3170 extended or renewed after May 1, 1980, you may not cancel the  
3171 rental agreement without the consent of the developer. If your  
3172 rental agreement, including extensions and renewals, has an  
3173 unexpired term of 180 days or less, you may, however, upon 30  
3174 days' written notice cancel any extension of the rental  
3175 agreement.

3176 5. All notices must be given in writing and sent by mail,  
3177 return receipt requested, or delivered in person to the  
3178 developer at this address: ...(name and address of  
3179 developer)....

3180 6. If you have continuously been a resident of these  
3181 apartments during the last 180 days:

3182 a. You have the right to purchase your apartment and will  
3183 have 45 days to decide whether to purchase. If you do not buy  
3184 the unit at that price and the unit is later offered at a lower  
3185 price, you will have the opportunity to buy the unit at the  
3186 lower price. However, in all events your right to purchase the  
3187 unit ends when the rental agreement or any extension of the  
3188 rental agreement ends or when you waive this right in writing.

3189 b. Within 90 days you will be provided purchase information  
3190 relating to your apartment, including the price of your unit and  
3191 the condition of the building. If you do not receive this  
3192 information within 90 days, your rental agreement and any  
3193 extension will be extended 1 day for each day over 90 days until

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3194 you are given the purchase information. If you do not want this  
3195 rental agreement extension, you must notify the developer in  
3196 writing.

3197 7. If you have any questions regarding this conversion or  
3198 the Cooperative Act, you may contact the developer or the state  
3199 agency which regulates cooperatives: The Division of Florida  
3200 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
3201 Homes, ... (Tallahassee address and telephone number of  
3202 division)....

3203 Section 41. Subsection (11) of section 721.05, Florida  
3204 Statutes, is amended to read:

3205 721.05 Definitions.—As used in this chapter, the term:

3206 (11) "Division" means the Division of Florida Condominiums,  
3207 Homeowners' Associations, Timeshares, and Mobile Homes of the  
3208 Department of Business and Professional Regulation.

3209 Section 42. Paragraph (d) of subsection (2) of section  
3210 721.07, Florida Statutes, is amended to read:

3211 721.07 Public offering statement.—Prior to offering any  
3212 timeshare plan, the developer must submit a filed public  
3213 offering statement to the division for approval as prescribed by  
3214 s. 721.03, s. 721.55, or this section. Until the division  
3215 approves such filing, any contract regarding the sale of that  
3216 timeshare plan is subject to cancellation by the purchaser  
3217 pursuant to s. 721.10.

3218 (2)

3219 (d) A developer shall have the authority to deliver to  
3220 purchasers any purchaser public offering statement that is not  
3221 yet approved by the division, provided that the following shall  
3222 apply:

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3223 1. At the time the developer delivers an unapproved  
3224 purchaser public offering statement to a purchaser pursuant to  
3225 this paragraph, the developer shall deliver a fully completed  
3226 and executed copy of the purchase contract required by s. 721.06  
3227 that contains the following statement in conspicuous type in  
3228 substantially the following form which shall replace the  
3229 statements required by s. 721.06(1)(g):

3230

3231 *The developer is delivering to you a public offering statement*  
3232 *that has been filed with but not yet approved by the Division of*  
3233 *Florida Condominiums, Homeowners' Associations, Timeshares, and*  
3234 *Mobile Homes. Any revisions to the unapproved public offering*  
3235 *statement you have received must be delivered to you, but only*  
3236 *if the revisions materially alter or modify the offering in a*  
3237 *manner adverse to you. After the division approves the public*  
3238 *offering statement, you will receive notice of the approval from*  
3239 *the developer and the required revisions, if any.*

3240

3241 *Your statutory right to cancel this transaction without any*  
3242 *penalty or obligation expires 10 calendar days after the date*  
3243 *you signed your purchase contract or the date on which you*  
3244 *receive the last of all documents required to be given to you*  
3245 *pursuant to section 721.07(6), Florida Statutes, or 10 calendar*  
3246 *days after you receive revisions required to be delivered to*  
3247 *you, if any, whichever is later. If you decide to cancel this*  
3248 *contract, you must notify the seller in writing of your intent*  
3249 *to cancel. Your notice of cancellation shall be effective upon*  
3250 *the date sent and shall be sent to ... (Name of Seller) ... at*  
3251 *... (Address of Seller) ... Any attempt to obtain a waiver of*



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3252 *your cancellation right is void and of no effect. While you may*  
3253 *execute all closing documents in advance, the closing, as*  
3254 *evidenced by delivery of the deed or other document, before*  
3255 *expiration of your 10-day cancellation period, is prohibited.*  
3256

3257       2. After receipt of approval from the division and before  
3258 ~~prior to~~ closing, if any revisions made to the documents  
3259 contained in the purchaser public offering statement materially  
3260 alter or modify the offering in a manner adverse to a purchaser,  
3261 the developer shall send the purchaser such revisions, together  
3262 with a notice containing a statement in conspicuous type in  
3263 substantially the following form:

3264  
3265 *The unapproved public offering statement previously delivered to*  
3266 *you, together with the enclosed revisions, has been approved by*  
3267 *the Division of Florida Condominiums, Homeowners' Associations,*  
3268 *Timeshares, and Mobile Homes. Accordingly, your cancellation*  
3269 *right expires 10 calendar days after you sign your purchase*  
3270 *contract or 10 calendar days after you receive these revisions,*  
3271 *whichever is later. If you have any questions regarding your*  
3272 *cancellation rights, you may contact the division at [insert*  
3273 *division's current address].*  
3274

3275       3. After receipt of approval from the division and before  
3276 ~~prior to~~ closing, if no revisions have been made to the  
3277 documents contained in the unapproved purchaser public offering  
3278 statement, or if such revisions do not materially alter or  
3279 modify the offering in a manner adverse to a purchaser, the  
3280 developer shall send the purchaser a notice containing a

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3281 statement in conspicuous type in substantially the following  
3282 form:

3283

3284 *The unapproved public offering statement previously delivered to*  
3285 *you has been approved by the Division of Florida Condominiums,*  
3286 *Homeowners' Associations, Timeshares, and Mobile Homes.*

3287 *Revisions made to the unapproved public offering statement, if*  
3288 *any, are not required to be delivered to you or are not deemed*  
3289 *by the developer, in its opinion, to materially alter or modify*  
3290 *the offering in a manner that is adverse to you. Accordingly,*  
3291 *your cancellation right expired 10 days after you signed your*  
3292 *purchase contract. A complete copy of the approved public*  
3293 *offering statement is available through the managing entity for*  
3294 *inspection as part of the books and records of the plan. If you*  
3295 *have any questions regarding your cancellation rights, you may*  
3296 *contact the division at [insert division's current address].*

3297 Section 43. Subsection (8) of section 721.08, Florida  
3298 Statutes, is amended to read:

3299 721.08 Escrow accounts; nondisturbance instruments;  
3300 alternate security arrangements; transfer of legal title.-

3301 (8) An escrow agent holding escrowed funds pursuant to this  
3302 chapter that have not been claimed for a period of 5 years after  
3303 the date of deposit shall make at least one reasonable attempt  
3304 to deliver such unclaimed funds to the purchaser who submitted  
3305 such funds to escrow. In making such attempt, an escrow agent is  
3306 entitled to rely on a purchaser's last known address as set  
3307 forth in the books and records of the escrow agent and is not  
3308 required to conduct any further search for the purchaser. If an  
3309 escrow agent's attempt to deliver unclaimed funds to any

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3310 purchaser is unsuccessful, the escrow agent may deliver such  
3311 unclaimed funds to the division and the division shall deposit  
3312 such unclaimed funds in the Division of Florida Condominiums,  
3313 Homeowners' Associations, Timeshares, and Mobile Homes Trust  
3314 Fund, 30 days after giving notice in a publication of general  
3315 circulation in the county in which the timeshare property  
3316 containing the purchaser's timeshare interest is located. The  
3317 purchaser may claim the same at any time before ~~prior to~~ the  
3318 delivery of such funds to the division. After delivery of such  
3319 funds to the division, the purchaser shall have no more rights  
3320 to the unclaimed funds. The escrow agent is ~~shall~~ not ~~be~~ liable  
3321 for any claims from any party arising out of the escrow agent's  
3322 delivery of the unclaimed funds to the division pursuant to this  
3323 section.

3324 Section 44. Paragraph (e) of subsection (5) of section  
3325 721.26, Florida Statutes, is amended to read:

3326 721.26 Regulation by division.—The division has the power  
3327 to enforce and ensure compliance with this chapter, except for  
3328 parts III and IV, using the powers provided in this chapter, as  
3329 well as the powers prescribed in chapters 718 and 719. In  
3330 performing its duties, the division shall have the following  
3331 powers and duties:

3332 (5) Notwithstanding any remedies available to purchasers,  
3333 if the division has reasonable cause to believe that a violation  
3334 of this chapter, or of any division rule adopted or order issued  
3335 pursuant to this chapter, has occurred, the division may  
3336 institute enforcement proceedings in its own name against any  
3337 regulated party, as such term is defined in this subsection:

3338 (e)1. The division may impose a penalty against any

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3339 regulated party for a violation of this chapter or any rule  
3340 adopted thereunder. A penalty may be imposed on the basis of  
3341 each day of continuing violation, but in no event may the  
3342 penalty for any offense exceed \$10,000. All accounts collected  
3343 shall be deposited with the Chief Financial Officer to the  
3344 credit of the Division of Florida Condominiums, Homeowners'  
3345 Associations, Timeshares, and Mobile Homes Trust Fund.

3346 2.a. If a regulated party fails to pay a penalty, the  
3347 division shall thereupon issue an order directing that such  
3348 regulated party cease and desist from further operation until  
3349 such time as the penalty is paid; or the division may pursue  
3350 enforcement of the penalty in a court of competent jurisdiction.

3351 b. If an owners' association or managing entity fails to  
3352 pay a civil penalty, the division may pursue enforcement in a  
3353 court of competent jurisdiction.

3354 Section 45. Section 721.28, Florida Statutes, is amended to  
3355 read:

3356 721.28 Division of Florida Condominiums, Homeowners'  
3357 Associations, Timeshares, and Mobile Homes Trust Fund.—All funds  
3358 collected by the division and any amounts paid as fees or  
3359 penalties under this chapter shall be deposited in the State  
3360 Treasury to the credit of the Division of Florida Condominiums,  
3361 Homeowners' Associations, Timeshares, and Mobile Homes Trust  
3362 Fund created by s. 718.509.

3363 Section 46. Paragraph (c) of subsection (1) of section  
3364 721.301, Florida Statutes, is amended to read:

3365 721.301 Florida Timesharing, Vacation Club, and Hospitality  
3366 Program.—

3367 (1)

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3368 (c) The director may designate funds from the Division of  
3369 Florida Condominiums, Homeowners' Associations, Timeshares, and  
3370 Mobile Homes Trust Fund, not to exceed \$50,000 annually, to  
3371 support the projects and proposals undertaken pursuant to  
3372 paragraph (b). All state trust funds to be expended pursuant to  
3373 this section must be matched equally with private moneys and  
3374 shall comprise no more than half of the total moneys expended  
3375 annually.

3376 Section 47. Subsection (2) and paragraph (a) of subsection  
3377 (7) of section 723.003, Florida Statutes, are amended to read:

3378 723.003 Definitions.—As used in this chapter, the term:

3379 (2) "Division" means the Division of Florida Condominiums,  
3380 Homeowners' Associations, Timeshares, and Mobile Homes of the  
3381 Department of Business and Professional Regulation.

3382 (7) (a) "Mediation" means a process whereby a mediator  
3383 appointed by the Division of Florida Condominiums, Homeowners'  
3384 Associations, Timeshares, and Mobile Homes, or mutually selected  
3385 by the parties, acts to encourage and facilitate the resolution  
3386 of a dispute. It is an informal and nonadversarial process with  
3387 the objective of helping the disputing parties reach a mutually  
3388 acceptable agreement.

3389 Section 48. Paragraph (e) of subsection (5) of section  
3390 723.006, Florida Statutes, is amended to read:

3391 723.006 Powers and duties of division.—In performing its  
3392 duties, the division has the following powers and duties:

3393 (5) Notwithstanding any remedies available to mobile home  
3394 owners, mobile home park owners, and homeowners' associations,  
3395 if the division has reasonable cause to believe that a violation  
3396 of any provision of this chapter or related rule has occurred,

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3397 the division may institute enforcement proceedings in its own  
3398 name against a developer, mobile home park owner, or homeowners'  
3399 association, or its assignee or agent, as follows:

3400 (e)1. The division may impose a civil penalty against a  
3401 mobile home park owner or homeowners' association, or its  
3402 assignee or agent, for any violation of this chapter, a properly  
3403 adopted park rule or regulation, or a rule adopted pursuant  
3404 hereto. A penalty may be imposed on the basis of each separate  
3405 violation and, if the violation is a continuing one, for each  
3406 day of continuing violation, but in no event may the penalty for  
3407 each separate violation or for each day of continuing violation  
3408 exceed \$5,000. All amounts collected shall be deposited with the  
3409 Chief Financial Officer to the credit of the Division of Florida  
3410 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
3411 Homes Trust Fund.

3412 2. If a violator fails to pay the civil penalty, the  
3413 division shall thereupon issue an order directing that such  
3414 violator cease and desist from further violation until such time  
3415 as the civil penalty is paid or may pursue enforcement of the  
3416 penalty in a court of competent jurisdiction. If a homeowners'  
3417 association fails to pay the civil penalty, the division shall  
3418 ~~thereupon~~ pursue enforcement in a court of competent  
3419 jurisdiction, and the order imposing the civil penalty or the  
3420 cease and desist order does ~~shall~~ not become effective until 20  
3421 days after the date of such order. Any action commenced by the  
3422 division shall be brought in the county in which the division  
3423 has its executive offices or in which the violation occurred.

3424 Section 49. Section 723.009, Florida Statutes, is amended  
3425 to read:

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3426           723.009 Division of Florida Condominiums, Homeowners'  
3427 Associations, Timeshares, and Mobile Homes Trust Fund.—All  
3428 proceeds from the fees, penalties, and fines imposed pursuant to  
3429 this chapter shall be deposited into the Division of Florida  
3430 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
3431 Homes Trust Fund created by s. 718.509. Moneys in this fund, as  
3432 appropriated by the Legislature pursuant to chapter 216, may be  
3433 used to defray the expenses incurred by the division in  
3434 administering ~~the provisions of~~ this chapter.

3435           Section 50. Paragraph (c) of subsection (2) of section  
3436 723.0611, Florida Statutes, is amended to read:

3437           723.0611 Florida Mobile Home Relocation Corporation.—

3438           (2)

3439           (c) The corporation shall, for purposes of s. 768.28, be  
3440 considered an agency of the state. Agents or employees of the  
3441 corporation, members of the board of directors of the  
3442 corporation, or representatives of the Division of Florida  
3443 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
3444 Homes shall be considered officers, employees, or agents of the  
3445 state, and actions against them and the corporation shall be  
3446 governed by s. 768.28.

3447           Section 51. Section 723.1255, Florida Statutes, is amended  
3448 to read:

3449           723.1255 Alternative resolution of recall disputes.—The  
3450 Division of Florida Condominiums, Homeowners' Associations,  
3451 Timeshares, and Mobile Homes of the Department of Business and  
3452 Professional Regulation shall adopt rules of procedure to govern  
3453 binding recall arbitration proceedings.

3454           Section 52. This act shall take effect July 1, 2016.