

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 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 the Division of Florida Condominiums, Homeowners'
10 Associations, Timeshares, and Mobile Homes Trust Fund;
11 amending s. 720.301, F.S.; defining terms; creating s.
12 720.3011, F.S.; providing that the Legislature
13 reserves the power to amend or repeal chapter 720,
14 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 chapter 720, F.S., or rules adopted
24 thereto has 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
33 | the Florida Condominiums, Homeowners' Associations,
34 | Timeshares, and Mobile Homes Trust Fund; creating s.
35 | 720.3029, F.S.; providing homeowners' association
36 | fees; amending s. 720.303, F.S.; requiring written
37 | notice of a board meeting at which increases in
38 | assessments or amendments to governing documents will
39 | be considered; specifying notice requirements;
40 | amending s. 720.305, F.S.; authorizing a homeowners'
41 | association to impose fines if its original governing
42 | documents authorized the imposition of such fines;
43 | prohibiting a fine from becoming a lien against a
44 | parcel; amending s. 720.306, F.S.; restricting the
45 | amendment of the declaration of a homeowners'
46 | association to a specified vote of the affected
47 | parcels; revising annual meeting requirements;
48 | providing requirements for voting by general and
49 | limited proxy; revising provisions relating to board
50 | elections and vacancies; amending s. 720.307, F.S.;
51 | revising the applicability of certain provisions that
52 | relate to the transition of association control in a

53 community; amending ss. 73.073, 192.037, 213.053,
 54 326.002, 326.006, 380.0651, 455.116, 475.455, 509.512,
 55 559.935, 718.103, 718.105, 718.1255, 718.501,
 56 718.5011, 718.502, 718.503, 718.504, 718.508, 718.608,
 57 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508,
 58 719.608, 721.05, 721.07, 721.08, 721.26, 721.28,
 59 721.301, 723.003, 723.006, 723.009, 723.0611, and
 60 723.1255, F.S.; conforming cross-references to changes
 61 made by the act; providing an effective date.

62

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

64

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

67 20.165 Department of Business and Professional
 68 Regulation.—There is created a Department of Business and
 69 Professional Regulation.

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

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

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

79 718.509 Division of Florida Condominiums, Homeowners'
 80 Associations, Timeshares, and Mobile Homes Trust Fund.—

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

87 (2) All moneys collected by the division from fees, fines,
 88 or penalties or from costs awarded to the division by a court or
 89 administrative final order shall be paid into the Division of
 90 Florida Condominiums, Homeowners' Associations, Timeshares, and
 91 Mobile Homes Trust Fund. The Legislature shall appropriate funds
 92 from this trust fund sufficient to carry out the provisions of
 93 this chapter and the provisions of law with respect to each
 94 category of business covered by the trust fund. The division
 95 shall maintain separate revenue accounts in the trust fund for
 96 each of the businesses regulated by the division. The division
 97 shall provide for the proportionate allocation among the
 98 accounts of expenses incurred by the division in the performance
 99 of its duties with respect to each of these businesses. As part
 100 of its normal budgetary process, the division shall prepare an
 101 annual report of revenue and allocated expenses related to the
 102 operation of each of these businesses which may be used to
 103 determine fees charged by the division. This subsection shall
 104 operate pursuant to the provisions of s. 215.20.

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

109 720.301 Definitions.—As used in this chapter, the term:
 110 (7) "Division" means the Division of Florida Condominiums,
 111 Homeowners' Associations, Timeshares, and Mobile Homes in the
 112 Department of Business and Professional Regulation.

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

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

118 720.3011 Reservation of power to amend or repeal.—The
 119 Legislature has the power to amend or repeal all or part of this
 120 chapter at any time, and all homeowners' associations subject to
 121 this chapter shall be governed by the amendment or repeal.

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

124 720.302 Purposes, scope, and application.—

125 (1) The purposes of this chapter are to give statutory
 126 recognition to corporations not for profit that administer or
 127 operate residential communities in this state, to provide
 128 regulations ~~procedures~~ for operating homeowners' associations,
 129 and to protect the rights of association members without unduly
 130 impairing the ability of such associations to perform their

131 functions as authorized by federal, state, and local laws and
132 the governing documents of the association.

133 (2) Having provided certain powers and authority to
134 homeowners' associations and in deed restrictions created by
135 developers of mandated properties in residential communities,
136 the Legislature recognizes that it is necessary to provide
137 regulatory oversight of such associations to ensure compliance
138 with federal and state laws and local ordinances. It is the
139 intent of the Legislature to protect the rights of parcel owners
140 by ensuring that the powers and authority granted to homeowners'
141 associations and in deed restrictions created by developers of
142 mandated properties in residential communities conform to a
143 system of checks and balances in order to prevent abuses by
144 these governing authorities. Further ~~The Legislature recognizes~~
145 ~~that it is not in the best interest of homeowners' associations~~
146 ~~or the individual association members thereof to create or~~
147 ~~impose a bureau or other agency of state government to regulate~~
148 ~~the affairs of homeowners' associations. However, in accordance~~
149 ~~with s. 720.311, the Legislature finds that homeowners'~~
150 associations and their individual members will benefit from an
151 expedited alternative process for the resolution of election and
152 recall disputes and presuit mediation of other disputes
153 involving covenant enforcement and authorizes the department to
154 hear, administer, and determine these disputes as more fully set
155 forth in this chapter. ~~Further,~~ The Legislature recognizes that
156 certain contract rights that were created before June 14, 1995,

157 were ~~have been~~ created for the benefit of homeowners'
158 associations and their members ~~thereof before the effective date~~
159 ~~of this act~~ and that this chapter is ss. 720.301-720.407 are not
160 intended to impair such contract rights, including, but not
161 limited to, the rights of the developer to complete the
162 community as initially contemplated.

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

165 720.3021 Division powers and duties.-

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

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

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

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

176 (2) The division shall:

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

179 (b) Establish procedures for providing notice to an
180 association and the developer during the period the developer
181 controls the association if the division is considering the
182 issuance of a declaratory statement with respect to the

183 homeowners' association or any related document governing such
184 community.

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

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

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

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

205 1. Only volunteer mediators who have received at least 20
206 hours of training in mediation techniques or who have mediated
207 at least 20 disputes may be included on the list.

208 2. For initial certification by the division, paid

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

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

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

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

227 (j) Submit to the Governor, the President of the Senate,
228 and the Speaker of the House of Representatives an annual report
229 that includes, at a minimum, the number of training programs
230 provided for homeowners' association board members and parcel
231 owners under paragraph (2)(d); and the number of complaints
232 received by type, the number and percent of complaints
233 acknowledged in writing within 30 days, the number and percent
234 of resulting investigations conducted within 90 days, and the

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

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

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

245 720.3022 Complaints; investigations; service of process;
246 penalty guidelines.—

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

258 (a) The division shall acknowledge the complaint in
259 writing and notify the complainant as to whether the complaint
260 is within the jurisdiction of the division and whether

261 additional information is needed by the division from the
262 complainant.

263 (b) The division shall conduct its investigation and,
264 within 90 days after receipt of the original complaint or timely
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
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
299 a statement in writing, under oath or otherwise, as determined
300 by 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
311 owners 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
323 developer, association, developer-designated officer, or
324 developer designated member of the board of administration,
325 developer designated assignees or agents, community association
326 manager, or community association management firm to cease and
327 desist from the unlawful practice and take such affirmative
328 action as the division determines will carry out the purposes of
329 this chapter. If the division finds that a developer,
330 association, officer, or member of the board of administration,
331 or its assignees or agents, is violating or is about to violate
332 this chapter, any rule adopted or order issued by the division,
333 or any written agreement entered into with the division, and
334 such violation presents an immediate danger to the public
335 requiring an immediate final order, it may issue an emergency
336 cease and desist order reciting with particularity the facts
337 underlying such findings. The emergency cease and desist order
338 is effective for 90 days. If the division begins nonemergency

339 cease and desist proceedings, the emergency cease and desist
340 order remains effective until the conclusion of the proceedings
341 under ss. 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
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

365 order 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
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 the

391 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 subsection s. 720.302(11). The civil penalty must be
408 at least \$500 but may not exceed \$5,000 for each violation. The
409 court may also award to the prevailing party court costs and
410 reasonable attorney fees and, if the division prevails, may also
411 award 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 whom the
418 division believes has altered, destroyed, concealed, or removed
419 any 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
433 sends a copy of the process and the pleading by certified mail
434 to the defendant or respondent at his or her last known address;
435 and

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

439 (b) If a person, including a nonresident of this state,
440 allegedly engages in conduct prohibited by this chapter or any
441 rule or order of the division, has not filed a consent to
442 service of process, and personal jurisdiction over him or her

443 cannot otherwise be obtained in this state, the director may
444 receive service of process in any noncriminal proceeding against
445 that person or his or her successor which grows out of the
446 conduct and which is brought by the division under this chapter
447 or any rule or order of the division. Such process has the same
448 force and validity as if personally served. Notice shall be
449 given as provided in paragraph (a).

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

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

484 Section 8. Section 720.3023, Florida Statutes, is created
485 to read:

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

493 Section 9. Section 720.3029, Florida Statutes, is created
494 to read:

495 720.3029 Homeowners' association fees.—Effective January
496 1, 2016, each homeowners' association that operates more than
497 two parcels must pay to the division an annual fee of \$4 for
498 each residential parcel operated by the association. Beginning
499 January 1, 2017, the division may increase the fee to reflect
500 changes in the cost of living under s. 401(a)(17) of the
501 Internal Revenue Code.

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

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

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

518 Section 10. Paragraph (c) of subsection (2) of section
519 720.303, Florida Statutes, is amended to read:

520 720.303 Association powers and duties; meetings of board;

521 official records; budgets; financial reporting; association
522 funds; recalls.—

523 (2) BOARD MEETINGS.—

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

527 1. Notices of all board meetings must be posted in a
528 conspicuous place in the community at least 48 hours in advance
529 of a meeting, except in an emergency. In the alternative, if
530 notice is not posted in a conspicuous place in the community,
531 notice of each board meeting must be mailed or delivered to each
532 member at least 7 days before the meeting, except in an
533 emergency. Notwithstanding this general notice requirement, for
534 communities with more than 100 members, the bylaws may provide
535 for a reasonable alternative to posting or mailing of notice for
536 each board meeting, including publication of notice, provision
537 of a schedule of board meetings, or the conspicuous posting and
538 repeated broadcasting of the notice on a closed-circuit cable
539 television system serving the homeowners' association. However,
540 if broadcast notice is used in lieu of a notice posted
541 physically in the community, the notice must be broadcast at
542 least four times every broadcast hour of each day that a posted
543 notice is otherwise required. When broadcast notice is provided,
544 the notice and agenda must be broadcast in a manner and for a
545 sufficient continuous length of time so as to allow an average
546 reader to observe the notice and read and comprehend the entire

547 content of the notice and the agenda. The association may
548 provide notice by electronic transmission in a manner authorized
549 by law for meetings of the board of directors, committee
550 meetings requiring notice under this section, and annual and
551 special meetings of the members; however, a member must consent
552 in writing to receiving notice by electronic transmission.

553 2. An assessment may not be levied at a board meeting
554 unless the notice of the meeting includes a statement that
555 assessments will be considered and the nature of the
556 assessments. Written notice of any meeting at which special
557 assessments, increases in assessments, or amendments to
558 governing documents will be considered or at which amendments to
559 rules regarding parcel use will be considered must be mailed,
560 delivered, or electronically transmitted to the members and
561 parcel owners and posted conspicuously on the property or
562 broadcast on closed-circuit cable television not less than 14
563 days before the meeting regardless of contrary notice
564 requirements in a governing document.

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

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573 community.

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

576 720.305 Obligations of members; remedies at law or in
577 equity; levy of fines and suspension of use rights.—

578 (2) If the association is authorized by its original
579 governing documents to impose fines, it may levy reasonable
580 fines. A fine may not exceed \$100 per violation against any
581 member or any member's tenant, guest, or invitee for the failure
582 of the owner of the parcel or its occupant, licensee, or invitee
583 to comply with any provision of the declaration, the association
584 bylaws, or reasonable rules of the association unless otherwise
585 provided in the governing documents. A fine may be levied by the
586 board for each day of a continuing violation, with a single
587 notice and opportunity for hearing, except that the fine may not
588 exceed \$1,000 in the aggregate unless otherwise provided in the
589 governing documents. A fine ~~of less than \$1,000~~ may not become a
590 lien against a parcel. In any action to recover a fine, the
591 prevailing party is entitled to reasonable attorney fees and
592 costs from the nonprevailing party as determined by the court.

593 (a) An association may suspend, for a reasonable period of
594 time, the right of a member, or a member's tenant, guest, or
595 invitee, to use common areas and facilities for the failure of
596 the owner of the parcel or its occupant, licensee, or invitee to
597 comply with any provision of the declaration, the association
598 bylaws, or reasonable rules of the association. This paragraph

599 does not apply to that portion of common areas used to provide
600 access or utility services to the parcel. A suspension may not
601 prohibit an owner or tenant of a parcel from having vehicular
602 and pedestrian ingress to and egress from the parcel, including,
603 but not limited to, the right to park.

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

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

622 720.306 Meetings of members; voting and election
623 procedures; amendments.—

624 (1) QUORUM; AMENDMENTS.—

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

637 (b) Unless otherwise provided in the governing documents
 638 or required by law, and other than those matters set forth in
 639 paragraph (c), ~~any governing document~~ the bylaws or articles of
 640 incorporation of an association may be amended by the
 641 affirmative vote of two-thirds of the voting interests of the
 642 association, and the declaration may be amended by the
 643 affirmative vote of parcel owners representing two-thirds of the
 644 voting interests of the affected parcels. Within 30 days after
 645 recording an amendment to the governing documents, the
 646 association shall provide copies of the amendment to the
 647 members. However, if a copy of the proposed amendment is
 648 provided to the members before they vote on the amendment and
 649 the proposed amendment is not changed before the vote, the
 650 association, in lieu of providing a copy of the amendment, may

651 provide notice to the members that the amendment was adopted,
652 identifying the official book and page number or instrument
653 number of the recorded amendment and that a copy of the
654 amendment is available at no charge to the member upon written
655 request to the association. The copies and notice described in
656 this paragraph may be provided electronically to those owners
657 who previously consented to receive notice electronically. The
658 failure to timely provide notice of the recording of the
659 amendment does not affect the validity or enforceability of the
660 amendment.

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

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

676 (5) NOTICE OF MEETINGS.—The bylaws must ~~shall~~ provide for

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

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

703 the frequency, duration, and other manner of member and parcel
704 owner statements, which are ~~rules must be~~ consistent with this
705 subsection.

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

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

712 1. Votes taken to waive or reduce reserves in accordance
713 with 720.303(6);

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

716 3. Votes taken to amend the declaration;

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

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

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

725 (c) Limited proxies and general proxies may be used to
726 establish a quorum.

727 (d) Voting interests or consent rights allocated to a
728 parcel owned by the association may not be exercised or

729 considered for any purpose, whether for a quorum, an election,
730 or otherwise.

731 (e) Any proxy given is effective only for the specific
732 meeting for which originally given and any lawfully adjourned
733 meetings thereof. In no event is a proxy valid for longer than
734 90 days after the date of the first meeting for which it was
735 given. Every proxy is revocable at any time at the pleasure of
736 the parcel owner executing it.

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

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

753 ~~(b) If the governing documents permit voting by secret~~
754 ~~ballot by members who are not in attendance at a meeting of the~~

755 ~~members for the election of directors, such ballots must be~~
756 ~~placed in an inner envelope with no identifying markings and~~
757 ~~mailed or delivered to the association in an outer envelope~~
758 ~~bearing identifying information reflecting the name of the~~
759 ~~member, the lot or parcel for which the vote is being cast, and~~
760 ~~the signature of the lot or parcel owner casting that ballot. If~~
761 ~~the eligibility of the member to vote is confirmed and no other~~
762 ~~ballot has been submitted for that lot or parcel, the inner~~
763 ~~envelope shall be removed from the outer envelope bearing the~~
764 ~~identification information, placed with the ballots which were~~
765 ~~personally cast, and opened when the ballots are counted. If~~
766 ~~more than one ballot is submitted for a lot or parcel, the~~
767 ~~ballots for that lot or parcel shall be disqualified. Any vote~~
768 ~~by ballot received after the closing of the balloting may not be~~
769 ~~considered.~~

770 (9) ELECTIONS AND BOARD VACANCIES.—

771 (a) Unless the governing documents provide otherwise, a
772 vacancy on the board of directors caused by the expiration of a
773 director's term shall be filled by electing a new board member.
774 This section applies to any mandatory association that governs
775 10 parcels or more. The election must occur on the date of the
776 annual meeting.

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

781 candidates become members of the board effective upon the
782 adjournment of the annual meeting.

783 2. If the governing documents permit staggered terms of up
784 to 2 years, and upon approval of a majority of the total voting
785 interests, the association board members may serve 2-year
786 staggered terms. If the staggered term of a board member does
787 not expire until a later annual meeting, or if all members'
788 terms would otherwise expire but there are no candidates, the
789 terms of all board members expire at the annual meeting, and
790 such members may stand for reelection unless prohibited by the
791 governing documents.

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

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

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

807 directors if:

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

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

817 (c) The members of the board shall be elected by secret
818 ballot using a written ballot or voting machine. Proxies may not
819 be used in electing the board in general elections or elections
820 to fill vacancies caused by recall or resignation unless
821 otherwise provided in this chapter.

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

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

832 3. Together with the notice and agenda required under

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

846 4. Elections shall be decided by a plurality of ballots
847 cast. There is no quorum requirement; however, at least 20
848 percent of the eligible voters must cast a ballot in order to
849 have a valid election. A parcel owner may not permit any other
850 person to vote his or her ballot, and any ballots improperly
851 cast are invalid. A parcel owner who violates this provision may
852 be fined by the association in accordance with s. 720.305. A
853 parcel owner who needs assistance in casting the ballot for the
854 reasons stated in s. 101.051 may obtain such assistance.

855 5. The division shall by rule establish voting procedures
856 consistent with this paragraph, including rules establishing
857 procedures for giving notice by electronic transmission and
858 rules providing for the secrecy of ballots.

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

874 ~~(d)~~ (b) A person who is delinquent in the payment of any
875 fee, fine, or other monetary obligation to the association on
876 the day that he or she could last nominate himself or herself or
877 be nominated for the board may not seek election to the board,
878 and his or her name shall not be listed on the ballot. A person
879 serving as a board member who becomes more than 90 days
880 delinquent in the payment of any fee, fine, or other monetary
881 obligation to the association shall be deemed to have abandoned
882 his or her seat on the board, creating a vacancy on the board to
883 be filled according to law. For purposes of this paragraph, the
884 term "any fee, fine, or other monetary obligation" means any

885 delinquency to the association with respect to any parcel. A
886 person who has been convicted of any felony in this state or in
887 a United States District or Territorial Court, or has been
888 convicted of any offense in another jurisdiction which would be
889 considered a felony if committed in this state, may not seek
890 election to the board and is not eligible for board membership
891 unless such felon's civil rights have been restored for at least
892 5 years as of the date on which such person seeks election to
893 the board. The validity of any action by the board is not
894 affected if it is later determined that a person was ineligible
895 to seek election to the board or that a member of the board is
896 ineligible for board membership.

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

904 1. Unless otherwise provided in the governing documents
905 ~~bylaws~~, any vacancy occurring on the board before the expiration
906 of a term may be filled by an affirmative vote of the majority
907 of the remaining directors, even if the remaining directors
908 constitute less than a quorum, or by the sole remaining
909 director. In the alternative, a board may hold an election to
910 fill the vacancy, in which case the election procedures must

911 conform to the requirements of the governing documents.

912 2. Unless otherwise provided in the governing documents
 913 ~~bylaws~~, a board member appointed or elected under this section
 914 is appointed for the unexpired term of the seat being filled.
 915 Filling vacancies created by recall is governed by s.
 916 720.303(10) and rules adopted by the division.

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

919 720.307 Transition of association control in a community.-
 920 With respect to homeowners' associations:

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

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

930 73.073 Eminent domain procedure with respect to
 931 condominium common elements.-

932 (2) With respect to the exercise of eminent domain or a
 933 negotiated sale for the purchase or taking of a portion of the
 934 common elements of a condominium, the condemning authority shall
 935 have the responsibility of contacting the condominium
 936 association and acquiring the most recent rolls indicating the

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

946 (a) The name and address of the condemning authority.
947 (b) A written or visual description of the property.
948 (c) The public purpose for which the property is needed.
949 (d) The appraisal value of the property.
950 (e) A clear, concise statement relating to the unit
951 owner's right to object to the taking or appraisal value and the
952 procedures and effects of exercising that right.

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

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

963 Section 15. Paragraph (e) of subsection (6) of section
 964 192.037, Florida Statutes, is amended to read:

965 192.037 Fee timeshare real property; taxes and
 966 assessments; escrow.—

967 (6)

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

976 Section 16. Paragraph (i) of subsection (8) of section
 977 213.053, Florida Statutes, is amended to read:

978 213.053 Confidentiality and information sharing.—

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

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

985
 986 Disclosure of information under this subsection shall be
 987 pursuant to a written agreement between the executive director
 988 and the agency. Such agencies, governmental or nongovernmental,

989 shall be bound by the same requirements of confidentiality as
990 the Department of Revenue. Breach of confidentiality is a
991 misdemeanor of the first degree, punishable as provided by s.
992 775.082 or s. 775.083.

993 Section 17. Subsection (2) of section 326.002, Florida
994 Statutes, is amended to read:

995 326.002 Definitions.—As used in ss. 326.001-326.006, the
996 term:

997 (2) "Division" means the Division of Florida Condominiums,
998 Homeowners' Associations, Timeshares, and Mobile Homes of the
999 Department of Business and Professional Regulation.

1000 Section 18. Paragraph (d) of subsection (2) and subsection
1001 (3) of section 326.006, Florida Statutes, are amended to read:

1002 326.006 Powers and duties of division.—

1003 (2) The division has the power to enforce and ensure
1004 compliance with the provisions of this chapter and rules adopted
1005 under this chapter relating to the sale and ownership of yachts
1006 and ships. In performing its duties, the division has the
1007 following powers and duties:

1008 (d) Notwithstanding any remedies available to a yacht or
1009 ship purchaser, if the division has reasonable cause to believe
1010 that a violation of any provision of this chapter or rule
1011 adopted under this chapter has occurred, the division may
1012 institute enforcement proceedings in its own name against any
1013 broker or salesperson or any of his or her assignees or agents,
1014 or against any unlicensed person or any of his or her assignees

1015 or agents, as follows:

1016 1. The division may permit a person whose conduct or
1017 actions are under investigation to waive formal proceedings and
1018 enter into a consent proceeding whereby orders, rules, or
1019 letters of censure or warning, whether formal or informal, may
1020 be entered against the person.

1021 2. The division may issue an order requiring the broker or
1022 salesperson or any of his or her assignees or agents, or
1023 requiring any unlicensed person or any of his or her assignees
1024 or agents, to cease and desist from the unlawful practice and
1025 take such affirmative action as in the judgment of the division
1026 will carry out the purposes of this chapter.

1027 3. The division may bring an action in circuit court on
1028 behalf of a class of yacht or ship purchasers for declaratory
1029 relief, injunctive relief, or restitution.

1030 4. The division may impose a civil penalty against a
1031 broker or salesperson or any of his or her assignees or agents,
1032 or against an unlicensed person or any of his or her assignees
1033 or agents, for any violation of this chapter or a rule adopted
1034 under this chapter. A penalty may be imposed for each day of
1035 continuing violation, but in no event may the penalty for any
1036 offense exceed \$10,000. All amounts collected must be deposited
1037 with the Chief Financial Officer to the credit of the Division
1038 of Florida Condominiums, Homeowners' Associations, Timeshares,
1039 and Mobile Homes Trust Fund. If a broker, salesperson, or
1040 unlicensed person working for a broker, fails to pay the civil

1041 penalty, the division shall issue an order suspending the
 1042 broker's license until such time as the civil penalty is paid or
 1043 may pursue enforcement of the penalty in a court of competent
 1044 jurisdiction. The order imposing the civil penalty or the order
 1045 of suspension may not become effective until 20 days after the
 1046 date of such order. Any action commenced by the division must be
 1047 brought in the county in which the division has its executive
 1048 offices or in the county where the violation occurred.

1049 (3) All fees must be deposited in the Division of Florida
 1050 Condominiums, Homeowners' Associations, Timeshares, and Mobile
 1051 Homes Trust Fund as provided by law.

1052 Section 19. Paragraph (a) of subsection (4) of section
 1053 380.0651, Florida Statutes, is amended to read:

1054 380.0651 Statewide guidelines and standards.—

1055 (4) Two or more developments, represented by their owners
 1056 or developers to be separate developments, shall be aggregated
 1057 and treated as a single development under this chapter when they
 1058 are determined to be part of a unified plan of development and
 1059 are physically proximate to one other.

1060 (a) The criteria of three of the following subparagraphs
 1061 must be met in order for the state land planning agency to
 1062 determine that there is a unified plan of development:

1063 1.a. The same person has retained or shared control of the
 1064 developments;

1065 b. The same person has ownership or a significant legal or
 1066 equitable interest in the developments; or

1067 c. There is common management of the developments
 1068 controlling the form of physical development or disposition of
 1069 parcels of the development.

1070 2. There is a reasonable closeness in time between the
 1071 completion of 80 percent or less of one development and the
 1072 submission to a governmental agency of a master plan or series
 1073 of plans or drawings for the other development which is
 1074 indicative of a common development effort.

1075 3. A master plan or series of plans or drawings exists
 1076 covering the developments sought to be aggregated which have
 1077 been submitted to a local general-purpose government, water
 1078 management district, the Florida Department of Environmental
 1079 Protection, or the Division of Florida Condominiums, Homeowners'
 1080 Associations, Timeshares, and Mobile Homes for authorization to
 1081 commence development. The existence or implementation of a
 1082 utility's master utility plan required by the Public Service
 1083 Commission or general-purpose local government or a master
 1084 drainage plan may ~~shall~~ not be the sole determinant of the
 1085 existence of a master plan.

1086 4. There is a common advertising scheme or promotional
 1087 plan in effect for the developments sought to be aggregated.

1088 Section 20. Subsection (5) of section 455.116, Florida
 1089 Statutes, is amended to read:

1090 455.116 Regulation trust funds.—The following trust funds
 1091 shall be placed in the department:

1092 (5) Division of Florida Condominiums, Homeowners'

1093 Associations, Timeshares, and Mobile Homes Trust Fund.

1094 Section 21. Section 475.455, Florida Statutes, is amended
1095 to read:

1096 475.455 Exchange of disciplinary information.—The
1097 commission shall inform the Division of Florida Condominiums,
1098 Homeowners' Associations, Timeshares, and Mobile Homes of the
1099 Department of Business and Professional Regulation of any
1100 disciplinary action the commission has taken against any of its
1101 licensees. The division shall inform the commission of any
1102 disciplinary action the division has taken against any broker or
1103 sales associate registered with the division.

1104 Section 22. Section 509.512, Florida Statutes, is amended
1105 to read:

1106 509.512 Timeshare plan developer and exchange company
1107 exemption.—Sections 509.501–509.511 do not apply to a developer
1108 of a timeshare plan or an exchange company approved by the
1109 Division of Florida Condominiums, Homeowners' Associations,
1110 Timeshares, and Mobile Homes pursuant to chapter 721, but only
1111 to the extent that the developer or exchange company engages in
1112 conduct regulated under chapter 721.

1113 Section 23. Subsection (1) of section 559.935, Florida
1114 Statutes, is amended to read:

1115 559.935 Exemptions.—

1116 (1) This part does not apply to:

1117 (a) A bona fide employee of a seller of travel who is
1118 engaged solely in the business of her or his employer;

1119 (b) Any direct common carrier of passengers or property
1120 regulated by an agency of the Federal Government or employees of
1121 such carrier when engaged solely in the transportation business
1122 of the carrier as identified in the carrier's certificate;

1123 (c) An intrastate common carrier of passengers or property
1124 selling only transportation as defined in the applicable state
1125 or local registration or certification, or employees of such
1126 carrier when engaged solely in the transportation business of
1127 the carrier;

1128 (d) Hotels, motels, or other places of public
1129 accommodation selling public accommodations, or employees of
1130 such hotels, motels, or other places of public accommodation,
1131 when engaged solely in making arrangements for lodging,
1132 accommodations, or sightseeing tours within the state, or taking
1133 reservations for the traveler with times, dates, locations, and
1134 accommodations certain at the time the reservations are made,
1135 provided that hotels and motels registered with the Department
1136 of Business and Professional Regulation pursuant to chapter 509
1137 are excluded from the provisions of this chapter;

1138 (e) Persons involved solely in the rental, leasing, or
1139 sale of residential property;

1140 (f) Persons involved solely in the rental, leasing, or
1141 sale of transportation vehicles;

1142 (g) Persons who make travel arrangements for themselves;
1143 for their employees or agents; for distributors, franchisees, or
1144 dealers of the persons' products or services; for entities which

1145 are financially related to the persons; or for the employees or
 1146 agents of the distributor, franchisee, or dealer or financially
 1147 related entity;

1148 (h) A developer of a timeshare plan or an exchange company
 1149 approved by the Division of Florida Condominiums, Homeowners'
 1150 Associations, Timeshares, and Mobile Homes pursuant to chapter
 1151 721, but only to the extent that the developer or exchange
 1152 company engages in conduct regulated under chapter 721; or

1153 (i) Persons or entities engaged solely in offering diving
 1154 services, including classes and sales or rentals of equipment,
 1155 when engaged in making any prearranged travel-related or
 1156 tourist-related services in conjunction with a primarily dive-
 1157 related event.

1158 Section 24. Subsection (17) of section 718.103, Florida
 1159 Statutes, is amended to read:

1160 718.103 Definitions.—As used in this chapter, the term:

1161 (17) "Division" means the Division of Florida
 1162 Condominiums, Homeowners' Associations, Timeshares, and Mobile
 1163 Homes of the Department of Business and Professional Regulation.

1164 Section 25. Paragraph (c) of subsection (4) of section
 1165 718.105, Florida Statutes, is amended to read:

1166 718.105 Recording of declaration.—

1167 (4)

1168 (c) If the sum of money held by the clerk has not been
 1169 paid to the developer or association as provided in paragraph

1170 (b) within 5 years after the date the declaration was originally

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1171 recorded, the clerk may notify, in writing, the registered agent
1172 of the association that the sum is still available and the
1173 purpose for which it was deposited. If the association does not
1174 record the certificate within 90 days after the clerk has given
1175 the notice, the clerk may disburse the money to the developer.
1176 If the developer cannot be located, the clerk shall disburse the
1177 money to the Division of Florida Condominiums, Homeowners'
1178 Associations, Timeshares, and Mobile Homes for deposit in the
1179 Division of Florida Condominiums, Homeowners' Associations,
1180 Timeshares, and Mobile Homes Trust Fund.

1181 Section 26. Subsection (4) of section 718.1255, Florida
1182 Statutes, is amended to read:

1183 718.1255 Alternative dispute resolution; voluntary
1184 mediation; mandatory nonbinding arbitration; legislative
1185 findings.—

1186 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
1187 DISPUTES.—The Division of Florida Condominiums, Homeowners'
1188 Associations, Timeshares, and Mobile Homes of the Department of
1189 Business and Professional Regulation shall employ full-time
1190 attorneys to act as arbitrators to conduct the arbitration
1191 hearings provided by this chapter. The division may also certify
1192 attorneys who are not employed by the division to act as
1193 arbitrators to conduct the arbitration hearings provided by this
1194 section. No person may be employed by the department as a full-
1195 time arbitrator unless he or she is a member in good standing of
1196 The Florida Bar. The department shall adopt rules of procedure

1197 to govern such arbitration hearings including mediation incident
 1198 thereto. The decision of an arbitrator shall be final but may~~r~~
 1199 ~~however, a decision shall~~ not be deemed final agency action.
 1200 Nothing in this subsection may ~~provision shall~~ be construed to
 1201 foreclose parties from proceeding in a trial de novo unless the
 1202 parties have agreed that the arbitration is binding. If judicial
 1203 proceedings are initiated, the final decision of the arbitrator
 1204 shall be admissible in evidence in the trial de novo.

1205 (a) Prior to the institution of court litigation, a party
 1206 to a dispute shall petition the division for nonbinding
 1207 arbitration. The petition must be accompanied by a filing fee in
 1208 the amount of \$50. Filing fees collected under this section must
 1209 be used to defray the expenses of the alternative dispute
 1210 resolution program.

1211 (b) The petition must recite, and have attached thereto,
 1212 supporting proof that the petitioner gave the respondents:

- 1213 1. Advance written notice of the specific nature of the
 1214 dispute;
- 1215 2. A demand for relief, and a reasonable opportunity to
 1216 comply or to provide the relief; and
- 1217 3. Notice of the intention to file an arbitration petition
 1218 or other legal action in the absence of a resolution of the
 1219 dispute.

1220
 1221 Failure to include the allegations or proof of compliance with
 1222 these prerequisites requires dismissal of the petition without

1223 prejudice.

1224 (c) Upon receipt, the petition shall be promptly reviewed
1225 by the division to determine the existence of a dispute and
1226 compliance with the requirements of paragraphs (a) and (b). If
1227 emergency relief is required and is not available through
1228 arbitration, a motion to stay the arbitration may be filed. The
1229 motion must be accompanied by a verified petition alleging facts
1230 that, if proven, would support entry of a temporary injunction,
1231 and if an appropriate motion and supporting papers are filed,
1232 the division may abate the arbitration pending a court hearing
1233 and disposition of a motion for temporary injunction.

1234 (d) Upon determination by the division that a dispute
1235 exists and that the petition substantially meets the
1236 requirements of paragraphs (a) and (b) and any other applicable
1237 rules, a copy of the petition shall be served by the division
1238 upon all respondents.

1239 (e) Before or after the filing of the respondents' answer
1240 to the petition, any party may request that the arbitrator refer
1241 the case to mediation under this section and any rules adopted
1242 by the division. Upon receipt of a request for mediation, the
1243 division shall promptly contact the parties to determine if
1244 there is agreement that mediation would be appropriate. If all
1245 parties agree, the dispute must be referred to mediation.
1246 Notwithstanding a lack of an agreement by all parties, the
1247 arbitrator may refer a dispute to mediation at any time.

1248 (f) Upon referral of a case to mediation, the parties must

1249 select a mutually acceptable mediator. To assist in the
1250 selection, the arbitrator shall provide the parties with a list
1251 of both volunteer and paid mediators that have been certified by
1252 the division under s. 718.501. If the parties are unable to
1253 agree on a mediator within the time allowed by the arbitrator,
1254 the arbitrator shall appoint a mediator from the list of
1255 certified mediators. If a case is referred to mediation, the
1256 parties shall attend a mediation conference, as scheduled by the
1257 parties and the mediator. If any party fails to attend a duly
1258 noticed mediation conference, without the permission or approval
1259 of the arbitrator or mediator, the arbitrator must impose
1260 sanctions against the party, including the striking of any
1261 pleadings filed, the entry of an order of dismissal or default
1262 if appropriate, and the award of costs and attorney ~~attorneys'~~
1263 fees incurred by the other parties. Unless otherwise agreed to
1264 by the parties or as provided by order of the arbitrator, a
1265 party is deemed to have appeared at a mediation conference by
1266 the physical presence of the party or its representative having
1267 full authority to settle without further consultation, provided
1268 that an association may comply by having one or more
1269 representatives present with full authority to negotiate a
1270 settlement and recommend that the board of administration ratify
1271 and approve such a settlement within 5 days from the date of the
1272 mediation conference. The parties shall share equally the
1273 expense of mediation, unless they agree otherwise.

1274 (g) The purpose of mediation as provided for by this

1275 section is to present the parties with an opportunity to resolve
1276 the underlying dispute in good faith, and with a minimum
1277 expenditure of time and resources.

1278 (h) Mediation proceedings must generally be conducted in
1279 accordance with the Florida Rules of Civil Procedure, and these
1280 proceedings are privileged and confidential to the same extent
1281 as court-ordered mediation. Persons who are not parties to the
1282 dispute are not allowed to attend the mediation conference
1283 without the consent of all parties, with the exception of
1284 counsel for the parties and corporate representatives designated
1285 to appear for a party. If the mediator declares an impasse after
1286 a mediation conference has been held, the arbitration proceeding
1287 terminates, unless all parties agree in writing to continue the
1288 arbitration proceeding, in which case the arbitrator's decision
1289 shall be binding or nonbinding, as agreed upon by the parties;
1290 in the arbitration proceeding, the arbitrator may ~~shall~~ not
1291 consider any evidence relating to the unsuccessful mediation
1292 except in a proceeding to impose sanctions for failure to appear
1293 at the mediation conference. If the parties do not agree to
1294 continue arbitration, the arbitrator shall enter an order of
1295 dismissal, and either party may institute a suit in a court of
1296 competent jurisdiction. The parties may seek to recover any
1297 costs and attorney ~~attorneys'~~ fees incurred in connection with
1298 arbitration and mediation proceedings under this section as part
1299 of the costs and fees that may be recovered by the prevailing
1300 party in any subsequent litigation.

1301 (i) Arbitration shall be conducted according to rules
1302 adopted by the division. The filing of a petition for
1303 arbitration shall toll the applicable statute of limitations.

1304 (j) At the request of any party to the arbitration, the
1305 arbitrator shall issue subpoenas for the attendance of witnesses
1306 and the production of books, records, documents, and other
1307 evidence and any party on whose behalf a subpoena is issued may
1308 apply to the court for orders compelling such attendance and
1309 production. Subpoenas shall be served and shall be enforceable
1310 in the manner provided by the Florida Rules of Civil Procedure.
1311 Discovery may, in the discretion of the arbitrator, be permitted
1312 in the manner provided by the Florida Rules of Civil Procedure.
1313 Rules adopted by the division may authorize any reasonable
1314 sanctions except contempt for a violation of the arbitration
1315 procedural rules of the division or for the failure of a party
1316 to comply with a reasonable nonfinal order issued by an
1317 arbitrator which is not under judicial review.

1318 (k) The arbitration decision shall be presented to the
1319 parties in writing. An arbitration decision is final in those
1320 disputes in which the parties have agreed to be bound. An
1321 arbitration decision is also final if a complaint for a trial de
1322 novo is not filed in a court of competent jurisdiction in which
1323 the condominium is located within 30 days. The right to file for
1324 a trial de novo entitles the parties to file a complaint in the
1325 appropriate trial court for a judicial resolution of the
1326 dispute. The prevailing party in an arbitration proceeding shall

1327 be awarded the costs of the arbitration and reasonable attorney
1328 ~~attorney's~~ fees in an amount determined by the arbitrator. Such
1329 an award shall include the costs and reasonable attorney
1330 ~~attorney's~~ fees incurred in the arbitration proceeding as well
1331 as the costs and reasonable attorney ~~attorney's~~ fees incurred in
1332 preparing for and attending any scheduled mediation.

1333 (l) The party who files a complaint for a trial de novo
1334 shall be assessed the other party's arbitration costs, court
1335 costs, and other reasonable costs, including attorney ~~attorney's~~
1336 fees, investigation expenses, and expenses for expert or other
1337 testimony or evidence incurred after the arbitration hearing if
1338 the judgment upon the trial de novo is not more favorable than
1339 the arbitration decision. If the judgment is more favorable, the
1340 party who filed a complaint for trial de novo shall be awarded
1341 reasonable court costs and attorney ~~attorney's~~ fees.

1342 (m) Any party to an arbitration proceeding may enforce an
1343 arbitration award by filing a petition in a court of competent
1344 jurisdiction in which the condominium is located. A petition may
1345 not be granted unless the time for appeal by the filing of a
1346 complaint for trial de novo has expired. If a complaint for a
1347 trial de novo has been filed, a petition may not be granted with
1348 respect to an arbitration award that has been stayed. If the
1349 petition for enforcement is granted, the petitioner shall
1350 recover reasonable attorney ~~attorney's~~ fees and costs incurred
1351 in enforcing the arbitration award. A mediation settlement may
1352 also be enforced through the county or circuit court, as

1353 applicable, and any costs and fees incurred in the enforcement
 1354 of a settlement agreement reached at mediation must be awarded
 1355 to the prevailing party in any enforcement action.

1356 Section 27. Section 718.501, Florida Statutes, is amended
 1357 to read:

1358 718.501 Authority, responsibility, and duties of Division
 1359 of Florida Condominiums, Homeowners' Associations, Timeshares,
 1360 and Mobile Homes.—

1361 (1) The division may enforce and ensure compliance with
 1362 the provisions of this chapter and rules relating to the
 1363 development, construction, sale, lease, ownership, operation,
 1364 and management of residential condominium units. In performing
 1365 its duties, the division has complete jurisdiction to
 1366 investigate complaints and enforce compliance with respect to
 1367 associations that are still under developer control or the
 1368 control of a bulk assignee or bulk buyer pursuant to part VII of
 1369 this chapter and complaints against developers, bulk assignees,
 1370 or bulk buyers involving improper turnover or failure to
 1371 turnover, pursuant to s. 718.301. However, after turnover has
 1372 occurred, the division has jurisdiction to investigate
 1373 complaints related only to financial issues, elections, and unit
 1374 owner access to association records pursuant to s. 718.111(12).

1375 (a)1. The division may make necessary public or private
 1376 investigations within or outside this state to determine whether
 1377 any person has violated this chapter or any rule or order
 1378 hereunder, to aid in the enforcement of this chapter, or to aid

1379 | in the adoption of rules or forms.

1380 | 2. The division may submit any official written report,
1381 | worksheet, or other related paper, or a duly certified copy
1382 | thereof, compiled, prepared, drafted, or otherwise made by and
1383 | duly authenticated by a financial examiner or analyst to be
1384 | admitted as competent evidence in any hearing in which the
1385 | financial examiner or analyst is available for cross-examination
1386 | and attests under oath that such documents were prepared as a
1387 | result of an examination or inspection conducted pursuant to
1388 | this chapter.

1389 | (b) The division may require or permit any person to file
1390 | a statement in writing, under oath or otherwise, as the division
1391 | determines, as to the facts and circumstances concerning a
1392 | matter to be investigated.

1393 | (c) For the purpose of any investigation under this
1394 | chapter, the division director or any officer or employee
1395 | designated by the division director may administer oaths or
1396 | affirmations, subpoena witnesses and compel their attendance,
1397 | take evidence, and require the production of any matter which is
1398 | relevant to the investigation, including the existence,
1399 | description, nature, custody, condition, and location of any
1400 | books, documents, or other tangible things and the identity and
1401 | location of persons having knowledge of relevant facts or any
1402 | other matter reasonably calculated to lead to the discovery of
1403 | material evidence. Upon the failure by a person to obey a
1404 | subpoena or to answer questions propounded by the investigating

1405 officer and upon reasonable notice to all affected persons, the
1406 division may apply to the circuit court for an order compelling
1407 compliance.

1408 (d) Notwithstanding any remedies available to unit owners
1409 and associations, if the division has reasonable cause to
1410 believe that a violation of any provision of this chapter or
1411 related rule has occurred, the division may institute
1412 enforcement proceedings in its own name against any developer,
1413 bulk assignee, bulk buyer, association, officer, or member of
1414 the board of administration, or its assignees or agents, as
1415 follows:

1416 1. The division may permit a person whose conduct or
1417 actions may be under investigation to waive formal proceedings
1418 and enter into a consent proceeding whereby orders, rules, or
1419 letters of censure or warning, whether formal or informal, may
1420 be entered against the person.

1421 2. The division may issue an order requiring the
1422 developer, bulk assignee, bulk buyer, association, developer-
1423 designated officer, or developer-designated member of the board
1424 of administration, developer-designated assignees or agents,
1425 bulk assignee-designated assignees or agents, bulk buyer-
1426 designated assignees or agents, community association manager,
1427 or community association management firm to cease and desist
1428 from the unlawful practice and take such affirmative action as
1429 in the judgment of the division carry out the purposes of this
1430 chapter. If the division finds that a developer, bulk assignee,

1431 bulk buyer, association, officer, or member of the board of
1432 administration, or its assignees or agents, is violating or is
1433 about to violate any provision of this chapter, any rule adopted
1434 or order issued by the division, or any written agreement
1435 entered into with the division, and presents an immediate danger
1436 to the public requiring an immediate final order, it may issue
1437 an emergency cease and desist order reciting with particularity
1438 the facts underlying such findings. The emergency cease and
1439 desist order is effective for 90 days. If the division begins
1440 nonemergency cease and desist proceedings, the emergency cease
1441 and desist order remains effective until the conclusion of the
1442 proceedings under ss. 120.569 and 120.57.

1443 3. If a developer, bulk assignee, or bulk buyer, fails to
1444 pay any restitution determined by the division to be owed, plus
1445 any accrued interest at the highest rate permitted by law,
1446 within 30 days after expiration of any appellate time period of
1447 a final order requiring payment of restitution or the conclusion
1448 of any appeal thereof, whichever is later, the division must
1449 bring an action in circuit or county court on behalf of any
1450 association, class of unit owners, lessees, or purchasers for
1451 restitution, declaratory relief, injunctive relief, or any other
1452 available remedy. The division may also temporarily revoke its
1453 acceptance of the filing for the developer to which the
1454 restitution relates until payment of restitution is made.

1455 4. The division may petition the court for appointment of
1456 a receiver or conservator. If appointed, the receiver or

1457 conservator may take action to implement the court order to
1458 ensure the performance of the order and to remedy any breach
1459 thereof. In addition to all other means provided by law for the
1460 enforcement of an injunction or temporary restraining order, the
1461 circuit court may impound or sequester the property of a party
1462 defendant, including books, papers, documents, and related
1463 records, and allow the examination and use of the property by
1464 the division and a court-appointed receiver or conservator.

1465 5. The division may apply to the circuit court for an
1466 order of restitution whereby the defendant in an action brought
1467 pursuant to subparagraph 4. is ordered to make restitution of
1468 those sums shown by the division to have been obtained by the
1469 defendant in violation of this chapter. At the option of the
1470 court, such restitution is payable to the conservator or
1471 receiver appointed pursuant to subparagraph 4. or directly to
1472 the persons whose funds or assets were obtained in violation of
1473 this chapter.

1474 6. The division may impose a civil penalty against a
1475 developer, bulk assignee, or bulk buyer, or association, or its
1476 assignee or agent, for any violation of this chapter or related
1477 rule. The division may impose a civil penalty individually
1478 against an officer or board member who willfully and knowingly
1479 violates a provision of this chapter, adopted rule, or a final
1480 order of the division; may order the removal of such individual
1481 as an officer or from the board of administration or as an
1482 officer of the association; and may prohibit such individual

1483 from serving as an officer or on the board of a community
1484 association for a period of time. The term "willfully and
1485 knowingly" means that the division informed the officer or board
1486 member that his or her action or intended action violates this
1487 chapter, a rule adopted under this chapter, or a final order of
1488 the division and that the officer or board member refused to
1489 comply with the requirements of this chapter, a rule adopted
1490 under this chapter, or a final order of the division. The
1491 division, before initiating formal agency action under chapter
1492 120, must afford the officer or board member an opportunity to
1493 voluntarily comply, and an officer or board member who complies
1494 within 10 days is not subject to a civil penalty. A penalty may
1495 be imposed on the basis of each day of continuing violation, but
1496 the penalty for any offense may not exceed \$5,000. By January 1,
1497 1998, the division shall adopt, by rule, penalty guidelines
1498 applicable to possible violations or to categories of violations
1499 of this chapter or rules adopted by the division. The guidelines
1500 must specify a meaningful range of civil penalties for each such
1501 violation of the statute and rules and must be based upon the
1502 harm caused by the violation, the repetition of the violation,
1503 and upon such other factors deemed relevant by the division. For
1504 example, the division may consider whether the violations were
1505 committed by a developer, bulk assignee, or bulk buyer, or
1506 owner-controlled association, the size of the association, and
1507 other factors. The guidelines must designate the possible
1508 mitigating or aggravating circumstances that justify a departure

1509 from the range of penalties provided by the rules. It is the
1510 legislative intent that minor violations be distinguished from
1511 those which endanger the health, safety, or welfare of the
1512 condominium residents or other persons and that such guidelines
1513 provide reasonable and meaningful notice to the public of likely
1514 penalties that may be imposed for proscribed conduct. This
1515 subsection does not limit the ability of the division to
1516 informally dispose of administrative actions or complaints by
1517 stipulation, agreed settlement, or consent order. All amounts
1518 collected shall be deposited with the Chief Financial Officer to
1519 the credit of the Division of Florida Condominiums, Homeowners'
1520 Associations, Timeshares, and Mobile Homes Trust Fund. If a
1521 developer, bulk assignee, or bulk buyer fails to pay the civil
1522 penalty and the amount deemed to be owed to the association, the
1523 division shall issue an order directing that such developer,
1524 bulk assignee, or bulk buyer cease and desist from further
1525 operation until such time as the civil penalty is paid or may
1526 pursue enforcement of the penalty in a court of competent
1527 jurisdiction. If an association fails to pay the civil penalty,
1528 the division shall pursue enforcement in a court of competent
1529 jurisdiction, and the order imposing the civil penalty or the
1530 cease and desist order is not effective until 20 days after the
1531 date of such order. Any action commenced by the division shall
1532 be brought in the county in which the division has its executive
1533 offices or in the county where the violation occurred.

1534 7. If a unit owner presents the division with proof that

1535 the unit owner has requested access to official records in
1536 writing by certified mail, and that after 10 days the unit owner
1537 again made the same request for access to official records in
1538 writing by certified mail, and that more than 10 days has
1539 elapsed since the second request and the association has still
1540 failed or refused to provide access to official records as
1541 required by this chapter, the division shall issue a subpoena
1542 requiring production of the requested records where the records
1543 are kept pursuant to s. 718.112.

1544 8. In addition to subparagraph 6., the division may seek
1545 the imposition of a civil penalty through the circuit court for
1546 any violation for which the division may issue a notice to show
1547 cause under paragraph (r). The civil penalty shall be at least
1548 \$500 but no more than \$5,000 for each violation. The court may
1549 also award to the prevailing party court costs and reasonable
1550 attorney ~~attorney's~~ fees and, if the division prevails, may also
1551 award reasonable costs of investigation.

1552 (e) The division may prepare and disseminate a prospectus
1553 and other information to assist prospective owners, purchasers,
1554 lessees, and developers of residential condominiums in assessing
1555 the rights, privileges, and duties pertaining thereto.

1556 (f) The division may adopt rules to administer and enforce
1557 the provisions of this chapter.

1558 (g) The division shall establish procedures for providing
1559 notice to an association and the developer, bulk assignee, or
1560 bulk buyer during the period in which the developer, bulk

1561 assignee, or bulk buyer controls the association if the division
1562 is considering the issuance of a declaratory statement with
1563 respect to the declaration of condominium or any related
1564 document governing such condominium community.

1565 (h) The division shall furnish each association that pays
1566 the fees required by paragraph (2) (a) a copy of this chapter, as
1567 amended, and the rules adopted thereto on an annual basis.

1568 (i) The division shall annually provide each association
1569 with a summary of declaratory statements and formal legal
1570 opinions relating to the operations of condominiums which were
1571 rendered by the division during the previous year.

1572 (j) The division shall provide training and educational
1573 programs for condominium association board members and unit
1574 owners. The training may, in the division's discretion, include
1575 web-based electronic media, and live training and seminars in
1576 various locations throughout the state. The division may review
1577 and approve education and training programs for board members
1578 and unit owners offered by providers and shall maintain a
1579 current list of approved programs and providers and make such
1580 list available to board members and unit owners in a reasonable
1581 and cost-effective manner.

1582 (k) The division shall maintain a toll-free telephone
1583 number accessible to condominium unit owners.

1584 (l) The division shall develop a program to certify both
1585 volunteer and paid mediators to provide mediation of condominium
1586 disputes. The division shall provide, upon request, a list of

1587 such mediators to any association, unit owner, or other
1588 participant in arbitration proceedings under s. 718.1255
1589 requesting a copy of the list. The division shall include on the
1590 list of volunteer mediators only the names of persons who have
1591 received at least 20 hours of training in mediation techniques
1592 or who have mediated at least 20 disputes. In order to become
1593 initially certified by the division, paid mediators must be
1594 certified by the Supreme Court to mediate court cases in county
1595 or circuit courts. However, the division may adopt, by rule,
1596 additional factors for the certification of paid mediators,
1597 which must be related to experience, education, or background.
1598 Any person initially certified as a paid mediator by the
1599 division must, in order to continue to be certified, comply with
1600 the factors or requirements adopted by rule.

1601 (m) If a complaint is made, the division must conduct its
1602 inquiry with due regard for the interests of the affected
1603 parties. Within 30 days after receipt of a complaint, the
1604 division shall acknowledge the complaint in writing and notify
1605 the complainant whether the complaint is within the jurisdiction
1606 of the division and whether additional information is needed by
1607 the division from the complainant. The division shall conduct
1608 its investigation and, within 90 days after receipt of the
1609 original complaint or of timely requested additional
1610 information, take action upon the complaint. However, the
1611 failure to complete the investigation within 90 days does not
1612 prevent the division from continuing the investigation,

1613 accepting or considering evidence obtained or received after 90
 1614 days, or taking administrative action if reasonable cause exists
 1615 to believe that a violation of this chapter or a rule has
 1616 occurred. If an investigation is not completed within the time
 1617 limits established in this paragraph, the division shall, on a
 1618 monthly basis, notify the complainant in writing of the status
 1619 of the investigation. When reporting its action to the
 1620 complainant, the division shall inform the complainant of any
 1621 right to a hearing pursuant to ss. 120.569 and 120.57.

1622 (n) Condominium association directors, officers, and
 1623 employees; condominium developers; bulk assignees, bulk buyers,
 1624 and community association managers; and community association
 1625 management firms have an ongoing duty to reasonably cooperate
 1626 with the division in any investigation pursuant to this section.
 1627 The division shall refer to local law enforcement authorities
 1628 any person whom the division believes has altered, destroyed,
 1629 concealed, or removed any record, document, or thing required to
 1630 be kept or maintained by this chapter with the purpose to impair
 1631 its verity or availability in the department's investigation.

1632 (o) The division may:

- 1633 1. Contract with agencies in this state or other
- 1634 jurisdictions to perform investigative functions; or
- 1635 2. Accept grants-in-aid from any source.

1636 (p) The division shall cooperate with similar agencies in
 1637 other jurisdictions to establish uniform filing procedures and
 1638 forms, public offering statements, advertising standards, and

1639 rules and common administrative practices.

1640 (q) The division shall consider notice to a developer,
1641 bulk assignee, or bulk buyer to be complete when it is delivered
1642 to the address of the developer, bulk assignee, or bulk buyer
1643 currently on file with the division.

1644 (r) In addition to its enforcement authority, the division
1645 may issue a notice to show cause, which must provide for a
1646 hearing, upon written request, in accordance with chapter 120.

1647 (s) The division shall submit to the Governor, the
1648 President of the Senate, the Speaker of the House of
1649 Representatives, and the chairs of the legislative
1650 appropriations committees an annual report that includes, but
1651 need not be limited to, the number of training programs provided
1652 for condominium association board members and unit owners, the
1653 number of complaints received by type, the number and percent of
1654 complaints acknowledged in writing within 30 days and the number
1655 and percent of investigations acted upon within 90 days in
1656 accordance with paragraph (m), and the number of investigations
1657 exceeding the 90-day requirement. The annual report must also
1658 include an evaluation of the division's core business processes
1659 and make recommendations for improvements, including statutory
1660 changes. The report shall be submitted by September 30 following
1661 the end of the fiscal year.

1662 (2) (a) Each condominium association which operates more
1663 than two units shall pay to the division an annual fee in the
1664 amount of \$4 for each residential unit in condominiums operated

1665 by the association. If the fee is not paid by March 1, the
 1666 association shall be assessed a penalty of 10 percent of the
 1667 amount due, and the association will not have standing to
 1668 maintain or defend any action in the courts of this state until
 1669 the amount due, plus any penalty, is paid.

1670 (b) All fees shall be deposited in the Division of Florida
 1671 Condominiums, Homeowners' Associations, Timeshares, and Mobile
 1672 Homes Trust Fund as provided by law.

1673 Section 28. Subsection (1) of section 718.5011, Florida
 1674 Statutes, is amended to read:

1675 718.5011 Ombudsman; appointment; administration.—

1676 (1) There is created an Office of the Condominium
 1677 Ombudsman, to be located for administrative purposes within the
 1678 Division of Florida Condominiums, Homeowners' Associations,
 1679 Timeshares, and Mobile Homes. The functions of the office shall
 1680 be funded by the Division of Florida Condominiums, Homeowners'
 1681 Associations, Timeshares, and Mobile Homes Trust Fund. The
 1682 ombudsman shall be a bureau chief of the division, and the
 1683 office shall be set within the division in the same manner as
 1684 any other bureau is staffed and funded.

1685 Section 29. Paragraph (a) of subsection (2) of section
 1686 718.502, Florida Statutes, is amended to read:

1687 718.502 Filing prior to sale or lease.—

1688 (2) (a) Prior to filing as required by subsection (1), and
 1689 prior to acquiring an ownership, leasehold, or contractual
 1690 interest in the land upon which the condominium is to be

1691 developed, a developer may ~~shall~~ not offer a contract for
1692 purchase of a unit or lease of a unit for more than 5 years.
1693 However, the developer may accept deposits for reservations upon
1694 the approval of a fully executed escrow agreement and
1695 reservation agreement form properly filed with the Division of
1696 Florida Condominiums, Homeowners' Associations, Timeshares, and
1697 Mobile Homes. Each filing of a proposed reservation program
1698 shall be accompanied by a filing fee of \$250. Reservations may
1699 ~~shall~~ not be taken on a proposed condominium unless the
1700 developer has an ownership, leasehold, or contractual interest
1701 in the land upon which the condominium is to be developed. The
1702 division shall notify the developer within 20 days of receipt of
1703 the reservation filing of any deficiencies contained therein.
1704 Such notification does ~~shall~~ not preclude the determination of
1705 reservation filing deficiencies at a later date, nor shall it
1706 relieve the developer of any responsibility under the law. The
1707 escrow agreement and the reservation agreement form shall
1708 include a statement of the right of the prospective purchaser to
1709 an immediate unqualified refund of the reservation deposit
1710 moneys upon written request to the escrow agent by the
1711 prospective purchaser or the developer.

1712 Section 30. Paragraph (a) of subsection (2) of section
1713 718.503, Florida Statutes, is amended to read:

1714 718.503 Developer disclosure prior to sale; nondeveloper
1715 unit owner disclosure prior to sale; voidability.—

1716 (2) NONDEVELOPER DISCLOSURE.—

1717 (a) Each unit owner who is not a developer as defined by
1718 this chapter shall comply with the provisions of this subsection
1719 prior to the sale of his or her unit. Each prospective purchaser
1720 who has entered into a contract for the purchase of a
1721 condominium unit is entitled, at the seller's expense, to a
1722 current copy of the declaration of condominium, articles of
1723 incorporation of the association, bylaws and rules of the
1724 association, financial information required by s. 718.111, and
1725 the document entitled "Frequently Asked Questions and Answers"
1726 required by s. 718.504. On and after January 1, 2009, the
1727 prospective purchaser shall also be entitled to receive from the
1728 seller a copy of a governance form. Such form shall be provided
1729 by the division summarizing governance of condominium
1730 associations. In addition to such other information as the
1731 division considers helpful to a prospective purchaser in
1732 understanding association governance, the governance form shall
1733 address the following subjects:

1734 1. The role of the board in conducting the day-to-day
1735 affairs of the association on behalf of, and in the best
1736 interests of, the owners.

1737 2. The board's responsibility to provide advance notice of
1738 board and membership meetings.

1739 3. The rights of owners to attend and speak at board and
1740 membership meetings.

1741 4. The responsibility of the board and of owners with
1742 respect to maintenance of the condominium property.

1743 5. The responsibility of the board and owners to abide by
 1744 the condominium documents, this chapter, rules adopted by the
 1745 division, and reasonable rules adopted by the board.

1746 6. Owners' rights to inspect and copy association records
 1747 and the limitations on such rights.

1748 7. Remedies available to owners with respect to actions by
 1749 the board which may be abusive or beyond the board's power and
 1750 authority.

1751 8. The right of the board to hire a property management
 1752 firm, subject to its own primary responsibility for such
 1753 management.

1754 9. The responsibility of owners with regard to payment of
 1755 regular or special assessments necessary for the operation of
 1756 the property and the potential consequences of failure to pay
 1757 such assessments.

1758 10. The voting rights of owners.

1759 11. Rights and obligations of the board in enforcement of
 1760 rules in the condominium documents and rules adopted by the
 1761 board.

1762
 1763 The governance form shall also include the following statement
 1764 in conspicuous type: "This publication is intended as an
 1765 informal educational overview of condominium governance. In the
 1766 event of a conflict, this ~~the provisions of chapter 718, Florida~~
 1767 ~~Statutes~~, rules adopted by the Division of Florida Condominiums,
 1768 Homeowners' Associations, Timeshares, and Mobile Homes of the

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1769 Department of Business and Professional Regulation, the
1770 provisions of the condominium documents, and reasonable rules
1771 adopted by the condominium association's board of administration
1772 prevail over the contents of this publication."

1773 Section 31. Section 718.504, Florida Statutes, is amended
1774 to read:

1775 718.504 Prospectus or offering circular.—Every developer
1776 of a residential condominium which contains more than 20
1777 residential units, or which is part of a group of residential
1778 condominiums which will be served by property to be used in
1779 common by unit owners of more than 20 residential units, shall
1780 prepare a prospectus or offering circular and file it with the
1781 Division of Florida Condominiums, Homeowners' Associations,
1782 Timeshares, and Mobile Homes prior to entering into an
1783 enforceable contract of purchase and sale of any unit or lease
1784 of a unit for more than 5 years and shall furnish a copy of the
1785 prospectus or offering circular to each buyer. In addition to
1786 the prospectus or offering circular, each buyer shall be
1787 furnished a separate page entitled "Frequently Asked Questions
1788 and Answers," which shall be in accordance with a format
1789 approved by the division and a copy of the financial information
1790 required by s. 718.111. This page shall, in readable language,
1791 inform prospective purchasers regarding their voting rights and
1792 unit use restrictions, including restrictions on the leasing of
1793 a unit; shall indicate whether and in what amount the unit
1794 owners or the association is obligated to pay rent or land use

1795 fees for recreational or other commonly used facilities; shall
 1796 contain a statement identifying that amount of assessment which,
 1797 pursuant to the budget, would be levied upon each unit type,
 1798 exclusive of any special assessments, and which shall further
 1799 identify the basis upon which assessments are levied, whether
 1800 monthly, quarterly, or otherwise; shall state and identify any
 1801 court cases in which the association is currently a party of
 1802 record in which the association may face liability in excess of
 1803 \$100,000; and which shall further state whether membership in a
 1804 recreational facilities association is mandatory, and if so,
 1805 shall identify the fees currently charged per unit type. The
 1806 division shall by rule require such other disclosure as in its
 1807 judgment will assist prospective purchasers. The prospectus or
 1808 offering circular may include more than one condominium,
 1809 although not all such units are being offered for sale as of the
 1810 date of the prospectus or offering circular. The prospectus or
 1811 offering circular must contain the following information:

1812 (1) The front cover or the first page must contain only:

1813 (a) The name of the condominium.

1814 (b) The following statements in conspicuous type:

1815 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 1816 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

1817 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 1818 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 1819 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 1820 MATERIALS.

1821 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
1822 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
1823 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
1824 REPRESENTATIONS.

1825 (2) Summary: The next page must contain all statements
1826 required to be in conspicuous type in the prospectus or offering
1827 circular.

1828 (3) A separate index of the contents and exhibits of the
1829 prospectus.

1830 (4) Beginning on the first page of the text (not including
1831 the summary and index), a description of the condominium,
1832 including, but not limited to, the following information:

1833 (a) Its name and location.

1834 (b) A description of the condominium property, including,
1835 without limitation:

1836 1. The number of buildings, the number of units in each
1837 building, the number of bathrooms and bedrooms in each unit, and
1838 the total number of units, if the condominium is not a phase
1839 condominium, or the maximum number of buildings that may be
1840 contained within the condominium, the minimum and maximum
1841 numbers of units in each building, the minimum and maximum
1842 numbers of bathrooms and bedrooms that may be contained in each
1843 unit, and the maximum number of units that may be contained
1844 within the condominium, if the condominium is a phase
1845 condominium.

1846 2. The page in the condominium documents where a copy of

1847 the plot plan and survey of the condominium is located.

1848 3. The estimated latest date of completion of
 1849 constructing, finishing, and equipping. In lieu of a date, the
 1850 description shall include a statement that the estimated date of
 1851 completion of the condominium is in the purchase agreement and a
 1852 reference to the article or paragraph containing that
 1853 information.

1854 (c) The maximum number of units that will use facilities
 1855 in common with the condominium. If the maximum number of units
 1856 will vary, a description of the basis for variation and the
 1857 minimum amount of dollars per unit to be spent for additional
 1858 recreational facilities or enlargement of such facilities. If
 1859 the addition or enlargement of facilities will result in a
 1860 material increase of a unit owner's maintenance expense or
 1861 rental expense, if any, the maximum increase and limitations
 1862 thereon shall be stated.

1863 (5) (a) A statement in conspicuous type describing whether
 1864 the condominium is created and being sold as fee simple
 1865 interests or as leasehold interests. If the condominium is
 1866 created or being sold on a leasehold, the location of the lease
 1867 in the disclosure materials shall be stated.

1868 (b) If timeshare estates are or may be created with
 1869 respect to any unit in the condominium, a statement in
 1870 conspicuous type stating that timeshare estates are created and
 1871 being sold in units in the condominium.

1872 (6) A description of the recreational and other commonly

1873 used facilities that will be used only by unit owners of the
 1874 condominium, including, but not limited to, the following:

1875 (a) Each room and its intended purposes, location,
 1876 approximate floor area, and capacity in numbers of people.

1877 (b) Each swimming pool, as to its general location,
 1878 approximate size and depths, approximate deck size and capacity,
 1879 and whether heated.

1880 (c) Additional facilities, as to the number of each
 1881 facility, its approximate location, approximate size, and
 1882 approximate capacity.

1883 (d) A general description of the items of personal
 1884 property and the approximate number of each item of personal
 1885 property that the developer is committing to furnish for each
 1886 room or other facility or, in the alternative, a representation
 1887 as to the minimum amount of expenditure that will be made to
 1888 purchase the personal property for the facility.

1889 (e) The estimated date when each room or other facility
 1890 will be available for use by the unit owners.

1891 (f)1. An identification of each room or other facility to
 1892 be used by unit owners that will not be owned by the unit owners
 1893 or the association;

1894 2. A reference to the location in the disclosure materials
 1895 of the lease or other agreements providing for the use of those
 1896 facilities; and

1897 3. A description of the terms of the lease or other
 1898 agreements, including the length of the term; the rent payable,

1899 | directly or indirectly, by each unit owner, and the total rent
1900 | payable to the lessor, stated in monthly and annual amounts for
1901 | the entire term of the lease; and a description of any option to
1902 | purchase the property leased under any such lease, including the
1903 | time the option may be exercised, the purchase price or how it
1904 | is to be determined, the manner of payment, and whether the
1905 | option may be exercised for a unit owner's share or only as to
1906 | the entire leased property.

1907 | (g) A statement as to whether the developer may provide
1908 | additional facilities not described above; their general
1909 | locations and types; improvements or changes that may be made;
1910 | the approximate dollar amount to be expended; and the maximum
1911 | additional common expense or cost to the individual unit owners
1912 | that may be charged during the first annual period of operation
1913 | of the modified or added facilities.

1914 |
1915 | Descriptions as to locations, areas, capacities, numbers,
1916 | volumes, or sizes may be stated as approximations or minimums.

1917 | (7) A description of the recreational and other facilities
1918 | that will be used in common with other condominiums, community
1919 | associations, or planned developments which require the payment
1920 | of the maintenance and expenses of such facilities, directly or
1921 | indirectly, by the unit owners. The description shall include,
1922 | but not be limited to, the following:

1923 | (a) Each building and facility committed to be built.

1924 | (b) Facilities not committed to be built except under

1925 certain conditions, and a statement of those conditions or
 1926 contingencies.

1927 (c) As to each facility committed to be built, or which
 1928 will be committed to be built upon the happening of one of the
 1929 conditions in paragraph (b), a statement of whether it will be
 1930 owned by the unit owners having the use thereof or by an
 1931 association or other entity which will be controlled by them, or
 1932 others, and the location in the exhibits of the lease or other
 1933 document providing for use of those facilities.

1934 (d) The year in which each facility will be available for
 1935 use by the unit owners or, in the alternative, the maximum
 1936 number of unit owners in the project at the time each of all of
 1937 the facilities is committed to be completed.

1938 (e) A general description of the items of personal
 1939 property, and the approximate number of each item of personal
 1940 property, that the developer is committing to furnish for each
 1941 room or other facility or, in the alternative, a representation
 1942 as to the minimum amount of expenditure that will be made to
 1943 purchase the personal property for the facility.

1944 (f) If there are leases, a description thereof, including
 1945 the length of the term, the rent payable, and a description of
 1946 any option to purchase.

1947
 1948 Descriptions shall include location, areas, capacities, numbers,
 1949 volumes, or sizes and may be stated as approximations or
 1950 minimums.

1951 (8) Recreation lease or associated club membership:
 1952 (a) If any recreational facilities or other facilities
 1953 offered by the developer and available to, or to be used by,
 1954 unit owners are to be leased or have club membership associated,
 1955 the following statement in conspicuous type shall be included:
 1956 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 1957 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 1958 CONDOMINIUM. There shall be a reference to the location in the
 1959 disclosure materials where the recreation lease or club
 1960 membership is described in detail.
 1961 (b) If it is mandatory that unit owners pay a fee, rent,
 1962 dues, or other charges under a recreational facilities lease or
 1963 club membership for the use of facilities, there shall be in
 1964 conspicuous type the applicable statement:
 1965 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 1966 MANDATORY FOR UNIT OWNERS; or
 1967 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 1968 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or
 1969 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 1970 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 1971 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 1972 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or
 1973 4. A similar statement of the nature of the organization
 1974 or the manner in which the use rights are created, and that unit
 1975 owners are required to pay.
 1976

1977 Immediately following the applicable statement, the location in
 1978 the disclosure materials where the development is described in
 1979 detail shall be stated.

1980 (c) If the developer, or any other person other than the
 1981 unit owners and other persons having use rights in the
 1982 facilities, reserves, or is entitled to receive, any rent, fee,
 1983 or other payment for the use of the facilities, then there shall
 1984 be the following statement in conspicuous type: THE UNIT OWNERS
 1985 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 1986 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
 1987 following this statement, the location in the disclosure
 1988 materials where the rent or land use fees are described in
 1989 detail shall be stated.

1990 (d) If, in any recreation format, whether leasehold, club,
 1991 or other, any person other than the association has the right to
 1992 a lien on the units to secure the payment of assessments, rent,
 1993 or other exactions, there shall appear a statement in
 1994 conspicuous type in substantially the following form:

1995 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 1996 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 1997 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 1998 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

1999 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2000 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 2001 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 2002 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE

2003 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2004

2005 Immediately following the applicable statement, the location in
 2006 the disclosure materials where the lien or lien right is
 2007 described in detail shall be stated.

2008 (9) If the developer or any other person has the right to
 2009 increase or add to the recreational facilities at any time after
 2010 the establishment of the condominium whose unit owners have use
 2011 rights therein, without the consent of the unit owners or
 2012 associations being required, there shall appear a statement in
 2013 conspicuous type in substantially the following form:

2014 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 2015 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
 2016 statement, the location in the disclosure materials where such
 2017 reserved rights are described shall be stated.

2018 (10) A statement of whether the developer's plan includes
 2019 a program of leasing units rather than selling them, or leasing
 2020 units and selling them subject to such leases. If so, there
 2021 shall be a description of the plan, including the number and
 2022 identification of the units and the provisions and term of the
 2023 proposed leases, and a statement in boldfaced type that: THE
 2024 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2025 (11) The arrangements for management of the association
 2026 and maintenance and operation of the condominium property and of
 2027 other property that will serve the unit owners of the
 2028 condominium property, and a description of the management

2029 contract and all other contracts for these purposes having a
 2030 term in excess of 1 year, including the following:

- 2031 (a) The names of contracting parties.
- 2032 (b) The term of the contract.
- 2033 (c) The nature of the services included.
- 2034 (d) The compensation, stated on a monthly and annual
 2035 basis, and provisions for increases in the compensation.
- 2036 (e) A reference to the volumes and pages of the
 2037 condominium documents and of the exhibits containing copies of
 2038 such contracts.

2039
 2040 Copies of all described contracts shall be attached as exhibits.
 2041 If there is a contract for the management of the condominium
 2042 property, then a statement in conspicuous type in substantially
 2043 the following form shall appear, identifying the proposed or
 2044 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
 2045 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE
 2046 CONTRACT MANAGER). Immediately following this statement, the
 2047 location in the disclosure materials of the contract for
 2048 management of the condominium property shall be stated.

2049 (12) If the developer or any other person or persons other
 2050 than the unit owners has the right to retain control of the
 2051 board of administration of the association for a period of time
 2052 which can exceed 1 year after the closing of the sale of a
 2053 majority of the units in that condominium to persons other than
 2054 successors or alternate developers, then a statement in

2055 conspicuous type in substantially the following form shall be
2056 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
2057 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
2058 HAVE BEEN SOLD. Immediately following this statement, the
2059 location in the disclosure materials where this right to control
2060 is described in detail shall be stated.

2061 (13) If there are any restrictions upon the sale,
2062 transfer, conveyance, or leasing of a unit, then a statement in
2063 conspicuous type in substantially the following form shall be
2064 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
2065 CONTROLLED. Immediately following this statement, the location
2066 in the disclosure materials where the restriction, limitation,
2067 or control on the sale, lease, or transfer of units is described
2068 in detail shall be stated.

2069 (14) If the condominium is part of a phase project, the
2070 following information shall be stated:

2071 (a) A statement in conspicuous type in substantially the
2072 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
2073 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
2074 this statement, the location in the disclosure materials where
2075 the phasing is described shall be stated.

2076 (b) A summary of the provisions of the declaration which
2077 provide for the phasing.

2078 (c) A statement as to whether or not residential buildings
2079 and units which are added to the condominium may be
2080 substantially different from the residential buildings and units

2081 originally in the condominium. If the added residential
2082 buildings and units may be substantially different, there shall
2083 be a general description of the extent to which such added
2084 residential buildings and units may differ, and a statement in
2085 conspicuous type in substantially the following form shall be
2086 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM
2087 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
2088 UNITS IN THE CONDOMINIUM. Immediately following this statement,
2089 the location in the disclosure materials where the extent to
2090 which added residential buildings and units may substantially
2091 differ is described shall be stated.

2092 (d) A statement of the maximum number of buildings
2093 containing units, the maximum and minimum numbers of units in
2094 each building, the maximum number of units, and the minimum and
2095 maximum square footage of the units that may be contained within
2096 each parcel of land which may be added to the condominium.

2097 (15) If a condominium created on or after July 1, 2000, is
2098 or may become part of a multicondominium, the following
2099 information must be provided:

2100 (a) A statement in conspicuous type in substantially the
2101 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
2102 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
2103 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
2104 this statement, the location in the prospectus or offering
2105 circular and its exhibits where the multicondominium aspects of
2106 the offering are described must be stated.

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2107 (b) A summary of the provisions in the declaration,
2108 articles of incorporation, and bylaws which establish and
2109 provide for the operation of the multicondominium, including a
2110 statement as to whether unit owners in the condominium will have
2111 the right to use recreational or other facilities located or
2112 planned to be located in other condominiums operated by the same
2113 association, and the manner of sharing the common expenses
2114 related to such facilities.

2115 (c) A statement of the minimum and maximum number of
2116 condominiums, and the minimum and maximum number of units in
2117 each of those condominiums, which will or may be operated by the
2118 association, and the latest date by which the exact number will
2119 be finally determined.

2120 (d) A statement as to whether any of the condominiums in
2121 the multicondominium may include units intended to be used for
2122 nonresidential purposes and the purpose or purposes permitted
2123 for such use.

2124 (e) A general description of the location and approximate
2125 acreage of any land on which any additional condominiums to be
2126 operated by the association may be located.

2127 (16) If the condominium is created by conversion of
2128 existing improvements, the following information shall be
2129 stated:

2130 (a) The information required by s. 718.616.

2131 (b) A caveat that there are no express warranties unless
2132 they are stated in writing by the developer.

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2133 (17) A summary of the restrictions, if any, to be imposed
2134 on units concerning the use of any of the condominium property,
2135 including statements as to whether there are restrictions upon
2136 children and pets, and reference to the volumes and pages of the
2137 condominium documents where such restrictions are found, or if
2138 such restrictions are contained elsewhere, then a copy of the
2139 documents containing the restrictions shall be attached as an
2140 exhibit.

2141 (18) If there is any land that is offered by the developer
2142 for use by the unit owners and that is neither owned by them nor
2143 leased to them, the association, or any entity controlled by
2144 unit owners and other persons having the use rights to such
2145 land, a statement shall be made as to how such land will serve
2146 the condominium. If any part of such land will serve the
2147 condominium, the statement shall describe the land and the
2148 nature and term of service, and the declaration or other
2149 instrument creating such servitude shall be included as an
2150 exhibit.

2151 (19) The manner in which utility and other services,
2152 including, but not limited to, sewage and waste disposal, water
2153 supply, and storm drainage, will be provided and the person or
2154 entity furnishing them.

2155 (20) An explanation of the manner in which the
2156 apportionment of common expenses and ownership of the common
2157 elements has been determined.

2158 (21) An estimated operating budget for the condominium and

2159 | the association, and a schedule of the unit owner's expenses
2160 | shall be attached as an exhibit and shall contain the following
2161 | information:

2162 | (a) The estimated monthly and annual expenses of the
2163 | condominium and the association that are collected from unit
2164 | owners by assessments.

2165 | (b) The estimated monthly and annual expenses of each unit
2166 | owner for a unit, other than common expenses paid by all unit
2167 | owners, payable by the unit owner to persons or entities other
2168 | than the association, as well as to the association, including
2169 | fees assessed pursuant to s. 718.113(1) for maintenance of
2170 | limited common elements where such costs are shared only by
2171 | those entitled to use the limited common element, and the total
2172 | estimated monthly and annual expense. There may be excluded from
2173 | this estimate expenses which are not provided for or
2174 | contemplated by the condominium documents, including, but not
2175 | limited to, the costs of private telephone; maintenance of the
2176 | interior of condominium units, which is not the obligation of
2177 | the association; maid or janitorial services privately
2178 | contracted for by the unit owners; utility bills billed directly
2179 | to each unit owner for utility services to his or her unit;
2180 | insurance premiums other than those incurred for policies
2181 | obtained by the condominium; and similar personal expenses of
2182 | the unit owner. A unit owner's estimated payments for
2183 | assessments shall also be stated in the estimated amounts for
2184 | the times when they will be due.

2185 (c) The estimated items of expenses of the condominium and
 2186 the association, except as excluded under paragraph (b),
 2187 including, but not limited to, the following items, which shall
 2188 be stated as an association expense collectible by assessments
 2189 or as unit owners' expenses payable to persons other than the
 2190 association:

- 2191 1. Expenses for the association and condominium:
 - 2192 a. Administration of the association.
 - 2193 b. Management fees.
 - 2194 c. Maintenance.
 - 2195 d. Rent for recreational and other commonly used
 2196 facilities.
 - 2197 e. Taxes upon association property.
 - 2198 f. Taxes upon leased areas.
 - 2199 g. Insurance.
 - 2200 h. Security provisions.
 - 2201 i. Other expenses.
 - 2202 j. Operating capital.
 - 2203 k. Reserves.
- 2204 1. Fees payable to the division.
- 2205 2. Expenses for a unit owner:
 - 2206 a. Rent for the unit, if subject to a lease.
 - 2207 b. Rent payable by the unit owner directly to the lessor
 2208 or agent under any recreational lease or lease for the use of
 2209 commonly used facilities, which use and payment is a mandatory
 2210 condition of ownership and is not included in the common expense

2211 or assessments for common maintenance paid by the unit owners to
 2212 the association.

2213 (d) The following statement in conspicuous type: THE
 2214 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
 2215 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
 2216 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 2217 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 2218 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 2219 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 2220 THE OFFERING.

2221 (e) Each budget for an association prepared by a developer
 2222 consistent with this subsection shall be prepared in good faith
 2223 and shall reflect accurate estimated amounts for the required
 2224 items in paragraph (c) at the time of the filing of the offering
 2225 circular with the division, and subsequent increased amounts of
 2226 any item included in the association's estimated budget that are
 2227 beyond the control of the developer may ~~shall~~ not be considered
 2228 an amendment that would give rise to rescission rights set forth
 2229 in s. 718.503(1)(a) or (b), nor shall such increases modify,
 2230 void, or otherwise affect any guarantee of the developer
 2231 contained in the offering circular or any purchase contract. It
 2232 is the intent of this paragraph to clarify existing law.

2233 (f) The estimated amounts shall be stated for a period of
 2234 at least 12 months and may distinguish between the period prior
 2235 to the time unit owners other than the developer elect a
 2236 majority of the board of administration and the period after

2237 that date.

2238 (22) A schedule of estimated closing expenses to be paid
 2239 by a buyer or lessee of a unit and a statement of whether title
 2240 opinion or title insurance policy is available to the buyer and,
 2241 if so, at whose expense.

2242 (23) The identity of the developer and the chief operating
 2243 officer or principal directing the creation and sale of the
 2244 condominium and a statement of its and his or her experience in
 2245 this field.

2246 (24) Copies of the following, to the extent they are
 2247 applicable, shall be included as exhibits:

2248 (a) The declaration of condominium, or the proposed
 2249 declaration if the declaration has not been recorded.

2250 (b) The articles of incorporation creating the
 2251 association.

2252 (c) The bylaws of the association.

2253 (d) The ground lease or other underlying lease of the
 2254 condominium.

2255 (e) The management agreement and all maintenance and other
 2256 contracts for management of the association and operation of the
 2257 condominium and facilities used by the unit owners having a
 2258 service term in excess of 1 year.

2259 (f) The estimated operating budget for the condominium and
 2260 the required schedule of unit owners' expenses.

2261 (g) A copy of the floor plan of the unit and the plot plan
 2262 showing the location of the residential buildings and the

2263 recreation and other common areas.

2264 (h) The lease of recreational and other facilities that
2265 will be used only by unit owners of the subject condominium.

2266 (i) The lease of facilities used by owners and others.

2267 (j) The form of unit lease, if the offer is of a
2268 leasehold.

2269 (k) A declaration of servitude of properties serving the
2270 condominium but not owned by unit owners or leased to them or
2271 the association.

2272 (l) The statement of condition of the existing building or
2273 buildings, if the offering is of units in an operation being
2274 converted to condominium ownership.

2275 (m) The statement of inspection for termite damage and
2276 treatment of the existing improvements, if the condominium is a
2277 conversion.

2278 (n) The form of agreement for sale or lease of units.

2279 (o) A copy of the agreement for escrow of payments made to
2280 the developer prior to closing.

2281 (p) A copy of the documents containing any restrictions on
2282 use of the property required by subsection (17).

2283 (25) Any prospectus or offering circular complying, prior
2284 to the effective date of this act, with the provisions of former
2285 ss. 711.69 and 711.802 may continue to be used without amendment
2286 or may be amended to comply with this chapter.

2287 (26) A brief narrative description of the location and
2288 effect of all existing and intended easements located or to be

2289 | located on the condominium property other than those described
 2290 | in the declaration.

2291 | (27) If the developer is required by state or local
 2292 | authorities to obtain acceptance or approval of any dock or
 2293 | marina facilities intended to serve the condominium, a copy of
 2294 | any such acceptance or approval acquired by the time of filing
 2295 | with the division under s. 718.502(1) or a statement that such
 2296 | acceptance or approval has not been acquired or received.

2297 | (28) Evidence demonstrating that the developer has an
 2298 | ownership, leasehold, or contractual interest in the land upon
 2299 | which the condominium is to be developed.

2300 | Section 32. Section 718.508, Florida Statutes, is amended
 2301 | to read:

2302 | 718.508 Regulation by Division of Hotels and Restaurants.—
 2303 | In addition to the authority, regulation, or control exercised
 2304 | by the Division of Florida Condominiums, Homeowners'
 2305 | Associations, Timeshares, and Mobile Homes pursuant to this act
 2306 | with respect to condominiums, buildings included in a
 2307 | condominium property are subject to the authority, regulation,
 2308 | or control of the Division of Hotels and Restaurants of the
 2309 | Department of Business and Professional Regulation, to the
 2310 | extent provided in chapter 399.

2311 | Section 33. Paragraph (a) of subsection (2) of section
 2312 | 718.608, Florida Statutes, is amended to read:

2313 | 718.608 Notice of intended conversion; time of delivery;
 2314 | content.—

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2315 (2) (a) Each notice of intended conversion shall be dated
2316 and in writing. The notice shall contain the following
2317 statement, with the phrases of the following statement which
2318 appear in upper case printed in conspicuous type:

2319

2320 These apartments are being converted to condominium by
2321 ...(name of developer)..., the developer.

2322 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
2323 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
2324 AGREEMENT AS FOLLOWS:

2325 a. If you have continuously been a resident of these
2326 apartments during the last 180 days and your rental agreement
2327 expires during the next 270 days, you may extend your rental
2328 agreement for up to 270 days after the date of this notice.

2329 b. If you have not been a continuous resident of these
2330 apartments for the last 180 days and your rental agreement
2331 expires during the next 180 days, you may extend your rental
2332 agreement for up to 180 days after the date of this notice.

2333 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
2334 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
2335 DATE OF THIS NOTICE.

2336 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
2337 you may extend your rental agreement for up to 45 days after the
2338 date of this notice while you decide whether to extend your
2339 rental agreement as explained above. To do so, you must notify
2340 the developer in writing. You will then have the full 45 days to

2341 decide whether to extend your rental agreement as explained
 2342 above.

2343 3. During the extension of your rental agreement you will
 2344 be charged the same rent that you are now paying.

2345 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
 2346 OF THE RENTAL AGREEMENT AS FOLLOWS:

2347 a. If your rental agreement began or was extended or
 2348 renewed after May 1, 1980, and your rental agreement, including
 2349 extensions and renewals, has an unexpired term of 180 days or
 2350 less, you may cancel your rental agreement upon 30 days' written
 2351 notice and move. Also, upon 30 days' written notice, you may
 2352 cancel any extension of the rental agreement.

2353 b. If your rental agreement was not begun or was not
 2354 extended or renewed after May 1, 1980, you may not cancel the
 2355 rental agreement without the consent of the developer. If your
 2356 rental agreement, including extensions and renewals, has an
 2357 unexpired term of 180 days or less, you may, however, upon 30
 2358 days' written notice cancel any extension of the rental
 2359 agreement.

2360 5. All notices must be given in writing and sent by mail,
 2361 return receipt requested, or delivered in person to the
 2362 developer at this address: ...(name and address of
 2363 developer)....

2364 6. If you have continuously been a resident of these
 2365 apartments during the last 180 days:

2366 a. You have the right to purchase your apartment and will

2367 have 45 days to decide whether to purchase. If you do not buy
2368 the unit at that price and the unit is later offered at a lower
2369 price, you will have the opportunity to buy the unit at the
2370 lower price. However, in all events your right to purchase the
2371 unit ends when the rental agreement or any extension of the
2372 rental agreement ends or when you waive this right in writing.

2373 b. Within 90 days you will be provided purchase
2374 information relating to your apartment, including the price of
2375 your unit and the condition of the building. If you do not
2376 receive this information within 90 days, your rental agreement
2377 and any extension will be extended 1 day for each day over 90
2378 days until you are given the purchase information. If you do not
2379 want this rental agreement extension, you must notify the
2380 developer in writing.

2381 7. If you have any questions regarding this conversion or
2382 the Condominium Act, you may contact the developer or the state
2383 agency which regulates condominiums: The Division of Florida
2384 Condominiums, Homeowners' Associations, Timeshares, and Mobile
2385 Homes, ... (Tallahassee address and telephone number of
2386 division)....

2387 Section 34. Subsection (17) of section 719.103, Florida
2388 Statutes, is amended to read:

2389 719.103 Definitions.—As used in this chapter:

2390 (17) "Division" means the Division of Florida
2391 Condominiums, Homeowners' Associations, Timeshares, and Mobile
2392 Homes of the Department of Business and Professional Regulation.

2393 Section 35. Section 719.1255, Florida Statutes, is amended
 2394 to read:

2395 719.1255 Alternative resolution of disputes.—The Division
 2396 of Florida Condominiums, Homeowners' Associations, Timeshares,
 2397 and Mobile Homes of the Department of Business and Professional
 2398 Regulation shall provide for alternative dispute resolution in
 2399 accordance with s. 718.1255.

2400 Section 36. Section 719.501, Florida Statutes, is amended
 2401 to read:

2402 719.501 Powers and duties of Division of Florida
 2403 Condominiums, Homeowners' Associations, Timeshares, and Mobile
 2404 Homes.—

2405 (1) The Division of Florida Condominiums, Homeowners'
 2406 Associations, Timeshares, and Mobile Homes of the Department of
 2407 Business and Professional Regulation, referred to as the
 2408 "division" in this part, in addition to other powers and duties
 2409 prescribed by chapter 718, has the power to enforce and ensure
 2410 compliance with this chapter and adopted rules relating to the
 2411 development, construction, sale, lease, ownership, operation,
 2412 and management of residential cooperative units. In performing
 2413 its duties, the division shall have the following powers and
 2414 duties:

2415 (a) The division may make necessary public or private
 2416 investigations within or outside this state to determine whether
 2417 any person has violated this chapter or any rule or order
 2418 hereunder, to aid in the enforcement of this chapter, or to aid

2419 in the adoption of rules or forms hereunder.

2420 (b) The division may require or permit any person to file
2421 a statement in writing, under oath or otherwise, as the division
2422 determines, as to the facts and circumstances concerning a
2423 matter to be investigated.

2424 (c) For the purpose of any investigation under this
2425 chapter, the division director or any officer or employee
2426 designated by the division director may administer oaths or
2427 affirmations, subpoena witnesses and compel their attendance,
2428 take evidence, and require the production of any matter which is
2429 relevant to the investigation, including the existence,
2430 description, nature, custody, condition, and location of any
2431 books, documents, or other tangible things and the identity and
2432 location of persons having knowledge of relevant facts or any
2433 other matter reasonably calculated to lead to the discovery of
2434 material evidence. Upon failure by a person to obey a subpoena
2435 or to answer questions propounded by the investigating officer
2436 and upon reasonable notice to all persons affected thereby, the
2437 division may apply to the circuit court for an order compelling
2438 compliance.

2439 (d) Notwithstanding any remedies available to unit owners
2440 and associations, if the division has reasonable cause to
2441 believe that a violation of any provision of this chapter or
2442 related rule has occurred, the division may institute
2443 enforcement proceedings in its own name against a developer,
2444 association, officer, or member of the board, or its assignees

2445 or agents, as follows:

2446 1. The division may permit a person whose conduct or
2447 actions may be under investigation to waive formal proceedings
2448 and enter into a consent proceeding whereby orders, rules, or
2449 letters of censure or warning, whether formal or informal, may
2450 be entered against the person.

2451 2. The division may issue an order requiring the
2452 developer, association, officer, or member of the board, or its
2453 assignees or agents, to cease and desist from the unlawful
2454 practice and take such affirmative action as in the judgment of
2455 the division will carry out the purposes of this chapter. Such
2456 affirmative action may include, but is not limited to, an order
2457 requiring a developer to pay moneys determined to be owed to a
2458 condominium association.

2459 3. The division may bring an action in circuit court on
2460 behalf of a class of unit owners, lessees, or purchasers for
2461 declaratory relief, injunctive relief, or restitution.

2462 4. The division may impose a civil penalty against a
2463 developer or association, or its assignees or agents, for any
2464 violation of this chapter or related rule. The division may
2465 impose a civil penalty individually against any officer or board
2466 member who willfully and knowingly violates a provision of this
2467 chapter, a rule adopted pursuant to this chapter, or a final
2468 order of the division. The term "willfully and knowingly" means
2469 that the division informed the officer or board member that his
2470 or her action or intended action violates this chapter, a rule

2471 adopted under this chapter, or a final order of the division,
2472 and that the officer or board member refused to comply with the
2473 requirements of this chapter, a rule adopted under this chapter,
2474 or a final order of the division. The division, prior to
2475 initiating formal agency action under chapter 120, shall afford
2476 the officer or board member an opportunity to voluntarily comply
2477 with this chapter, a rule adopted under this chapter, or a final
2478 order of the division. An officer or board member who complies
2479 within 10 days is not subject to a civil penalty. A penalty may
2480 be imposed on the basis of each day of continuing violation, but
2481 in no event shall the penalty for any offense exceed \$5,000. By
2482 January 1, 1998, the division shall adopt, by rule, penalty
2483 guidelines applicable to possible violations or to categories of
2484 violations of this chapter or rules adopted by the division. The
2485 guidelines must specify a meaningful range of civil penalties
2486 for each such violation of the statute and rules and must be
2487 based upon the harm caused by the violation, the repetition of
2488 the violation, and upon such other factors deemed relevant by
2489 the division. For example, the division may consider whether the
2490 violations were committed by a developer or owner-controlled
2491 association, the size of the association, and other factors. The
2492 guidelines must designate the possible mitigating or aggravating
2493 circumstances that justify a departure from the range of
2494 penalties provided by the rules. It is the legislative intent
2495 that minor violations be distinguished from those which endanger
2496 the health, safety, or welfare of the cooperative residents or

2497 other persons and that such guidelines provide reasonable and
2498 meaningful notice to the public of likely penalties that may be
2499 imposed for proscribed conduct. This subsection does not limit
2500 the ability of the division to informally dispose of
2501 administrative actions or complaints by stipulation, agreed
2502 settlement, or consent order. All amounts collected shall be
2503 deposited with the Chief Financial Officer to the credit of the
2504 Division of Florida Condominiums, Homeowners' Associations,
2505 Timeshares, and Mobile Homes Trust Fund. If a developer fails to
2506 pay the civil penalty, the division shall ~~thereupon~~ issue an
2507 order directing that the ~~such~~ developer cease and desist from
2508 further operation until such time as the civil penalty is paid
2509 or shall ~~may~~ pursue enforcement of the penalty in a court of
2510 competent jurisdiction. If an association fails to pay the civil
2511 penalty, the division shall thereupon pursue enforcement in a
2512 court of competent jurisdiction, and the order imposing the
2513 civil penalty or the cease and desist order does ~~shall~~ not
2514 become effective until 20 days after the date of such order. Any
2515 action commenced by the division shall be brought in the county
2516 in which the division has its executive offices or in the county
2517 where the violation occurred.

2518 (e) The division may prepare and disseminate a prospectus
2519 and other information to assist prospective owners, purchasers,
2520 lessees, and developers of residential cooperatives in assessing
2521 the rights, privileges, and duties pertaining thereto.

2522 (f) The division has authority to adopt rules pursuant to

2523 ss. 120.536(1) and 120.54 to implement and enforce the
 2524 provisions of this chapter.

2525 (g) The division shall establish procedures for providing
 2526 notice to an association when the division is considering the
 2527 issuance of a declaratory statement with respect to the
 2528 cooperative documents governing such cooperative community.

2529 (h) The division shall furnish each association which pays
 2530 the fees required by paragraph (2) (a) a copy of this act,
 2531 subsequent changes to this act on an annual basis, an amended
 2532 version of this act as it becomes available from the Secretary
 2533 of State's office on a biennial basis, and the rules adopted
 2534 thereto on an annual basis.

2535 (i) The division shall annually provide each association
 2536 with a summary of declaratory statements and formal legal
 2537 opinions relating to the operations of cooperatives which were
 2538 rendered by the division during the previous year.

2539 (j) The division shall adopt uniform accounting
 2540 principles, policies, and standards to be used by all
 2541 associations in the preparation and presentation of all
 2542 financial statements required by this chapter. The principles,
 2543 policies, and standards shall take into consideration the size
 2544 of the association and the total revenue collected by the
 2545 association.

2546 (k) The division shall provide training and educational
 2547 programs for cooperative association board members and unit
 2548 owners. The training may, in the division's discretion, include

2549 web-based electronic media, and live training and seminars in
2550 various locations throughout the state. The division may review
2551 and approve education and training programs for board members
2552 and unit owners offered by providers and shall maintain a
2553 current list of approved programs and providers and make such
2554 list available to board members and unit owners in a reasonable
2555 and cost-effective manner.

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

2558 (m) When a complaint is made to the division, the division
2559 shall conduct its inquiry with reasonable dispatch and with due
2560 regard to the interests of the affected parties. Within 30 days
2561 after receipt of a complaint, the division shall acknowledge the
2562 complaint in writing and notify the complainant whether the
2563 complaint is within the jurisdiction of the division and whether
2564 additional information is needed by the division from the
2565 complainant. The division shall conduct its investigation and
2566 shall, within 90 days after receipt of the original complaint or
2567 timely requested additional information, take action upon the
2568 complaint. However, the failure to complete the investigation
2569 within 90 days does not prevent the division from continuing the
2570 investigation, accepting or considering evidence obtained or
2571 received after 90 days, or taking administrative action if
2572 reasonable cause exists to believe that a violation of this
2573 chapter or a rule of the division has occurred. If an
2574 investigation is not completed within the time limits

2575 established in this paragraph, the division shall, on a monthly
2576 basis, notify the complainant in writing of the status of the
2577 investigation. When reporting its action to the complainant, the
2578 division shall inform the complainant of any right to a hearing
2579 pursuant to ss. 120.569 and 120.57.

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

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

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

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

2609 Section 37. Paragraph (a) of subsection (2) of section
 2610 719.502, Florida Statutes, is amended to read:

2611 719.502 Filing prior to sale or lease.—

2612 (2) (a) Prior to filing as required by subsection (1), and
 2613 prior to acquiring an ownership, leasehold, or contractual
 2614 interest in the land upon which the cooperative is to be
 2615 developed, a developer may ~~shall~~ not offer a contract for
 2616 purchase or lease of a unit for more than 5 years. However, the
 2617 developer may accept deposits for reservations upon the approval
 2618 of a fully executed escrow agreement and reservation agreement
 2619 form properly filed with the Division of Florida Condominiums,
 2620 Homeowners' Associations, Timeshares, and Mobile Homes. Each
 2621 filing of a proposed reservation program shall be accompanied by
 2622 a filing fee of \$250. Reservations may ~~shall~~ not be taken on a
 2623 proposed cooperative unless the developer has an ownership,
 2624 leasehold, or contractual interest in the land upon which the
 2625 cooperative is to be developed. The division shall notify the
 2626 developer within 20 days of receipt of the reservation filing of

2627 any deficiencies contained therein. Such notification does ~~shall~~
 2628 not preclude the determination of reservation filing
 2629 deficiencies at a later date, nor shall it relieve the developer
 2630 of any responsibility under the law. The escrow agreement and
 2631 the reservation agreement form shall include a statement of the
 2632 right of the prospective purchaser to an immediate unqualified
 2633 refund of the reservation deposit moneys upon written request to
 2634 the escrow agent by the prospective purchaser or the developer.

2635 Section 38. Section 719.504, Florida Statutes, is amended
 2636 to read:

2637 719.504 Prospectus or offering circular.—Every developer
 2638 of a residential cooperative which contains more than 20
 2639 residential units, or which is part of a group of residential
 2640 cooperatives which will be served by property to be used in
 2641 common by unit owners of more than 20 residential units, shall
 2642 prepare a prospectus or offering circular and file it with the
 2643 Division of Florida Condominiums, Homeowners' Associations,
 2644 Timeshares, and Mobile Homes prior to entering into an
 2645 enforceable contract of purchase and sale of any unit or lease
 2646 of a unit for more than 5 years and shall furnish a copy of the
 2647 prospectus or offering circular to each buyer. In addition to
 2648 the prospectus or offering circular, each buyer shall be
 2649 furnished a separate page entitled "Frequently Asked Questions
 2650 and Answers," which must be in accordance with a format approved
 2651 by the division. This page must, in readable language: inform
 2652 prospective purchasers regarding their voting rights and unit

2653 use restrictions, including restrictions on the leasing of a
 2654 unit; indicate whether and in what amount the unit owners or the
 2655 association is obligated to pay rent or land use fees for
 2656 recreational or other commonly used facilities; contain a
 2657 statement identifying that amount of assessment which, pursuant
 2658 to the budget, would be levied upon each unit type, exclusive of
 2659 any special assessments, and which identifies the basis upon
 2660 which assessments are levied, whether monthly, quarterly, or
 2661 otherwise; state and identify any court cases in which the
 2662 association is currently a party of record in which the
 2663 association may face liability in excess of \$100,000; and state
 2664 whether membership in a recreational facilities association is
 2665 mandatory and, if so, identify the fees currently charged per
 2666 unit type. The division shall by rule require such other
 2667 disclosure as in its judgment will assist prospective
 2668 purchasers. The prospectus or offering circular may include more
 2669 than one cooperative, although not all such units are being
 2670 offered for sale as of the date of the prospectus or offering
 2671 circular. The prospectus or offering circular must contain the
 2672 following information:

2673 (1) The front cover or the first page must contain only:

2674 (a) The name of the cooperative.

2675 (b) The following statements in conspicuous type:

2676 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 2677 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2678 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN

2679 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 2680 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 2681 MATERIALS.

2682 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
 2683 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
 2684 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 2685 REPRESENTATIONS.

2686 (2) Summary: The next page must contain all statements
 2687 required to be in conspicuous type in the prospectus or offering
 2688 circular.

2689 (3) A separate index of the contents and exhibits of the
 2690 prospectus.

2691 (4) Beginning on the first page of the text (not including
 2692 the summary and index), a description of the cooperative,
 2693 including, but not limited to, the following information:

2694 (a) Its name and location.

2695 (b) A description of the cooperative property, including,
 2696 without limitation:

2697 1. The number of buildings, the number of units in each
 2698 building, the number of bathrooms and bedrooms in each unit, and
 2699 the total number of units, if the cooperative is not a phase
 2700 cooperative; or, if the cooperative is a phase cooperative, the
 2701 maximum number of buildings that may be contained within the
 2702 cooperative, the minimum and maximum number of units in each
 2703 building, the minimum and maximum number of bathrooms and
 2704 bedrooms that may be contained in each unit, and the maximum

2705 number of units that may be contained within the cooperative.

2706 2. The page in the cooperative documents where a copy of
2707 the survey and plot plan of the cooperative is located.

2708 3. The estimated latest date of completion of
2709 constructing, finishing, and equipping. In lieu of a date, a
2710 statement that the estimated date of completion of the
2711 cooperative is in the purchase agreement and a reference to the
2712 article or paragraph containing that information.

2713 (c) The maximum number of units that will use facilities
2714 in common with the cooperative. If the maximum number of units
2715 will vary, a description of the basis for variation and the
2716 minimum amount of dollars per unit to be spent for additional
2717 recreational facilities or enlargement of such facilities. If
2718 the addition or enlargement of facilities will result in a
2719 material increase of a unit owner's maintenance expense or
2720 rental expense, if any, the maximum increase and limitations
2721 thereon shall be stated.

2722 (5) (a) A statement in conspicuous type describing whether
2723 the cooperative is created and being sold as fee simple
2724 interests or as leasehold interests. If the cooperative is
2725 created or being sold on a leasehold, the location of the lease
2726 in the disclosure materials shall be stated.

2727 (b) If timeshare estates are or may be created with
2728 respect to any unit in the cooperative, a statement in
2729 conspicuous type stating that timeshare estates are created and
2730 being sold in such specified units in the cooperative.

2731 (6) A description of the recreational and other common
 2732 areas that will be used only by unit owners of the cooperative,
 2733 including, but not limited to, the following:

2734 (a) Each room and its intended purposes, location,
 2735 approximate floor area, and capacity in numbers of people.

2736 (b) Each swimming pool, as to its general location,
 2737 approximate size and depths, approximate deck size and capacity,
 2738 and whether heated.

2739 (c) Additional facilities, as to the number of each
 2740 facility, its approximate location, approximate size, and
 2741 approximate capacity.

2742 (d) A general description of the items of personal
 2743 property and the approximate number of each item of personal
 2744 property that the developer is committing to furnish for each
 2745 room or other facility or, in the alternative, a representation
 2746 as to the minimum amount of expenditure that will be made to
 2747 purchase the personal property for the facility.

2748 (e) The estimated date when each room or other facility
 2749 will be available for use by the unit owners.

2750 (f)1. An identification of each room or other facility to
 2751 be used by unit owners that will not be owned by the unit owners
 2752 or the association;

2753 2. A reference to the location in the disclosure materials
 2754 of the lease or other agreements providing for the use of those
 2755 facilities; and

2756 3. A description of the terms of the lease or other

2757 agreements, including the length of the term; the rent payable,
2758 directly or indirectly, by each unit owner, and the total rent
2759 payable to the lessor, stated in monthly and annual amounts for
2760 the entire term of the lease; and a description of any option to
2761 purchase the property leased under any such lease, including the
2762 time the option may be exercised, the purchase price or how it
2763 is to be determined, the manner of payment, and whether the
2764 option may be exercised for a unit owner's share or only as to
2765 the entire leased property.

2766 (g) A statement as to whether the developer may provide
2767 additional facilities not described above, their general
2768 locations and types, improvements or changes that may be made,
2769 the approximate dollar amount to be expended, and the maximum
2770 additional common expense or cost to the individual unit owners
2771 that may be charged during the first annual period of operation
2772 of the modified or added facilities.

2773
2774 Descriptions as to locations, areas, capacities, numbers,
2775 volumes, or sizes may be stated as approximations or minimums.

2776 (7) A description of the recreational and other facilities
2777 that will be used in common with other cooperatives, community
2778 associations, or planned developments which require the payment
2779 of the maintenance and expenses of such facilities, directly or
2780 indirectly, by the unit owners. The description shall include,
2781 but not be limited to, the following:

2782 (a) Each building and facility committed to be built.

2783 (b) Facilities not committed to be built except under
2784 certain conditions, and a statement of those conditions or
2785 contingencies.

2786 (c) As to each facility committed to be built, or which
2787 will be committed to be built upon the happening of one of the
2788 conditions in paragraph (b), a statement of whether it will be
2789 owned by the unit owners having the use thereof or by an
2790 association or other entity which will be controlled by them, or
2791 others, and the location in the exhibits of the lease or other
2792 document providing for use of those facilities.

2793 (d) The year in which each facility will be available for
2794 use by the unit owners or, in the alternative, the maximum
2795 number of unit owners in the project at the time each of all of
2796 the facilities is committed to be completed.

2797 (e) A general description of the items of personal
2798 property, and the approximate number of each item of personal
2799 property, that the developer is committing to furnish for each
2800 room or other facility or, in the alternative, a representation
2801 as to the minimum amount of expenditure that will be made to
2802 purchase the personal property for the facility.

2803 (f) If there are leases, a description thereof, including
2804 the length of the term, the rent payable, and a description of
2805 any option to purchase.

2806

2807 Descriptions shall include location, areas, capacities, numbers,
2808 volumes, or sizes and may be stated as approximations or

2809 | minimums.

2810 | (8) Recreation lease or associated club membership:

2811 | (a) If any recreational facilities or other common areas
 2812 | offered by the developer and available to, or to be used by,
 2813 | unit owners are to be leased or have club membership associated,
 2814 | the following statement in conspicuous type shall be included:
 2815 | THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 2816 | COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 2817 | COOPERATIVE. There shall be a reference to the location in the
 2818 | disclosure materials where the recreation lease or club
 2819 | membership is described in detail.

2820 | (b) If it is mandatory that unit owners pay a fee, rent,
 2821 | dues, or other charges under a recreational facilities lease or
 2822 | club membership for the use of facilities, there shall be in
 2823 | conspicuous type the applicable statement:

2824 | 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 2825 | MANDATORY FOR UNIT OWNERS; or

2826 | 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 2827 | TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2828 | 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 2829 | COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 2830 | REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 2831 | LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2832 | 4. A similar statement of the nature of the organization
 2833 | or manner in which the use rights are created, and that unit
 2834 | owners are required to pay.

2835
 2836 Immediately following the applicable statement, the location in
 2837 the disclosure materials where the development is described in
 2838 detail shall be stated.

2839 (c) If the developer, or any other person other than the
 2840 unit owners and other persons having use rights in the
 2841 facilities, reserves, or is entitled to receive, any rent, fee,
 2842 or other payment for the use of the facilities, then there shall
 2843 be the following statement in conspicuous type: THE UNIT OWNERS
 2844 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 2845 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this
 2846 statement, the location in the disclosure materials where the
 2847 rent or land use fees are described in detail shall be stated.

2848 (d) If, in any recreation format, whether leasehold, club,
 2849 or other, any person other than the association has the right to
 2850 a lien on the units to secure the payment of assessments, rent,
 2851 or other exactions, there shall appear a statement in
 2852 conspicuous type in substantially the following form:

2853 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2854 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 2855 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 2856 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2857 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2858 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 2859 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 2860 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE

2861 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2862

2863 Immediately following the applicable statement, the location in
 2864 the disclosure materials where the lien or lien right is
 2865 described in detail shall be stated.

2866 (9) If the developer or any other person has the right to
 2867 increase or add to the recreational facilities at any time after
 2868 the establishment of the cooperative whose unit owners have use
 2869 rights therein, without the consent of the unit owners or
 2870 associations being required, there shall appear a statement in
 2871 conspicuous type in substantially the following form:

2872 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 2873 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
 2874 statement, the location in the disclosure materials where such
 2875 reserved rights are described shall be stated.

2876 (10) A statement of whether the developer's plan includes
 2877 a program of leasing units rather than selling them, or leasing
 2878 units and selling them subject to such leases. If so, there
 2879 shall be a description of the plan, including the number and
 2880 identification of the units and the provisions and term of the
 2881 proposed leases, and a statement in boldfaced type that: THE
 2882 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2883 (11) The arrangements for management of the association
 2884 and maintenance and operation of the cooperative property and of
 2885 other property that will serve the unit owners of the
 2886 cooperative property, and a description of the management

2887 contract and all other contracts for these purposes having a
 2888 term in excess of 1 year, including the following:

- 2889 (a) The names of contracting parties.
- 2890 (b) The term of the contract.
- 2891 (c) The nature of the services included.
- 2892 (d) The compensation, stated on a monthly and annual
 2893 basis, and provisions for increases in the compensation.
- 2894 (e) A reference to the volumes and pages of the
 2895 cooperative documents and of the exhibits containing copies of
 2896 such contracts.

2897
 2898 Copies of all described contracts shall be attached as exhibits.
 2899 If there is a contract for the management of the cooperative
 2900 property, then a statement in conspicuous type in substantially
 2901 the following form shall appear, identifying the proposed or
 2902 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
 2903 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE
 2904 CONTRACT MANAGER). Immediately following this statement, the
 2905 location in the disclosure materials of the contract for
 2906 management of the cooperative property shall be stated.

2907 (12) If the developer or any other person or persons other
 2908 than the unit owners has the right to retain control of the
 2909 board of administration of the association for a period of time
 2910 which can exceed 1 year after the closing of the sale of a
 2911 majority of the units in that cooperative to persons other than
 2912 successors or alternate developers, then a statement in

2913 conspicuous type in substantially the following form shall be
 2914 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
 2915 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
 2916 HAVE BEEN SOLD. Immediately following this statement, the
 2917 location in the disclosure materials where this right to control
 2918 is described in detail shall be stated.

2919 (13) If there are any restrictions upon the sale,
 2920 transfer, conveyance, or leasing of a unit, then a statement in
 2921 conspicuous type in substantially the following form shall be
 2922 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
 2923 CONTROLLED. Immediately following this statement, the location
 2924 in the disclosure materials where the restriction, limitation,
 2925 or control on the sale, lease, or transfer of units is described
 2926 in detail shall be stated.

2927 (14) If the cooperative is part of a phase project, the
 2928 following shall be stated:

2929 (a) A statement in conspicuous type in substantially the
 2930 following form shall be included: THIS IS A PHASE COOPERATIVE.
 2931 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.
 2932 Immediately following this statement, the location in the
 2933 disclosure materials where the phasing is described shall be
 2934 stated.

2935 (b) A summary of the provisions of the declaration
 2936 providing for the phasing.

2937 (c) A statement as to whether or not residential buildings
 2938 and units which are added to the cooperative may be

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2939 substantially different from the residential buildings and units
2940 originally in the cooperative, and, if the added residential
2941 buildings and units may be substantially different, there shall
2942 be a general description of the extent to which such added
2943 residential buildings and units may differ, and a statement in
2944 conspicuous type in substantially the following form shall be
2945 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE
2946 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
2947 UNITS IN THE COOPERATIVE. Immediately following this statement,
2948 the location in the disclosure materials where the extent to
2949 which added residential buildings and units may substantially
2950 differ is described shall be stated.

2951 (d) A statement of the maximum number of buildings
2952 containing units, the maximum and minimum number of units in
2953 each building, the maximum number of units, and the minimum and
2954 maximum square footage of the units that may be contained within
2955 each parcel of land which may be added to the cooperative.

2956 (15) If the cooperative is created by conversion of
2957 existing improvements, the following information shall be
2958 stated:

2959 (a) The information required by s. 719.616.

2960 (b) A caveat that there are no express warranties unless
2961 they are stated in writing by the developer.

2962 (16) A summary of the restrictions, if any, to be imposed
2963 on units concerning the use of any of the cooperative property,
2964 including statements as to whether there are restrictions upon

2965 children and pets, and reference to the volumes and pages of the
2966 cooperative documents where such restrictions are found, or if
2967 such restrictions are contained elsewhere, then a copy of the
2968 documents containing the restrictions shall be attached as an
2969 exhibit.

2970 (17) If there is any land that is offered by the developer
2971 for use by the unit owners and that is neither owned by them nor
2972 leased to them, the association, or any entity controlled by
2973 unit owners and other persons having the use rights to such
2974 land, a statement shall be made as to how such land will serve
2975 the cooperative. If any part of such land will serve the
2976 cooperative, the statement shall describe the land and the
2977 nature and term of service, and the cooperative documents or
2978 other instrument creating such servitude shall be included as an
2979 exhibit.

2980 (18) The manner in which utility and other services,
2981 including, but not limited to, sewage and waste disposal, water
2982 supply, and storm drainage, will be provided and the person or
2983 entity furnishing them.

2984 (19) An explanation of the manner in which the
2985 apportionment of common expenses and ownership of the common
2986 areas have been determined.

2987 (20) An estimated operating budget for the cooperative and
2988 the association, and a schedule of the unit owner's expenses
2989 shall be attached as an exhibit and shall contain the following
2990 information:

2991 (a) The estimated monthly and annual expenses of the
2992 cooperative and the association that are collected from unit
2993 owners by assessments.

2994 (b) The estimated monthly and annual expenses of each unit
2995 owner for a unit, other than assessments payable to the
2996 association, payable by the unit owner to persons or entities
2997 other than the association, and the total estimated monthly and
2998 annual expense. There may be excluded from this estimate
2999 expenses that are personal to unit owners, which are not
3000 uniformly incurred by all unit owners, or which are not provided
3001 for or contemplated by the cooperative documents, including, but
3002 not limited to, the costs of private telephone; maintenance of
3003 the interior of cooperative units, which is not the obligation
3004 of the association; maid or janitorial services privately
3005 contracted for by the unit owners; utility bills billed directly
3006 to each unit owner for utility services to his or her unit;
3007 insurance premiums other than those incurred for policies
3008 obtained by the cooperative; and similar personal expenses of
3009 the unit owner. A unit owner's estimated payments for
3010 assessments shall also be stated in the estimated amounts for
3011 the times when they will be due.

3012 (c) The estimated items of expenses of the cooperative and
3013 the association, except as excluded under paragraph (b),
3014 including, but not limited to, the following items, which shall
3015 be stated as an association expense collectible by assessments
3016 or as unit owners' expenses payable to persons other than the

3017 association:

3018 1. Expenses for the association and cooperative:

3019 a. Administration of the association.

3020 b. Management fees.

3021 c. Maintenance.

3022 d. Rent for recreational and other commonly used areas.

3023 e. Taxes upon association property.

3024 f. Taxes upon leased areas.

3025 g. Insurance.

3026 h. Security provisions.

3027 i. Other expenses.

3028 j. Operating capital.

3029 k. Reserves.

3030 1. Fee payable to the division.

3031 2. Expenses for a unit owner:

3032 a. Rent for the unit, if subject to a lease.

3033 b. Rent payable by the unit owner directly to the lessor

3034 or agent under any recreational lease or lease for the use of

3035 commonly used areas, which use and payment are a mandatory

3036 condition of ownership and are not included in the common

3037 expense or assessments for common maintenance paid by the unit

3038 owners to the association.

3039 (d) The following statement in conspicuous type: THE

3040 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN

3041 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE

3042 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON

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3043 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
3044 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
3045 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
3046 THE OFFERING.

3047 (e) Each budget for an association prepared by a developer
3048 consistent with this subsection shall be prepared in good faith
3049 and shall reflect accurate estimated amounts for the required
3050 items in paragraph (c) at the time of the filing of the offering
3051 circular with the division, and subsequent increased amounts of
3052 any item included in the association's estimated budget that are
3053 beyond the control of the developer may ~~shall~~ not be considered
3054 an amendment that would give rise to rescission rights set forth
3055 in s. 719.503(1) (a) or (b), nor shall such increases modify,
3056 void, or otherwise affect any guarantee of the developer
3057 contained in the offering circular or any purchase contract. It
3058 is the intent of this paragraph to clarify existing law.

3059 (f) The estimated amounts shall be stated for a period of
3060 at least 12 months and may distinguish between the period prior
3061 to the time unit owners other than the developer elect a
3062 majority of the board of administration and the period after
3063 that date.

3064 (21) A schedule of estimated closing expenses to be paid
3065 by a buyer or lessee of a unit and a statement of whether title
3066 opinion or title insurance policy is available to the buyer and,
3067 if so, at whose expense.

3068 (22) The identity of the developer and the chief operating

3069 officer or principal directing the creation and sale of the
 3070 cooperative and a statement of its and his or her experience in
 3071 this field.

3072 (23) Copies of the following, to the extent they are
 3073 applicable, shall be included as exhibits:

3074 (a) The cooperative documents, or the proposed cooperative
 3075 documents if the documents have not been recorded.

3076 (b) The articles of incorporation creating the
 3077 association.

3078 (c) The bylaws of the association.

3079 (d) The ground lease or other underlying lease of the
 3080 cooperative.

3081 (e) The management agreement and all maintenance and other
 3082 contracts for management of the association and operation of the
 3083 cooperative and facilities used by the unit owners having a
 3084 service term in excess of 1 year.

3085 (f) The estimated operating budget for the cooperative and
 3086 the required schedule of unit owners' expenses.

3087 (g) A copy of the floor plan of the unit and the plot plan
 3088 showing the location of the residential buildings and the
 3089 recreation and other common areas.

3090 (h) The lease of recreational and other facilities that
 3091 will be used only by unit owners of the subject cooperative.

3092 (i) The lease of facilities used by owners and others.

3093 (j) The form of unit lease, if the offer is of a
 3094 leasehold.

3095 (k) A declaration of servitude of properties serving the
 3096 cooperative but not owned by unit owners or leased to them or
 3097 the association.

3098 (l) The statement of condition of the existing building or
 3099 buildings, if the offering is of units in an operation being
 3100 converted to cooperative ownership.

3101 (m) The statement of inspection for termite damage and
 3102 treatment of the existing improvements, if the cooperative is a
 3103 conversion.

3104 (n) The form of agreement for sale or lease of units.

3105 (o) A copy of the agreement for escrow of payments made to
 3106 the developer prior to closing.

3107 (p) A copy of the documents containing any restrictions on
 3108 use of the property required by subsection (16).

3109 (24) Any prospectus or offering circular complying with
 3110 the provisions of former ss. 711.69 and 711.802 may continue to
 3111 be used without amendment, or may be amended to comply with this
 3112 chapter.

3113 (25) A brief narrative description of the location and
 3114 effect of all existing and intended easements located or to be
 3115 located on the cooperative property other than those in the
 3116 declaration.

3117 (26) If the developer is required by state or local
 3118 authorities to obtain acceptance or approval of any dock or
 3119 marina facility intended to serve the cooperative, a copy of
 3120 such acceptance or approval acquired by the time of filing with

3121 the division pursuant to s. 719.502 or a statement that such
 3122 acceptance has not been acquired or received.

3123 (27) Evidence demonstrating that the developer has an
 3124 ownership, leasehold, or contractual interest in the land upon
 3125 which the cooperative is to be developed.

3126 Section 39. Section 719.508, Florida Statutes, is amended
 3127 to read:

3128 719.508 Regulation by Division of Hotels and Restaurants.—
 3129 In addition to the authority, regulation, or control exercised
 3130 by the Division of Florida Condominiums, Homeowners'
 3131 Associations, Timeshares, and Mobile Homes pursuant to this act
 3132 with respect to cooperatives, buildings included in a
 3133 cooperative property shall be subject to the authority,
 3134 regulation, or control of the Division of Hotels and Restaurants
 3135 of the Department of Business and Professional Regulation, to
 3136 the extent provided in chapters 399 and 509.

3137 Section 40. Paragraph (a) of subsection (2) of section
 3138 719.608, Florida Statutes, is amended to read:

3139 719.608 Notice of intended conversion; time of delivery;
 3140 content.—

3141 (2) (a) Each notice of intended conversion shall be dated
 3142 and in writing. The notice shall contain the following
 3143 statement, with the phrases of the following statement which
 3144 appear in upper case printed in conspicuous type:

3145
 3146 These apartments are being converted to cooperative by

3147 | ...(name of developer)..., the developer.

3148 | 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF

3149 | YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL

3150 | AGREEMENT AS FOLLOWS:

3151 | a. If you have continuously been a resident of these

3152 | apartments during the last 180 days and your rental agreement

3153 | expires during the next 270 days, you may extend your rental

3154 | agreement for up to 270 days after the date of this notice.

3155 | b. If you have not been a continuous resident of these

3156 | apartments for the last 180 days and your rental agreement

3157 | expires during the next 180 days, you may extend your rental

3158 | agreement for up to 180 days after the date of this notice.

3159 | c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU

3160 | MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE

3161 | DATE OF THIS NOTICE.

3162 | 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,

3163 | you may extend your rental agreement for up to 45 days after the

3164 | date of this notice while you decide whether to extend your

3165 | rental agreement as explained above. To do so, you must notify

3166 | the developer in writing. You will then have the full 45 days to

3167 | decide whether to extend your rental agreement as explained

3168 | above.

3169 | 3. During the extension of your rental agreement you will

3170 | be charged the same rent that you are now paying.

3171 | 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION

3172 | OF THE RENTAL AGREEMENT AS FOLLOWS:

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3173 a. If your rental agreement began or was extended or
3174 renewed after May 1, 1980, and your rental agreement, including
3175 extensions and renewals, has an unexpired term of 180 days or
3176 less, you may cancel your rental agreement upon 30 days' written
3177 notice and move. Also, upon 30 days' written notice, you may
3178 cancel any extension of the rental agreement.

3179 b. If your rental agreement was not begun or was not
3180 extended or renewed after May 1, 1980, you may not cancel the
3181 rental agreement without the consent of the developer. If your
3182 rental agreement, including extensions and renewals, has an
3183 unexpired term of 180 days or less, you may, however, upon 30
3184 days' written notice cancel any extension of the rental
3185 agreement.

3186 5. All notices must be given in writing and sent by mail,
3187 return receipt requested, or delivered in person to the
3188 developer at this address: ...(name and address of
3189 developer)....

3190 6. If you have continuously been a resident of these
3191 apartments during the last 180 days:

3192 a. You have the right to purchase your apartment and will
3193 have 45 days to decide whether to purchase. If you do not buy
3194 the unit at that price and the unit is later offered at a lower
3195 price, you will have the opportunity to buy the unit at the
3196 lower price. However, in all events your right to purchase the
3197 unit ends when the rental agreement or any extension of the
3198 rental agreement ends or when you waive this right in writing.

3199 b. Within 90 days you will be provided purchase
 3200 information relating to your apartment, including the price of
 3201 your unit and the condition of the building. If you do not
 3202 receive this information within 90 days, your rental agreement
 3203 and any extension will be extended 1 day for each day over 90
 3204 days until you are given the purchase information. If you do not
 3205 want this rental agreement extension, you must notify the
 3206 developer in writing.

3207 7. If you have any questions regarding this conversion or
 3208 the Cooperative Act, you may contact the developer or the state
 3209 agency which regulates cooperatives: The Division of Florida
 3210 Condominiums, Homeowners' Associations, Timeshares, and Mobile
 3211 Homes, ... (Tallahassee address and telephone number of
 3212 division)....

3213 Section 41. Subsection (11) of section 721.05, Florida
 3214 Statutes, is amended to read:

3215 721.05 Definitions.—As used in this chapter, the term:

3216 (11) "Division" means the Division of Florida
 3217 Condominiums, Homeowners' Associations, Timeshares, and Mobile
 3218 Homes of the Department of Business and Professional Regulation.

3219 Section 42. Paragraph (d) of subsection (2) of section
 3220 721.07, Florida Statutes, is amended to read:

3221 721.07 Public offering statement.—Prior to offering any
 3222 timeshare plan, the developer must submit a filed public
 3223 offering statement to the division for approval as prescribed by
 3224 s. 721.03, s. 721.55, or this section. Until the division

3225 approves such filing, any contract regarding the sale of that
 3226 timeshare plan is subject to cancellation by the purchaser
 3227 pursuant to s. 721.10.

3228 (2)

3229 (d) A developer shall have the authority to deliver to
 3230 purchasers any purchaser public offering statement that is not
 3231 yet approved by the division, provided that the following shall
 3232 apply:

3233 1. At the time the developer delivers an unapproved
 3234 purchaser public offering statement to a purchaser pursuant to
 3235 this paragraph, the developer shall deliver a fully completed
 3236 and executed copy of the purchase contract required by s. 721.06
 3237 that contains the following statement in conspicuous type in
 3238 substantially the following form which shall replace the
 3239 statements required by s. 721.06(1)(g):

3240
 3241 The developer is delivering to you a public offering statement
 3242 that has been filed with but not yet approved by the Division of
 3243 Florida Condominiums, Homeowners' Associations, Timeshares, and
 3244 Mobile Homes. Any revisions to the unapproved public offering
 3245 statement you have received must be delivered to you, but only
 3246 if the revisions materially alter or modify the offering in a
 3247 manner adverse to you. After the division approves the public
 3248 offering statement, you will receive notice of the approval from
 3249 the developer and the required revisions, if any.

3250

3251 Your statutory right to cancel this transaction without any
 3252 penalty or obligation expires 10 calendar days after the date
 3253 you signed your purchase contract or the date on which you
 3254 receive the last of all documents required to be given to you
 3255 pursuant to section 721.07(6), Florida Statutes, or 10 calendar
 3256 days after you receive revisions required to be delivered to
 3257 you, if any, whichever is later. If you decide to cancel this
 3258 contract, you must notify the seller in writing of your intent
 3259 to cancel. Your notice of cancellation shall be effective upon
 3260 the date sent and shall be sent to ...(Name of Seller)... at
 3261 ...(Address of Seller).... Any attempt to obtain a waiver of
 3262 your cancellation right is void and of no effect. While you may
 3263 execute all closing documents in advance, the closing, as
 3264 evidenced by delivery of the deed or other document, before
 3265 expiration of your 10-day cancellation period, is prohibited.

3266
 3267 2. After receipt of approval from the division and prior
 3268 to closing, if any revisions made to the documents contained in
 3269 the purchaser public offering statement materially alter or
 3270 modify the offering in a manner adverse to a purchaser, the
 3271 developer shall send the purchaser such revisions, together with
 3272 a notice containing a statement in conspicuous type in
 3273 substantially the following form:

3274
 3275 The unapproved public offering statement previously delivered to
 3276 you, together with the enclosed revisions, has been approved by

3277 the Division of Florida Condominiums, Homeowners' Associations,
3278 Timeshares, and Mobile Homes. Accordingly, your cancellation
3279 right expires 10 calendar days after you sign your purchase
3280 contract or 10 calendar days after you receive these revisions,
3281 whichever is later. If you have any questions regarding your
3282 cancellation rights, you may contact the division at [insert
3283 division's current address].

3284

3285 3. After receipt of approval from the division and prior
3286 to closing, if no revisions have been made to the documents
3287 contained in the unapproved purchaser public offering statement,
3288 or if such revisions do not materially alter or modify the
3289 offering in a manner adverse to a purchaser, the developer shall
3290 send the purchaser a notice containing a statement in
3291 conspicuous type in substantially the following form:

3292

3293 The unapproved public offering statement previously delivered to
3294 you has been approved by the Division of Florida Condominiums,
3295 Homeowners' Associations, Timeshares, and Mobile Homes.

3296 Revisions made to the unapproved public offering statement, if
3297 any, are not required to be delivered to you or are not deemed
3298 by the developer, in its opinion, to materially alter or modify
3299 the offering in a manner that is adverse to you. Accordingly,
3300 your cancellation right expired 10 days after you signed your
3301 purchase contract. A complete copy of the approved public
3302 offering statement is available through the managing entity for

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3303 inspection as part of the books and records of the plan. If you
3304 have any questions regarding your cancellation rights, you may
3305 contact the division at [insert division's current address].

3306 Section 43. Subsection (8) of section 721.08, Florida
3307 Statutes, is amended to read:

3308 721.08 Escrow accounts; nondisturbance instruments;
3309 alternate security arrangements; transfer of legal title.—

3310 (8) An escrow agent holding escrowed funds pursuant to
3311 this chapter that have not been claimed for a period of 5 years
3312 after the date of deposit shall make at least one reasonable
3313 attempt to deliver such unclaimed funds to the purchaser who
3314 submitted such funds to escrow. In making such attempt, an
3315 escrow agent is entitled to rely on a purchaser's last known
3316 address as set forth in the books and records of the escrow
3317 agent and is not required to conduct any further search for the
3318 purchaser. If an escrow agent's attempt to deliver unclaimed
3319 funds to any purchaser is unsuccessful, the escrow agent may
3320 deliver such unclaimed funds to the division and the division
3321 shall deposit such unclaimed funds in the Division of Florida
3322 Condominiums, Homeowners' Associations, Timeshares, and Mobile
3323 Homes Trust Fund, 30 days after giving notice in a publication
3324 of general circulation in the county in which the timeshare
3325 property containing the purchaser's timeshare interest is
3326 located. The purchaser may claim the same at any time prior to
3327 the delivery of such funds to the division. After delivery of
3328 such funds to the division, the purchaser shall have no more

3329 | rights to the unclaimed funds. The escrow agent is ~~shall~~ not be
 3330 | liable for any claims from any party arising out of the escrow
 3331 | agent's delivery of the unclaimed funds to the division pursuant
 3332 | to this section.

3333 | Section 44. Paragraph (e) of subsection (5) of section
 3334 | 721.26, Florida Statutes, is amended to read:

3335 | 721.26 Regulation by division.—The division has the power
 3336 | to enforce and ensure compliance with this chapter, except for
 3337 | parts III and IV, using the powers provided in this chapter, as
 3338 | well as the powers prescribed in chapters 718 and 719. In
 3339 | performing its duties, the division shall have the following
 3340 | powers and duties:

3341 | (5) Notwithstanding any remedies available to purchasers,
 3342 | if the division has reasonable cause to believe that a violation
 3343 | of this chapter, or of any division rule adopted or order issued
 3344 | pursuant to this chapter, has occurred, the division may
 3345 | institute enforcement proceedings in its own name against any
 3346 | regulated party, as such term is defined in this subsection:

3347 | (e)1. The division may impose a penalty against any
 3348 | regulated party for a violation of this chapter or any rule
 3349 | adopted thereunder. A penalty may be imposed on the basis of
 3350 | each day of continuing violation, but in no event may the
 3351 | penalty for any offense exceed \$10,000. All accounts collected
 3352 | shall be deposited with the Chief Financial Officer to the
 3353 | credit of the Division of Florida Condominiums, Homeowners'
 3354 | Associations, Timeshares, and Mobile Homes Trust Fund.

3355 2.a. If a regulated party fails to pay a penalty, the
 3356 division shall thereupon issue an order directing that such
 3357 regulated party cease and desist from further operation until
 3358 such time as the penalty is paid; or the division may pursue
 3359 enforcement of the penalty in a court of competent jurisdiction.

3360 b. If an owners' association or managing entity fails to
 3361 pay a civil penalty, the division may pursue enforcement in a
 3362 court of competent jurisdiction.

3363 Section 45. Section 721.28, Florida Statutes, is amended
 3364 to read:

3365 721.28 Division of Florida Condominiums, Homeowners'
 3366 Associations, Timeshares, and Mobile Homes Trust Fund.—All funds
 3367 collected by the division and any amounts paid as fees or
 3368 penalties under this chapter shall be deposited in the State
 3369 Treasury to the credit of the Division of Florida Condominiums,
 3370 Homeowners' Associations, Timeshares, and Mobile Homes Trust
 3371 Fund created by s. 718.509.

3372 Section 46. Paragraph (c) of subsection (1) of section
 3373 721.301, Florida Statutes, is amended to read:

3374 721.301 Florida Timesharing, Vacation Club, and
 3375 Hospitality Program.—

3376 (1)

3377 (c) The director may designate funds from the Division of
 3378 Florida Condominiums, Homeowners' Associations, Timeshares, and
 3379 Mobile Homes Trust Fund, not to exceed \$50,000 annually, to
 3380 support the projects and proposals undertaken pursuant to

3381 paragraph (b). All state trust funds to be expended pursuant to
 3382 this section must be matched equally with private moneys and
 3383 shall comprise no more than half of the total moneys expended
 3384 annually.

3385 Section 47. Subsection (2) and paragraph (a) of subsection
 3386 (7) of section 723.003, Florida Statutes, are amended to read:

3387 723.003 Definitions.—As used in this chapter, the term:

3388 (2) "Division" means the Division of Florida Condominiums,
 3389 Homeowners' Associations, Timeshares, and Mobile Homes of the
 3390 Department of Business and Professional Regulation.

3391 (7) (a) "Mediation" means a process whereby a mediator
 3392 appointed by the Division of Florida Condominiums, Homeowners'
 3393 Associations, Timeshares, and Mobile Homes, or mutually selected
 3394 by the parties, acts to encourage and facilitate the resolution
 3395 of a dispute. It is an informal and nonadversarial process with
 3396 the objective of helping the disputing parties reach a mutually
 3397 acceptable agreement.

3398 Section 48. Paragraph (e) of subsection (5) of section
 3399 723.006, Florida Statutes, is amended to read:

3400 723.006 Powers and duties of division.—In performing its
 3401 duties, the division has the following powers and duties:

3402 (5) Notwithstanding any remedies available to mobile home
 3403 owners, mobile home park owners, and homeowners' associations,
 3404 if the division has reasonable cause to believe that a violation
 3405 of any provision of this chapter or related rule has occurred,
 3406 the division may institute enforcement proceedings in its own

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3407 name against a developer, mobile home park owner, or homeowners'
3408 association, or its assignee or agent, as follows:

3409 (e)1. The division may impose a civil penalty against a
3410 mobile home park owner or homeowners' association, or its
3411 assignee or agent, for any violation of this chapter, a properly
3412 adopted park rule or regulation, or a rule adopted pursuant
3413 hereto. A penalty may be imposed on the basis of each separate
3414 violation and, if the violation is a continuing one, for each
3415 day of continuing violation, but in no event may the penalty for
3416 each separate violation or for each day of continuing violation
3417 exceed \$5,000. All amounts collected shall be deposited with the
3418 Chief Financial Officer to the credit of the Division of Florida
3419 Condominiums, Homeowners' Associations, Timeshares, and Mobile
3420 Homes Trust Fund.

3421 2. If a violator fails to pay the civil penalty, the
3422 division shall thereupon issue an order directing that such
3423 violator cease and desist from further violation until such time
3424 as the civil penalty is paid or may pursue enforcement of the
3425 penalty in a court of competent jurisdiction. If a homeowners'
3426 association fails to pay the civil penalty, the division shall
3427 ~~thereupon~~ pursue enforcement in a court of competent
3428 jurisdiction, and the order imposing the civil penalty or the
3429 cease and desist order does ~~shall~~ not become effective until 20
3430 days after the date of such order. Any action commenced by the
3431 division shall be brought in the county in which the division
3432 has its executive offices or in which the violation occurred.

3433 Section 49. Section 723.009, Florida Statutes, is amended
 3434 to read:

3435 723.009 Division of Florida Condominiums, Homeowners'
 3436 Associations, Timeshares, and Mobile Homes Trust Fund.—All
 3437 proceeds from the fees, penalties, and fines imposed pursuant to
 3438 this chapter shall be deposited into the Division of Florida
 3439 Condominiums, Homeowners' Associations, Timeshares, and Mobile
 3440 Homes Trust Fund created by s. 718.509. Moneys in this fund, as
 3441 appropriated by the Legislature pursuant to chapter 216, may be
 3442 used to defray the expenses incurred by the division in
 3443 administering the provisions of this chapter.

3444 Section 50. Paragraph (c) of subsection (2) of section
 3445 723.0611, Florida Statutes, is amended to read:

3446 723.0611 Florida Mobile Home Relocation Corporation.—

3447 (2)

3448 (c) The corporation shall, for purposes of s. 768.28, be
 3449 considered an agency of the state. Agents or employees of the
 3450 corporation, members of the board of directors of the
 3451 corporation, or representatives of the Division of Florida
 3452 Condominiums, Homeowners' Associations, Timeshares, and Mobile
 3453 Homes shall be considered officers, employees, or agents of the
 3454 state, and actions against them and the corporation shall be
 3455 governed by s. 768.28.

3456 Section 51. Section 723.1255, Florida Statutes, is amended
 3457 to read:

3458 723.1255 Alternative resolution of recall disputes.—The

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3459 | Division of Florida Condominiums, Homeowners' Associations,
3460 | Timeshares, and Mobile Homes of the Department of Business and
3461 | Professional Regulation shall adopt rules of procedure to govern
3462 | binding recall arbitration proceedings.

3463 | Section 52. This act shall take effect July 1, 2016.