

1 A bill to be entitled

2 An act relating to the yacht and ship brokers;  
3 amending s. 20.165, F.S.; renaming the Division of  
4 Florida Condominiums, Timeshares, and Mobile Homes  
5 within the Department of Business and Professional  
6 Regulation as the Division of Florida Condominiums,  
7 Timeshares, Yacht Brokers, and Mobile Homes; amending  
8 s. 326.002, F.S.; revising and providing definitions;  
9 amending s. 326.004, F.S.; exempting a visiting broker  
10 from licensure for specified transactions; requiring,  
11 rather than authorizing, the division to deny licenses  
12 for applicants who fail to meet certain requirements;  
13 revising requirements for licensure as a broker;  
14 removing a provision requiring the division to adopt  
15 rules relating to temporary licenses; amending ss.  
16 192.037, 213.053, 326.006, 455.116, 475.455, 509.512,  
17 559.935, 718.103, 718.105, 718.1255, 718.501,  
18 718.5011, 718.502, 718.503, 718.504, 718.508, 718.509,  
19 718.608, 719.103, 719.1255, 719.501, 719.502, 719.504,  
20 719.508, 719.608, 720.301, 721.05, 721.07, 721.08,  
21 721.26, 721.28, 721.301, 723.003, 723.006, 723.009,  
22 723.0611; conforming provisions to changes made by the  
23 act; providing an effective date.

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

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

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

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

(e) Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes.

Section 2. Subsections (4) and (5) of section 326.002, Florida Statutes, are renumbered as subsections (6) and (3), respectively, subsection (2) and present subsection (4) are amended, and a new subsection (4) is added to that section, to read:

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

(2) "Division" means the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the Department of Business and Professional Regulation.

(4) "Visiting Broker" means a person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase or sale of a yacht under this act if the transaction is executed in its entirety with a broker or salesperson licensed in this state.

51        ~~(6)-(4)~~ "Yacht" means any vessel which is propelled by sail  
 52 or machinery in the water which exceeds 32 feet in length, and  
 53 is:

54        (a) Manufactured or operated primarily for pleasure; or

55        (b) Leased, rented, or chartered to a person other than  
 56 the owner for such person's pleasure which weighs less than 300  
 57 gross tons.

58        Section 3. Subsections (6), (8), and (15) of section  
 59 326.004, Florida Statutes, are amended, and paragraph (f) is  
 60 added to subsection (3) of that section, to read:

61        326.004 Licensing.—

62        (3) A license is not required for:

63        (f) A visiting broker who engages in the purchase or sale  
 64 of a yacht under this act, if the transaction is executed in its  
 65 entirety with a broker or a salesperson licensed in this state.

66        (6) The division shall ~~may~~ deny a license to any applicant  
 67 who does not:

68        (a) Furnish proof satisfactory to the division that he or  
 69 she is of good moral character.

70        (b) Certify that he or she has never been convicted of a  
 71 felony.

72        (c) Post the bond required by the Yacht and Ship Brokers'  
 73 Act.

74        (d) Demonstrate that he or she is a resident of this state  
 75 or that he or she conducts business in this state.

76 (e) Furnish a full set of fingerprints taken within the 6  
77 months immediately preceding the submission of the application.

78 (f) Have a current license and has operated as a broker or  
79 salesperson without a license.

80 (8) A person may not be licensed as a broker unless he or  
81 she:

82 (a) Has been a salesperson for at least 2 consecutive  
83 years;IT and

84 (b)1. Can demonstrate that he or she has been directly  
85 involved in at least four transactions that resulted in the sale  
86 of a yacht; or

87 2. Can certify that he or she has obtained 20 continuing  
88 education credits approved by the division ~~may not be licensed~~  
89 ~~as a broker unless he or she has been licensed as a salesperson~~  
90 ~~for at least 2 consecutive years.~~

91 ~~(15) The division shall provide by rule for the issuance~~  
92 ~~of a temporary 90-day license to an applicant while the Florida~~  
93 ~~Department of Law Enforcement conducts a national criminal~~  
94 ~~history analysis of the applicant by means of fingerprint~~  
95 ~~identification.~~

96 Section 4. Paragraph (e) of subsection (6) of section  
97 192.037, Florida Statutes, is amended to read:

98 192.037 Fee timeshare real property; taxes and  
99 assessments; escrow.—

100 (6)

101 (e) On or before May 1 of each year, a statement of  
 102 receipts and disbursements of the escrow account must be filed  
 103 with the Division of Florida Condominiums, Timeshares, Yacht  
 104 Brokers, and Mobile Homes of the Department of Business and  
 105 Professional Regulation, which may enforce this paragraph  
 106 pursuant to s. 721.26. This statement must appropriately show  
 107 the amount of principal and interest in such account.

108 Section 5. Paragraph (i) of subsection (8) of section  
 109 213.053, Florida Statutes, is amended to read:

110 213.053 Confidentiality and information sharing.—

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

113 (i) Information relative to chapters 212 and 326 to the  
 114 Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
 115 Mobile Homes of the Department of Business and Professional  
 116 Regulation in the conduct of its official duties.

117  
 118 Disclosure of information under this subsection shall be  
 119 pursuant to a written agreement between the executive director  
 120 and the agency. Such agencies, governmental or nongovernmental,  
 121 shall be bound by the same requirements of confidentiality as  
 122 the Department of Revenue. Breach of confidentiality is a  
 123 misdemeanor of the first degree, punishable as provided by s.  
 124 775.082 or s. 775.083.

125 Section 6. Paragraph (d) of subsection (2) and subsection

126 (3) of section 326.006, Florida Statutes, are amended to read:  
 127 326.006 Powers and duties of division.—

128 (2) The division has the power to enforce and ensure  
 129 compliance with the provisions of this chapter and rules adopted  
 130 under this chapter relating to the sale and ownership of yachts  
 131 and ships. In performing its duties, the division has the  
 132 following powers and duties:

133 (d) Notwithstanding any remedies available to a yacht or  
 134 ship purchaser, if the division has reasonable cause to believe  
 135 that a violation of any provision of this chapter or rule  
 136 adopted under this chapter has occurred, the division may  
 137 institute enforcement proceedings in its own name against any  
 138 broker or salesperson or any of his or her assignees or agents,  
 139 or against any unlicensed person or any of his or her assignees  
 140 or agents, as follows:

141 1. The division may permit a person whose conduct or  
 142 actions are under investigation to waive formal proceedings and  
 143 enter into a consent proceeding whereby orders, rules, or  
 144 letters of censure or warning, whether formal or informal, may  
 145 be entered against the person.

146 2. The division may issue an order requiring the broker or  
 147 salesperson or any of his or her assignees or agents, or  
 148 requiring any unlicensed person or any of his or her assignees  
 149 or agents, to cease and desist from the unlawful practice and  
 150 take such affirmative action as in the judgment of the division

151 will carry out the purposes of this chapter.

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

155 4. The division may impose a civil penalty against a  
156 broker or salesperson or any of his or her assignees or agents,  
157 or against an unlicensed person or any of his or her assignees  
158 or agents, for any violation of this chapter or a rule adopted  
159 under this chapter. A penalty may be imposed for each day of  
160 continuing violation, but in no event may the penalty for any  
161 offense exceed \$10,000. All amounts collected must be deposited  
162 with the Chief Financial Officer to the credit of the Division  
163 of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile  
164 Homes Trust Fund. If a broker, salesperson, or unlicensed person  
165 working for a broker, fails to pay the civil penalty, the  
166 division shall issue an order suspending the broker's license  
167 until such time as the civil penalty is paid or may pursue  
168 enforcement of the penalty in a court of competent jurisdiction.  
169 The order imposing the civil penalty or the order of suspension  
170 may not become effective until 20 days after the date of such  
171 order. Any action commenced by the division must be brought in  
172 the county in which the division has its executive offices or in  
173 the county where the violation occurred.

174 (3) All fees must be deposited in the Division of Florida  
175 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust

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176 Fund as provided by law.

177 Section 7. Subsection (5) of section 455.116, Florida  
178 Statutes, is amended to read:

179 455.116 Regulation trust funds.—The following trust funds  
180 shall be placed in the department:

181 (5) Division of Florida Condominiums, Timeshares, Yacht  
182 Brokers, and Mobile Homes Trust Fund.

183 Section 8. Section 475.455, Florida Statutes, is amended  
184 to read:

185 475.455 Exchange of disciplinary information.—The  
186 commission shall inform the Division of Florida Condominiums,  
187 Timeshares, Yacht Brokers, and Mobile Homes of the Department of  
188 Business and Professional Regulation of any disciplinary action  
189 the commission has taken against any of its licensees. The  
190 division shall inform the commission of any disciplinary action  
191 the division has taken against any broker or sales associate  
192 registered with the division.

193 Section 9. Section 509.512, Florida Statutes, is amended  
194 to read:

195 509.512 Timeshare plan developer and exchange company  
196 exemption.—Sections 509.501-509.511 do not apply to a developer  
197 of a timeshare plan or an exchange company approved by the  
198 Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
199 Mobile Homes pursuant to chapter 721, but only to the extent  
200 that the developer or exchange company engages in conduct



201 regulated under chapter 721.

202 Section 10. Paragraph (h) of subsection (1) of section  
203 559.935, Florida Statutes, is amended to read:

204 559.935 Exemptions.—

205 (1) This part does not apply to:

206 (h) A developer of a timeshare plan or an exchange company  
207 approved by the Division of Florida Condominiums, Timeshares,  
208 Yacht Brokers, and Mobile Homes pursuant to chapter 721, but  
209 only to the extent that the developer or exchange company  
210 engages in conduct regulated under chapter 721; or

211 Section 11. Subsection (17) of section 718.103, Florida  
212 Statutes, is amended to read:

213 718.103 Definitions.—As used in this chapter, the term:

214 (17) "Division" means the Division of Florida  
215 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the  
216 Department of Business and Professional Regulation.

217 Section 12. Paragraph (c) of subsection (4) of section  
218 718.105, Florida Statutes, is amended to read:

219 718.105 Recording of declaration.—

220 (4)

221 (c) If the sum of money held by the clerk has not been  
222 paid to the developer or association as provided in paragraph  
223 (b) within 5 years after the date the declaration was originally  
224 recorded, the clerk may notify, in writing, the registered agent  
225 of the association that the sum is still available and the

226 | purpose for which it was deposited. If the association does not  
 227 | record the certificate within 90 days after the clerk has given  
 228 | the notice, the clerk may disburse the money to the developer.  
 229 | If the developer cannot be located, the clerk shall disburse the  
 230 | money to the Division of Florida Condominiums, Timeshares, Yacht  
 231 | Brokers, and Mobile Homes for deposit in the Division of Florida  
 232 | Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust  
 233 | Fund.

234 | Section 13. Subsection (4) of section 718.1255, Florida  
 235 | Statutes, is amended to read:

236 | 718.1255 Alternative dispute resolution; mediation;  
 237 | nonbinding arbitration; applicability.—

238 | (4) NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The  
 239 | Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
 240 | Mobile Homes of the Department of Business and Professional  
 241 | Regulation may employ full-time attorneys to act as arbitrators  
 242 | to conduct the arbitration hearings provided by this chapter.  
 243 | The division may also certify attorneys who are not employed by  
 244 | the division to act as arbitrators to conduct the arbitration  
 245 | hearings provided by this chapter. A person may not be employed  
 246 | by the department as a full-time arbitrator unless he or she is  
 247 | a member in good standing of The Florida Bar. A person may only  
 248 | be certified by the division to act as an arbitrator if he or  
 249 | she has been a member in good standing of The Florida Bar for at  
 250 | least 5 years and has mediated or arbitrated at least 10

251 disputes involving condominiums in this state during the 3 years  
252 immediately preceding the date of application, mediated or  
253 arbitrated at least 30 disputes in any subject area in this  
254 state during the 3 years immediately preceding the date of  
255 application, or attained board certification in real estate law  
256 or condominium and planned development law from The Florida Bar.  
257 Arbitrator certification is valid for 1 year. An arbitrator who  
258 does not maintain the minimum qualifications for initial  
259 certification may not have his or her certification renewed. The  
260 department may not enter into a legal services contract for an  
261 arbitration hearing under this chapter with an attorney who is  
262 not a certified arbitrator unless a certified arbitrator is not  
263 available within 50 miles of the dispute. The department shall  
264 adopt rules of procedure to govern such arbitration hearings  
265 including mediation incident thereto. The decision of an  
266 arbitrator is final; however, a decision is not deemed final  
267 agency action. Nothing in this provision shall be construed to  
268 foreclose parties from proceeding in a trial de novo unless the  
269 parties have agreed that the arbitration is binding. If judicial  
270 proceedings are initiated, the final decision of the arbitrator  
271 is admissible in evidence in the trial de novo.

272 (a) Before the institution of court litigation, a party to  
273 a dispute, other than an election or recall dispute, shall  
274 either petition the division for nonbinding arbitration or  
275 initiate presuit mediation as provided in subsection (5).

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276 Arbitration is binding on the parties if all parties in  
277 arbitration agree to be bound in a writing filed in arbitration.  
278 The petition must be accompanied by a filing fee in the amount  
279 of \$50. Filing fees collected under this section must be used to  
280 defray the expenses of the alternative dispute resolution  
281 program.

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

284 1. Advance written notice of the specific nature of the  
285 dispute;

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

288 3. Notice of the intention to file an arbitration petition  
289 or other legal action in the absence of a resolution of the  
290 dispute.

291  
292 Failure to include the allegations or proof of compliance with  
293 these prerequisites requires dismissal of the petition without  
294 prejudice.

295 (c) Upon receipt, the petition shall be promptly reviewed  
296 by the division to determine the existence of a dispute and  
297 compliance with the requirements of paragraphs (a) and (b). If  
298 emergency relief is required and is not available through  
299 arbitration, a motion to stay the arbitration may be filed. The  
300 motion must be accompanied by a verified petition alleging facts

301 that, if proven, would support entry of a temporary injunction,  
302 and if an appropriate motion and supporting papers are filed,  
303 the division may abate the arbitration pending a court hearing  
304 and disposition of a motion for temporary injunction.

305 (d) Upon determination by the division that a dispute  
306 exists and that the petition substantially meets the  
307 requirements of paragraphs (a) and (b) and any other applicable  
308 rules, the division shall assign or enter into a contract with  
309 an arbitrator and serve a copy of the petition upon all  
310 respondents. The arbitrator shall conduct a hearing within 30  
311 days after being assigned or entering into a contract unless the  
312 petition is withdrawn or a continuance is granted for good cause  
313 shown.

314 (e) Before or after the filing of the respondents' answer  
315 to the petition, any party may request that the arbitrator refer  
316 the case to mediation under this section and any rules adopted  
317 by the division. Upon receipt of a request for mediation, the  
318 division shall promptly contact the parties to determine if  
319 there is agreement that mediation would be appropriate. If all  
320 parties agree, the dispute must be referred to mediation.  
321 Notwithstanding a lack of an agreement by all parties, the  
322 arbitrator may refer a dispute to mediation at any time.

323 (f) Upon referral of a case to mediation, the parties must  
324 select a mutually acceptable mediator. To assist in the  
325 selection, the arbitrator shall provide the parties with a list

326 of both volunteer and paid mediators that have been certified by  
327 the division under s. 718.501. If the parties are unable to  
328 agree on a mediator within the time allowed by the arbitrator,  
329 the arbitrator shall appoint a mediator from the list of  
330 certified mediators. If a case is referred to mediation, the  
331 parties shall attend a mediation conference, as scheduled by the  
332 parties and the mediator. If any party fails to attend a duly  
333 noticed mediation conference, without the permission or approval  
334 of the arbitrator or mediator, the arbitrator must impose  
335 sanctions against the party, including the striking of any  
336 pleadings filed, the entry of an order of dismissal or default  
337 if appropriate, and the award of costs and attorney fees  
338 incurred by the other parties. Unless otherwise agreed to by the  
339 parties or as provided by order of the arbitrator, a party is  
340 deemed to have appeared at a mediation conference by the  
341 physical presence of the party or its representative having full  
342 authority to settle without further consultation, provided that  
343 an association may comply by having one or more representatives  
344 present with full authority to negotiate a settlement and  
345 recommend that the board of administration ratify and approve  
346 such a settlement within 5 days from the date of the mediation  
347 conference. The parties shall share equally the expense of  
348 mediation, unless they agree otherwise.

349 (g) The purpose of mediation as provided for by this  
350 section is to present the parties with an opportunity to resolve

351 the underlying dispute in good faith, and with a minimum  
352 expenditure of time and resources.

353 (h) Mediation proceedings must generally be conducted in  
354 accordance with the Florida Rules of Civil Procedure, and these  
355 proceedings are privileged and confidential to the same extent  
356 as court-ordered mediation. Persons who are not parties to the  
357 dispute are not allowed to attend the mediation conference  
358 without the consent of all parties, with the exception of  
359 counsel for the parties and corporate representatives designated  
360 to appear for a party. If the mediator declares an impasse after  
361 a mediation conference has been held, the arbitration proceeding  
362 terminates, unless all parties agree in writing to continue the  
363 arbitration proceeding, in which case the arbitrator's decision  
364 shall be binding or nonbinding, as agreed upon by the parties;  
365 in the arbitration proceeding, the arbitrator shall not consider  
366 any evidence relating to the unsuccessful mediation except in a  
367 proceeding to impose sanctions for failure to appear at the  
368 mediation conference. If the parties do not agree to continue  
369 arbitration, the arbitrator shall enter an order of dismissal,  
370 and either party may institute a suit in a court of competent  
371 jurisdiction. The parties may seek to recover any costs and  
372 attorney fees incurred in connection with arbitration and  
373 mediation proceedings under this section as part of the costs  
374 and fees that may be recovered by the prevailing party in any  
375 subsequent litigation.

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

379 (j) At the request of any party to the arbitration, the  
380 arbitrator shall issue subpoenas for the attendance of witnesses  
381 and the production of books, records, documents, and other  
382 evidence and any party on whose behalf a subpoena is issued may  
383 apply to the court for orders compelling such attendance and  
384 production. Subpoenas shall be served and shall be enforceable  
385 in the manner provided by the Florida Rules of Civil Procedure.  
386 Discovery may, in the discretion of the arbitrator, be permitted  
387 in the manner provided by the Florida Rules of Civil Procedure.  
388 Rules adopted by the division may authorize any reasonable  
389 sanctions except contempt for a violation of the arbitration  
390 procedural rules of the division or for the failure of a party  
391 to comply with a reasonable nonfinal order issued by an  
392 arbitrator which is not under judicial review.

393 (k) The arbitration decision shall be rendered within 30  
394 days after the hearing and presented to the parties in writing.  
395 An arbitration decision is final in those disputes in which the  
396 parties have agreed to be bound. An arbitration decision is also  
397 final if a complaint for a trial de novo is not filed in a court  
398 of competent jurisdiction in which the condominium is located  
399 within 30 days. The right to file for a trial de novo entitles  
400 the parties to file a complaint in the appropriate trial court



401 for a judicial resolution of the dispute. The prevailing party  
402 in an arbitration proceeding shall be awarded the costs of the  
403 arbitration and reasonable attorney fees in an amount determined  
404 by the arbitrator. Such an award shall include the costs and  
405 reasonable attorney fees incurred in the arbitration proceeding  
406 as well as the costs and reasonable attorney fees incurred in  
407 preparing for and attending any scheduled mediation. An  
408 arbitrator's failure to render a written decision within 30 days  
409 after the hearing may result in the cancellation of his or her  
410 arbitration certification.

411 (l) The party who files a complaint for a trial de novo  
412 shall be assessed the other party's arbitration costs, court  
413 costs, and other reasonable costs, including attorney fees,  
414 investigation expenses, and expenses for expert or other  
415 testimony or evidence incurred after the arbitration hearing if  
416 the judgment upon the trial de novo is not more favorable than  
417 the arbitration decision. If the judgment is more favorable, the  
418 party who filed a complaint for trial de novo shall be awarded  
419 reasonable court costs and attorney fees.

420 (m) Any party to an arbitration proceeding may enforce an  
421 arbitration award by filing a petition in a court of competent  
422 jurisdiction in which the condominium is located. A petition may  
423 not be granted unless the time for appeal by the filing of a  
424 complaint for trial de novo has expired. If a complaint for a  
425 trial de novo has been filed, a petition may not be granted with

426 respect to an arbitration award that has been stayed. If the  
427 petition for enforcement is granted, the petitioner shall  
428 recover reasonable attorney fees and costs incurred in enforcing  
429 the arbitration award. A mediation settlement may also be  
430 enforced through the county or circuit court, as applicable, and  
431 any costs and fees incurred in the enforcement of a settlement  
432 agreement reached at mediation must be awarded to the prevailing  
433 party in any enforcement action.

434 Section 14. Paragraph (d) of subsection (1) and paragraph  
435 (b) of subsection (2) of section 718.501, Florida Statutes, are  
436 amended to read:

437 718.501 Authority, responsibility, and duties of Division  
438 of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile  
439 Homes.—

440 (1) The division may enforce and ensure compliance with  
441 this chapter and rules relating to the development,  
442 construction, sale, lease, ownership, operation, and management  
443 of residential condominium units and complaints related to the  
444 procedural completion of milestone inspections under s. 553.899.  
445 In performing its duties, the division has complete jurisdiction  
446 to investigate complaints and enforce compliance with respect to  
447 associations that are still under developer control or the  
448 control of a bulk assignee or bulk buyer pursuant to part VII of  
449 this chapter and complaints against developers, bulk assignees,  
450 or bulk buyers involving improper turnover or failure to

451 turnover, pursuant to s. 718.301. However, after turnover has  
 452 occurred, the division has jurisdiction to investigate  
 453 complaints related only to financial issues, elections, and the  
 454 maintenance of and unit owner access to association records  
 455 under s. 718.111(12), and the procedural completion of  
 456 structural integrity reserve studies under s. 718.112(2)(g).

457 (d) Notwithstanding any remedies available to unit owners  
 458 and associations, if the division has reasonable cause to  
 459 believe that a violation of any provision of this chapter or  
 460 related rule has occurred, the division may institute  
 461 enforcement proceedings in its own name against any developer,  
 462 bulk assignee, bulk buyer, association, officer, or member of  
 463 the board of administration, or its assignees or agents, as  
 464 follows:

465 1. The division may permit a person whose conduct or  
 466 actions may be under investigation to waive formal proceedings  
 467 and enter into a consent proceeding whereby orders, rules, or  
 468 letters of censure or warning, whether formal or informal, may  
 469 be entered against the person.

470 2. The division may issue an order requiring the  
 471 developer, bulk assignee, bulk buyer, association, developer-  
 472 designated officer, or developer-designated member of the board  
 473 of administration, developer-designated assignees or agents,  
 474 bulk assignee-designated assignees or agents, bulk buyer-  
 475 designated assignees or agents, community association manager,

476 or community association management firm to cease and desist  
477 from the unlawful practice and take such affirmative action as  
478 in the judgment of the division carry out the purposes of this  
479 chapter. If the division finds that a developer, bulk assignee,  
480 bulk buyer, association, officer, or member of the board of  
481 administration, or its assignees or agents, is violating or is  
482 about to violate any provision of this chapter, any rule adopted  
483 or order issued by the division, or any written agreement  
484 entered into with the division, and presents an immediate danger  
485 to the public requiring an immediate final order, it may issue  
486 an emergency cease and desist order reciting with particularity  
487 the facts underlying such findings. The emergency cease and  
488 desist order is effective for 90 days. If the division begins  
489 nonemergency cease and desist proceedings, the emergency cease  
490 and desist order remains effective until the conclusion of the  
491 proceedings under ss. 120.569 and 120.57.

492 3. If a developer, bulk assignee, or bulk buyer fails to  
493 pay any restitution determined by the division to be owed, plus  
494 any accrued interest at the highest rate permitted by law,  
495 within 30 days after expiration of any appellate time period of  
496 a final order requiring payment of restitution or the conclusion  
497 of any appeal thereof, whichever is later, the division must  
498 bring an action in circuit or county court on behalf of any  
499 association, class of unit owners, lessees, or purchasers for  
500 restitution, declaratory relief, injunctive relief, or any other

501 available remedy. The division may also temporarily revoke its  
502 acceptance of the filing for the developer to which the  
503 restitution relates until payment of restitution is made.

504 4. The division may petition the court for appointment of  
505 a receiver or conservator. If appointed, the receiver or  
506 conservator may take action to implement the court order to  
507 ensure the performance of the order and to remedy any breach  
508 thereof. In addition to all other means provided by law for the  
509 enforcement of an injunction or temporary restraining order, the  
510 circuit court may impound or sequester the property of a party  
511 defendant, including books, papers, documents, and related  
512 records, and allow the examination and use of the property by  
513 the division and a court-appointed receiver or conservator.

514 5. The division may apply to the circuit court for an  
515 order of restitution whereby the defendant in an action brought  
516 under subparagraph 4. is ordered to make restitution of those  
517 sums shown by the division to have been obtained by the  
518 defendant in violation of this chapter. At the option of the  
519 court, such restitution is payable to the conservator or  
520 receiver appointed under subparagraph 4. or directly to the  
521 persons whose funds or assets were obtained in violation of this  
522 chapter.

523 6. The division may impose a civil penalty against a  
524 developer, bulk assignee, or bulk buyer, or association, or its  
525 assignee or agent, for any violation of this chapter or related

526 rule. The division may impose a civil penalty individually  
527 against an officer or board member who willfully and knowingly  
528 violates this chapter, an adopted rule, or a final order of the  
529 division; may order the removal of such individual as an officer  
530 or from the board of administration or as an officer of the  
531 association; and may prohibit such individual from serving as an  
532 officer or on the board of a community association for a period  
533 of time. The term "willfully and knowingly" means that the  
534 division informed the officer or board member that his or her  
535 action or intended action violates this chapter, a rule adopted  
536 under this chapter, or a final order of the division and that  
537 the officer or board member refused to comply with the  
538 requirements of this chapter, a rule adopted under this chapter,  
539 or a final order of the division. The division, before  
540 initiating formal agency action under chapter 120, must afford  
541 the officer or board member an opportunity to voluntarily  
542 comply, and an officer or board member who complies within 10  
543 days is not subject to a civil penalty. A penalty may be imposed  
544 on the basis of each day of continuing violation, but the  
545 penalty for any offense may not exceed \$5,000. The division  
546 shall adopt, by rule, penalty guidelines applicable to possible  
547 violations or to categories of violations of this chapter or  
548 rules adopted by the division. The guidelines must specify a  
549 meaningful range of civil penalties for each such violation of  
550 the statute and rules and must be based upon the harm caused by

551 the violation, upon the repetition of the violation, and upon  
552 such other factors deemed relevant by the division. For example,  
553 the division may consider whether the violations were committed  
554 by a developer, bulk assignee, or bulk buyer, or owner-  
555 controlled association, the size of the association, and other  
556 factors. The guidelines must designate the possible mitigating  
557 or aggravating circumstances that justify a departure from the  
558 range of penalties provided by the rules. It is the legislative  
559 intent that minor violations be distinguished from those which  
560 endanger the health, safety, or welfare of the condominium  
561 residents or other persons and that such guidelines provide  
562 reasonable and meaningful notice to the public of likely  
563 penalties that may be imposed for proscribed conduct. This  
564 subsection does not limit the ability of the division to  
565 informally dispose of administrative actions or complaints by  
566 stipulation, agreed settlement, or consent order. All amounts  
567 collected shall be deposited with the Chief Financial Officer to  
568 the credit of the Division of Florida Condominiums, Timeshares,  
569 Yacht Brokers, and Mobile Homes Trust Fund. If a developer, bulk  
570 assignee, or bulk buyer fails to pay the civil penalty and the  
571 amount deemed to be owed to the association, the division shall  
572 issue an order directing that such developer, bulk assignee, or  
573 bulk buyer cease and desist from further operation until such  
574 time as the civil penalty is paid or may pursue enforcement of  
575 the penalty in a court of competent jurisdiction. If an

576 association fails to pay the civil penalty, the division shall  
577 pursue enforcement in a court of competent jurisdiction, and the  
578 order imposing the civil penalty or the cease and desist order  
579 is not effective until 20 days after the date of such order. Any  
580 action commenced by the division shall be brought in the county  
581 in which the division has its executive offices or in the county  
582 where the violation occurred.

583 7. If a unit owner presents the division with proof that  
584 the unit owner has requested access to official records in  
585 writing by certified mail, and that after 10 days the unit owner  
586 again made the same request for access to official records in  
587 writing by certified mail, and that more than 10 days has  
588 elapsed since the second request and the association has still  
589 failed or refused to provide access to official records as  
590 required by this chapter, the division shall issue a subpoena  
591 requiring production of the requested records where the records  
592 are kept pursuant to s. 718.112.

593 8. In addition to subparagraph 6., the division may seek  
594 the imposition of a civil penalty through the circuit court for  
595 any violation for which the division may issue a notice to show  
596 cause under paragraph (r). The civil penalty shall be at least  
597 \$500 but no more than \$5,000 for each violation. The court may  
598 also award to the prevailing party court costs and reasonable  
599 attorney fees and, if the division prevails, may also award  
600 reasonable costs of investigation.



601 (2)  
 602 (b) All fees shall be deposited in the Division of Florida  
 603 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust  
 604 Fund as provided by law.

605 Section 15. Subsection (1) of section 718.5011, Florida  
 606 Statutes, is amended to read:

607 718.5011 Ombudsman; appointment; administration.—

608 (1) There is created an Office of the Condominium  
 609 Ombudsman, to be located for administrative purposes within the  
 610 Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
 611 Mobile Homes. The functions of the office shall be funded by the  
 612 Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
 613 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief  
 614 of the division, and the office shall be set within the division  
 615 in the same manner as any other bureau is staffed and funded.

616 Section 16. Paragraph (a) of subsection (2) of section  
 617 718.502, Florida Statutes, is amended to read:

618 718.502 Filing prior to sale or lease.—

619 (2)(a) Prior to filing as required by subsection (1), and  
 620 prior to acquiring an ownership, leasehold, or contractual  
 621 interest in the land upon which the condominium is to be  
 622 developed, a developer shall not offer a contract for purchase  
 623 of a unit or lease of a unit for more than 5 years. However, the  
 624 developer may accept deposits for reservations upon the approval  
 625 of a fully executed escrow agreement and reservation agreement

626 form properly filed with the Division of Florida Condominiums,  
627 Timeshares, Yacht Brokers, and Mobile Homes. Each filing of a  
628 proposed reservation program shall be accompanied by a filing  
629 fee of \$250. Reservations shall not be taken on a proposed  
630 condominium unless the developer has an ownership, leasehold, or  
631 contractual interest in the land upon which the condominium is  
632 to be developed. The division shall notify the developer within  
633 20 days of receipt of the reservation filing of any deficiencies  
634 contained therein. Such notification shall not preclude the  
635 determination of reservation filing deficiencies at a later  
636 date, nor shall it relieve the developer of any responsibility  
637 under the law. The escrow agreement and the reservation  
638 agreement form shall include a statement of the right of the  
639 prospective purchaser to an immediate unqualified refund of the  
640 reservation deposit moneys upon written request to the escrow  
641 agent by the prospective purchaser or the developer.

642 Section 17. Paragraph (b) of subsection (2) of section  
643 718.503, Florida Statutes, is amended to read:

644 718.503 Developer disclosure prior to sale; nondeveloper  
645 unit owner disclosure prior to sale; voidability.—

646 (2) NONDEVELOPER DISCLOSURE.—

647 (b) The prospective purchaser is also entitled to receive  
648 from the seller a copy of a governance form. Such form shall be  
649 provided by the division summarizing governance of condominium  
650 associations. In addition to such other information as the

651 division considers helpful to a prospective purchaser in  
652 understanding association governance, the governance form shall  
653 address the following subjects:

654 1. The role of the board in conducting the day-to-day  
655 affairs of the association on behalf of, and in the best  
656 interests of, the owners.

657 2. The board's responsibility to provide advance notice of  
658 board and membership meetings.

659 3. The rights of owners to attend and speak at board and  
660 membership meetings.

661 4. The responsibility of the board and of owners with  
662 respect to maintenance of the condominium property.

663 5. The responsibility of the board and owners to abide by  
664 the condominium documents, this chapter, rules adopted by the  
665 division, and reasonable rules adopted by the board.

666 6. Owners' rights to inspect and copy association records  
667 and the limitations on such rights.

668 7. Remedies available to owners with respect to actions by  
669 the board which may be abusive or beyond the board's power and  
670 authority.

671 8. The right of the board to hire a property management  
672 firm, subject to its own primary responsibility for such  
673 management.

674 9. The responsibility of owners with regard to payment of  
675 regular or special assessments necessary for the operation of

676 | the property and the potential consequences of failure to pay  
 677 | such assessments.

678 |         10. The voting rights of owners.

679 |         11. Rights and obligations of the board in enforcement of  
 680 | rules in the condominium documents and rules adopted by the  
 681 | board.

682 |  
 683 | The governance form shall also include the following statement  
 684 | in conspicuous type: "This publication is intended as an  
 685 | informal educational overview of condominium governance. In the  
 686 | event of a conflict, the provisions of chapter 718, Florida  
 687 | Statutes, rules adopted by the Division of Florida Condominiums,  
 688 | Timeshares, Yacht Brokers, and Mobile Homes of the Department of  
 689 | Business and Professional Regulation, the provisions of the  
 690 | condominium documents, and reasonable rules adopted by the  
 691 | condominium association's board of administration prevail over  
 692 | the contents of this publication."

693 |         Section 18. Section 718.504, Florida Statutes, is amended  
 694 | to read:

695 |         718.504 Prospectus or offering circular.—Every developer  
 696 | of a residential condominium which contains more than 20  
 697 | residential units, or which is part of a group of residential  
 698 | condominiums which will be served by property to be used in  
 699 | common by unit owners of more than 20 residential units, shall  
 700 | prepare a prospectus or offering circular and file it with the

701 Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
702 Mobile Homes prior to entering into an enforceable contract of  
703 purchase and sale of any unit or lease of a unit for more than 5  
704 years and shall furnish a copy of the prospectus or offering  
705 circular to each buyer. In addition to the prospectus or  
706 offering circular, each buyer shall be furnished a separate page  
707 entitled "Frequently Asked Questions and Answers," which shall  
708 be in accordance with a format approved by the division and a  
709 copy of the financial information required by s. 718.111. This  
710 page shall, in readable language, inform prospective purchasers  
711 regarding their voting rights and unit use restrictions,  
712 including restrictions on the leasing of a unit; shall indicate  
713 whether and in what amount the unit owners or the association is  
714 obligated to pay rent or land use fees for recreational or other  
715 commonly used facilities; shall contain a statement identifying  
716 that amount of assessment which, pursuant to the budget, would  
717 be levied upon each unit type, exclusive of any special  
718 assessments, and which shall further identify the basis upon  
719 which assessments are levied, whether monthly, quarterly, or  
720 otherwise; shall state and identify any court cases in which the  
721 association is currently a party of record in which the  
722 association may face liability in excess of \$100,000; and which  
723 shall further state whether membership in a recreational  
724 facilities association is mandatory, and if so, shall identify  
725 the fees currently charged per unit type. The division shall by

726 rule require such other disclosure as in its judgment will  
727 assist prospective purchasers. The prospectus or offering  
728 circular may include more than one condominium, although not all  
729 such units are being offered for sale as of the date of the  
730 prospectus or offering circular. The prospectus or offering  
731 circular must contain the following information:

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

733 (a) The name of the condominium.

734 (b) The following statements in conspicuous type:

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

737 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
738 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
739 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
740 MATERIALS.

741 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
742 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
743 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
744 REPRESENTATIONS.

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

748 (3) A separate index of the contents and exhibits of the  
749 prospectus.

750 (4) Beginning on the first page of the text (not including

751 the summary and index), a description of the condominium,  
 752 including, but not limited to, the following information:

753 (a) Its name and location.

754 (b) A description of the condominium property, including,  
 755 without limitation:

756 1. The number of buildings, the number of units in each  
 757 building, the number of bathrooms and bedrooms in each unit, and  
 758 the total number of units, if the condominium is not a phase  
 759 condominium, or the maximum number of buildings that may be  
 760 contained within the condominium, the minimum and maximum  
 761 numbers of units in each building, the minimum and maximum  
 762 numbers of bathrooms and bedrooms that may be contained in each  
 763 unit, and the maximum number of units that may be contained  
 764 within the condominium, if the condominium is a phase  
 765 condominium.

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

768 3. The estimated latest date of completion of  
 769 constructing, finishing, and equipping. In lieu of a date, the  
 770 description shall include a statement that the estimated date of  
 771 completion of the condominium is in the purchase agreement and a  
 772 reference to the article or paragraph containing that  
 773 information.

774 (c) The maximum number of units that will use facilities  
 775 in common with the condominium. If the maximum number of units

776 will vary, a description of the basis for variation and the  
777 minimum amount of dollars per unit to be spent for additional  
778 recreational facilities or enlargement of such facilities. If  
779 the addition or enlargement of facilities will result in a  
780 material increase of a unit owner's maintenance expense or  
781 rental expense, if any, the maximum increase and limitations  
782 thereon shall be stated.

783 (5) (a) A statement in conspicuous type describing whether  
784 the condominium is created and being sold as fee simple  
785 interests or as leasehold interests. If the condominium is  
786 created or being sold on a leasehold, the location of the lease  
787 in the disclosure materials shall be stated.

788 (b) If timeshare estates are or may be created with  
789 respect to any unit in the condominium, a statement in  
790 conspicuous type stating that timeshare estates are created and  
791 being sold in units in the condominium.

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

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

797 (b) Each swimming pool, as to its general location,  
798 approximate size and depths, approximate deck size and capacity,  
799 and whether heated.

800 (c) Additional facilities, as to the number of each



801 facility, its approximate location, approximate size, and  
802 approximate capacity.

803 (d) A general description of the items of personal  
804 property and the approximate number of each item of personal  
805 property that the developer is committing to furnish for each  
806 room or other facility or, in the alternative, a representation  
807 as to the minimum amount of expenditure that will be made to  
808 purchase the personal property for the facility.

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

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

814 2. A reference to the location in the disclosure materials  
815 of the lease or other agreements providing for the use of those  
816 facilities; and

817 3. A description of the terms of the lease or other  
818 agreements, including the length of the term; the rent payable,  
819 directly or indirectly, by each unit owner, and the total rent  
820 payable to the lessor, stated in monthly and annual amounts for  
821 the entire term of the lease; and a description of any option to  
822 purchase the property leased under any such lease, including the  
823 time the option may be exercised, the purchase price or how it  
824 is to be determined, the manner of payment, and whether the  
825 option may be exercised for a unit owner's share or only as to

826 | the entire leased property.

827 |       (g) A statement as to whether the developer may provide  
828 | additional facilities not described above; their general  
829 | locations and types; improvements or changes that may be made;  
830 | the approximate dollar amount to be expended; and the maximum  
831 | additional common expense or cost to the individual unit owners  
832 | that may be charged during the first annual period of operation  
833 | of the modified or added facilities.

834 |  
835 | Descriptions as to locations, areas, capacities, numbers,  
836 | volumes, or sizes may be stated as approximations or minimums.

837 |       (7) A description of the recreational and other facilities  
838 | that will be used in common with other condominiums, community  
839 | associations, or planned developments which require the payment  
840 | of the maintenance and expenses of such facilities, directly or  
841 | indirectly, by the unit owners. The description shall include,  
842 | but not be limited to, the following:

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

844 |           (b) Facilities not committed to be built except under  
845 | certain conditions, and a statement of those conditions or  
846 | contingencies.

847 |           (c) As to each facility committed to be built, or which  
848 | will be committed to be built upon the happening of one of the  
849 | conditions in paragraph (b), a statement of whether it will be  
850 | owned by the unit owners having the use thereof or by an

851 association or other entity which will be controlled by them, or  
 852 others, and the location in the exhibits of the lease or other  
 853 document providing for use of those facilities.

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

858 (e) A general description of the items of personal  
 859 property, and the approximate number of each item of personal  
 860 property, that the developer is committing to furnish for each  
 861 room or other facility or, in the alternative, a representation  
 862 as to the minimum amount of expenditure that will be made to  
 863 purchase the personal property for the facility.

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

867  
 868 Descriptions shall include location, areas, capacities, numbers,  
 869 volumes, or sizes and may be stated as approximations or  
 870 minimums.

871 (8) Recreation lease or associated club membership:

872 (a) If any recreational facilities or other facilities  
 873 offered by the developer and available to, or to be used by,  
 874 unit owners are to be leased or have club membership associated,  
 875 the following statement in conspicuous type shall be included:

876 | THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 877 | CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 878 | CONDOMINIUM. There shall be a reference to the location in the  
 879 | disclosure materials where the recreation lease or club  
 880 | membership is described in detail.

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

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

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

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

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

896 |  
 897 | Immediately following the applicable statement, the location in  
 898 | the disclosure materials where the development is described in  
 899 | detail shall be stated.

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

901 unit owners and other persons having use rights in the  
 902 facilities, reserves, or is entitled to receive, any rent, fee,  
 903 or other payment for the use of the facilities, then there shall  
 904 be the following statement in conspicuous type: THE UNIT OWNERS  
 905 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 906 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
 907 following this statement, the location in the disclosure  
 908 materials where the rent or land use fees are described in  
 909 detail shall be stated.

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

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

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

924  
 925 Immediately following the applicable statement, the location in

926 the disclosure materials where the lien or lien right is  
927 described in detail shall be stated.

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

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

938 (10) A statement of whether the developer's plan includes  
939 a program of leasing units rather than selling them, or leasing  
940 units and selling them subject to such leases. If so, there  
941 shall be a description of the plan, including the number and  
942 identification of the units and the provisions and term of the  
943 proposed leases, and a statement in boldfaced type that: THE  
944 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

945 (11) The arrangements for management of the association  
946 and maintenance and operation of the condominium property and of  
947 other property that will serve the unit owners of the  
948 condominium property, and a description of the management  
949 contract and all other contracts for these purposes having a  
950 term in excess of 1 year, including the following:

951 (a) The names of contracting parties.  
 952 (b) The term of the contract.  
 953 (c) The nature of the services included.  
 954 (d) The compensation, stated on a monthly and annual  
 955 basis, and provisions for increases in the compensation.  
 956 (e) A reference to the volumes and pages of the  
 957 condominium documents and of the exhibits containing copies of  
 958 such contracts.  
 959  
 960 Copies of all described contracts shall be attached as exhibits.  
 961 If there is a contract for the management of the condominium  
 962 property, then a statement in conspicuous type in substantially  
 963 the following form shall appear, identifying the proposed or  
 964 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
 965 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE  
 966 CONTRACT MANAGER). Immediately following this statement, the  
 967 location in the disclosure materials of the contract for  
 968 management of the condominium property shall be stated.  
 969 (12) If the developer or any other person or persons other  
 970 than the unit owners has the right to retain control of the  
 971 board of administration of the association for a period of time  
 972 which can exceed 1 year after the closing of the sale of a  
 973 majority of the units in that condominium to persons other than  
 974 successors or alternate developers, then a statement in  
 975 conspicuous type in substantially the following form shall be

976 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
 977 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
 978 HAVE BEEN SOLD. Immediately following this statement, the  
 979 location in the disclosure materials where this right to control  
 980 is described in detail shall be stated.

981 (13) If there are any restrictions upon the sale,  
 982 transfer, conveyance, or leasing of a unit, then a statement in  
 983 conspicuous type in substantially the following form shall be  
 984 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
 985 CONTROLLED. Immediately following this statement, the location  
 986 in the disclosure materials where the restriction, limitation,  
 987 or control on the sale, lease, or transfer of units is described  
 988 in detail shall be stated.

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

991 (a) A statement in conspicuous type in substantially the  
 992 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
 993 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
 994 this statement, the location in the disclosure materials where  
 995 the phasing is described shall be stated.

996 (b) A summary of the provisions of the declaration which  
 997 provide for the phasing.

998 (c) A statement as to whether or not residential buildings  
 999 and units which are added to the condominium may be  
 1000 substantially different from the residential buildings and units



1001 originally in the condominium. If the added residential  
 1002 buildings and units may be substantially different, there shall  
 1003 be a general description of the extent to which such added  
 1004 residential buildings and units may differ, and a statement in  
 1005 conspicuous type in substantially the following form shall be  
 1006 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM  
 1007 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
 1008 UNITS IN THE CONDOMINIUM. Immediately following this statement,  
 1009 the location in the disclosure materials where the extent to  
 1010 which added residential buildings and units may substantially  
 1011 differ is described shall be stated.

1012 (d) A statement of the maximum number of buildings  
 1013 containing units, the maximum and minimum numbers of units in  
 1014 each building, the maximum number of units, and the minimum and  
 1015 maximum square footage of the units that may be contained within  
 1016 each parcel of land which may be added to the condominium.

1017 (15) If a condominium created on or after July 1, 2000, is  
 1018 or may become part of a multicondominium, the following  
 1019 information must be provided:

1020 (a) A statement in conspicuous type in substantially the  
 1021 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
 1022 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
 1023 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following  
 1024 this statement, the location in the prospectus or offering  
 1025 circular and its exhibits where the multicondominium aspects of

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1026 the offering are described must be stated.

1027 (b) A summary of the provisions in the declaration,  
1028 articles of incorporation, and bylaws which establish and  
1029 provide for the operation of the multicondominium, including a  
1030 statement as to whether unit owners in the condominium will have  
1031 the right to use recreational or other facilities located or  
1032 planned to be located in other condominiums operated by the same  
1033 association, and the manner of sharing the common expenses  
1034 related to such facilities.

1035 (c) A statement of the minimum and maximum number of  
1036 condominiums, and the minimum and maximum number of units in  
1037 each of those condominiums, which will or may be operated by the  
1038 association, and the latest date by which the exact number will  
1039 be finally determined.

1040 (d) A statement as to whether any of the condominiums in  
1041 the multicondominium may include units intended to be used for  
1042 nonresidential purposes and the purpose or purposes permitted  
1043 for such use.

1044 (e) A general description of the location and approximate  
1045 acreage of any land on which any additional condominiums to be  
1046 operated by the association may be located.

1047 (16) If the condominium is created by conversion of  
1048 existing improvements, the following information shall be  
1049 stated:

1050 (a) The information required by s. 718.616.

1051 (b) A caveat that there are no express warranties unless  
 1052 they are stated in writing by the developer.

1053 (17) A summary of the restrictions, if any, to be imposed  
 1054 on units concerning the use of any of the condominium property,  
 1055 including statements as to whether there are restrictions upon  
 1056 children and pets, and reference to the volumes and pages of the  
 1057 condominium documents where such restrictions are found, or if  
 1058 such restrictions are contained elsewhere, then a copy of the  
 1059 documents containing the restrictions shall be attached as an  
 1060 exhibit.

1061 (18) If there is any land that is offered by the developer  
 1062 for use by the unit owners and that is neither owned by them nor  
 1063 leased to them, the association, or any entity controlled by  
 1064 unit owners and other persons having the use rights to such  
 1065 land, a statement shall be made as to how such land will serve  
 1066 the condominium. If any part of such land will serve the  
 1067 condominium, the statement shall describe the land and the  
 1068 nature and term of service, and the declaration or other  
 1069 instrument creating such servitude shall be included as an  
 1070 exhibit.

1071 (19) The manner in which utility and other services,  
 1072 including, but not limited to, sewage and waste disposal, water  
 1073 supply, and storm drainage, will be provided and the person or  
 1074 entity furnishing them.

1075 (20) An explanation of the manner in which the

1076 appportionment of common expenses and ownership of the common  
 1077 elements has been determined.

1078 (21) An estimated operating budget for the condominium and  
 1079 the association, and a schedule of the unit owner's expenses  
 1080 shall be attached as an exhibit and shall contain the following  
 1081 information:

1082 (a) The estimated monthly and annual expenses of the  
 1083 condominium and the association that are collected from unit  
 1084 owners by assessments.

1085 (b) The estimated monthly and annual expenses of each unit  
 1086 owner for a unit, other than common expenses paid by all unit  
 1087 owners, payable by the unit owner to persons or entities other  
 1088 than the association, as well as to the association, including  
 1089 fees assessed pursuant to s. 718.113(1) for maintenance of  
 1090 limited common elements where such costs are shared only by  
 1091 those entitled to use the limited common element, and the total  
 1092 estimated monthly and annual expense. There may be excluded from  
 1093 this estimate expenses which are not provided for or  
 1094 contemplated by the condominium documents, including, but not  
 1095 limited to, the costs of private telephone; maintenance of the  
 1096 interior of condominium units, which is not the obligation of  
 1097 the association; maid or janitorial services privately  
 1098 contracted for by the unit owners; utility bills billed directly  
 1099 to each unit owner for utility services to his or her unit;  
 1100 insurance premiums other than those incurred for policies

1101 obtained by the condominium; and similar personal expenses of  
 1102 the unit owner. A unit owner's estimated payments for  
 1103 assessments shall also be stated in the estimated amounts for  
 1104 the times when they will be due.

1105 (c) The estimated items of expenses of the condominium and  
 1106 the association, except as excluded under paragraph (b),  
 1107 including, but not limited to, the following items, which shall  
 1108 be stated as an association expense collectible by assessments  
 1109 or as unit owners' expenses payable to persons other than the  
 1110 association:

- 1111 1. Expenses for the association and condominium:
- 1112 a. Administration of the association.
- 1113 b. Management fees.
- 1114 c. Maintenance.
- 1115 d. Rent for recreational and other commonly used
- 1116 facilities.
- 1117 e. Taxes upon association property.
- 1118 f. Taxes upon leased areas.
- 1119 g. Insurance.
- 1120 h. Security provisions.
- 1121 i. Other expenses.
- 1122 j. Operating capital.
- 1123 k. Reserves.
- 1124 1. Fees payable to the division.
- 1125 2. Expenses for a unit owner:

1126           a. Rent for the unit, if subject to a lease.

1127           b. Rent payable by the unit owner directly to the lessor

1128 or agent under any recreational lease or lease for the use of

1129 commonly used facilities, which use and payment is a mandatory

1130 condition of ownership and is not included in the common expense

1131 or assessments for common maintenance paid by the unit owners to

1132 the association.

1133           (d) The following statement in conspicuous type: THE

1134 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN

1135 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE

1136 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON

1137 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.

1138 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH

1139 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN

1140 THE OFFERING.

1141           (e) Each budget for an association prepared by a developer

1142 consistent with this subsection shall be prepared in good faith

1143 and shall reflect accurate estimated amounts for the required

1144 items in paragraph (c) at the time of the filing of the offering

1145 circular with the division, and subsequent increased amounts of

1146 any item included in the association's estimated budget that are

1147 beyond the control of the developer shall not be considered an

1148 amendment that would give rise to rescission rights set forth in

1149 s. 718.503(1)(a) or (b), nor shall such increases modify, void,

1150 or otherwise affect any guarantee of the developer contained in

1151 | the offering circular or any purchase contract. It is the intent  
 1152 | of this paragraph to clarify existing law.

1153 |         (f) The estimated amounts shall be stated for a period of  
 1154 | at least 12 months and may distinguish between the period prior  
 1155 | to the time unit owners other than the developer elect a  
 1156 | majority of the board of administration and the period after  
 1157 | that date.

1158 |         (22) A schedule of estimated closing expenses to be paid  
 1159 | by a buyer or lessee of a unit and a statement of whether title  
 1160 | opinion or title insurance policy is available to the buyer and,  
 1161 | if so, at whose expense.

1162 |         (23) The identity of the developer and the chief operating  
 1163 | officer or principal directing the creation and sale of the  
 1164 | condominium and a statement of its and his or her experience in  
 1165 | this field.

1166 |         (24) Copies of the following, to the extent they are  
 1167 | applicable, shall be included as exhibits:

1168 |             (a) The declaration of condominium, or the proposed  
 1169 | declaration if the declaration has not been recorded.

1170 |             (b) The articles of incorporation creating the  
 1171 | association.

1172 |             (c) The bylaws of the association.

1173 |             (d) The ground lease or other underlying lease of the  
 1174 | condominium.

1175 |             (e) The management agreement and all maintenance and other

1176 | contracts for management of the association and operation of the  
 1177 | condominium and facilities used by the unit owners having a  
 1178 | service term in excess of 1 year.

1179 |         (f) The estimated operating budget for the condominium,  
 1180 | the required schedule of unit owners' expenses, and the  
 1181 | association's most recent structural integrity reserve study or  
 1182 | a statement that the association has not completed a structural  
 1183 | integrity reserve study.

1184 |         (g) A copy of the floor plan of the unit and the plot plan  
 1185 | showing the location of the residential buildings and the  
 1186 | recreation and other common areas.

1187 |         (h) The lease of recreational and other facilities that  
 1188 | will be used only by unit owners of the subject condominium.

1189 |         (i) The lease of facilities used by owners and others.

1190 |         (j) The form of unit lease, if the offer is of a  
 1191 | leasehold.

1192 |         (k) A declaration of servitude of properties serving the  
 1193 | condominium but not owned by unit owners or leased to them or  
 1194 | the association.

1195 |         (l) The statement of condition of the existing building or  
 1196 | buildings, if the offering is of units in an operation being  
 1197 | converted to condominium ownership.

1198 |         (m) The statement of inspection for termite damage and  
 1199 | treatment of the existing improvements, if the condominium is a  
 1200 | conversion.



- 1201           (n) The form of agreement for sale or lease of units.
- 1202           (o) A copy of the agreement for escrow of payments made to  
1203 the developer prior to closing.
- 1204           (p) A copy of the documents containing any restrictions on  
1205 use of the property required by subsection (17).
- 1206           (q) A copy of the inspector-prepared summary of the  
1207 milestone inspection report as described in ss. 553.899 and  
1208 718.301(4)(p), as applicable.
- 1209           (25) Any prospectus or offering circular complying, prior  
1210 to the effective date of this act, with the provisions of former  
1211 ss. 711.69 and 711.802 may continue to be used without amendment  
1212 or may be amended to comply with this chapter.
- 1213           (26) A brief narrative description of the location and  
1214 effect of all existing and intended easements located or to be  
1215 located on the condominium property other than those described  
1216 in the declaration.
- 1217           (27) If the developer is required by state or local  
1218 authorities to obtain acceptance or approval of any dock or  
1219 marina facilities intended to serve the condominium, a copy of  
1220 any such acceptance or approval acquired by the time of filing  
1221 with the division under s. 718.502(1) or a statement that such  
1222 acceptance or approval has not been acquired or received.
- 1223           (28) Evidence demonstrating that the developer has an  
1224 ownership, leasehold, or contractual interest in the land upon  
1225 which the condominium is to be developed.

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1226 Section 19. Section 718.508, Florida Statutes, is amended  
1227 to read:

1228 718.508 Regulation by Division of Hotels and Restaurants.—  
1229 In addition to the authority, regulation, or control exercised  
1230 by the Division of Florida Condominiums, Timeshares, Yacht  
1231 Brokers, and Mobile Homes pursuant to this act with respect to  
1232 condominiums, buildings included in a condominium property are  
1233 subject to the authority, regulation, or control of the Division  
1234 of Hotels and Restaurants of the Department of Business and  
1235 Professional Regulation, to the extent provided in chapter 399.

1236 Section 20. Section 718.509, Florida Statutes, is amended  
1237 to read:

1238 718.509 Division of Florida Condominiums, Timeshares,  
1239 Yacht Brokers, and Mobile Homes Trust Fund.—

1240 (1) There is created within the State Treasury the  
1241 Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
1242 Mobile Homes Trust Fund to be used for the administration and  
1243 operation of this chapter and chapters 718, 719, 721, and 723 by  
1244 the division.

1245 (2) All moneys collected by the division from fees, fines,  
1246 or penalties or from costs awarded to the division by a court or  
1247 administrative final order shall be paid into the Division of  
1248 Florida Condominiums, Timeshares, Yacht Brokers, and Mobile  
1249 Homes Trust Fund. The Legislature shall appropriate funds from  
1250 this trust fund sufficient to carry out the provisions of this

1251 chapter and the provisions of law with respect to each category  
1252 of business covered by the trust fund. The division shall  
1253 maintain separate revenue accounts in the trust fund for each of  
1254 the businesses regulated by the division. The division shall  
1255 provide for the proportionate allocation among the accounts of  
1256 expenses incurred by the division in the performance of its  
1257 duties with respect to each of these businesses. As part of its  
1258 normal budgetary process, the division shall prepare an annual  
1259 report of revenue and allocated expenses related to the  
1260 operation of each of these businesses which may be used to  
1261 determine fees charged by the division. This subsection shall  
1262 operate pursuant to the provisions of s. 215.20.

1263 Section 21. Paragraph (a) of subsection (2) of section  
1264 718.608, Florida Statutes, is amended to read:

1265 718.608 Notice of intended conversion; time of delivery;  
1266 content.—

1267 (2)(a) Each notice of intended conversion shall be dated  
1268 and in writing. The notice shall contain the following  
1269 statement, with the phrases of the following statement which  
1270 appear in upper case printed in conspicuous type:

1271 These apartments are being converted to condominium by  
1272 ...(name of developer)..., the developer.

1273 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
1274 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
1275 AGREEMENT AS FOLLOWS:

1276 a. If you have continuously been a resident of these  
 1277 apartments during the last 180 days and your rental agreement  
 1278 expires during the next 270 days, you may extend your rental  
 1279 agreement for up to 270 days after the date of this notice.

1280 b. If you have not been a continuous resident of these  
 1281 apartments for the last 180 days and your rental agreement  
 1282 expires during the next 180 days, you may extend your rental  
 1283 agreement for up to 180 days after the date of this notice.

1284 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
 1285 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
 1286 DATE OF THIS NOTICE.

1287 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
 1288 you may extend your rental agreement for up to 45 days after the  
 1289 date of this notice while you decide whether to extend your  
 1290 rental agreement as explained above. To do so, you must notify  
 1291 the developer in writing. You will then have the full 45 days to  
 1292 decide whether to extend your rental agreement as explained  
 1293 above.

1294 3. During the extension of your rental agreement you will  
 1295 be charged the same rent that you are now paying.

1296 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
 1297 OF THE RENTAL AGREEMENT AS FOLLOWS:

1298 a. If your rental agreement began or was extended or  
 1299 renewed after May 1, 1980, and your rental agreement, including  
 1300 extensions and renewals, has an unexpired term of 180 days or

1301 less, you may cancel your rental agreement upon 30 days' written  
 1302 notice and move. Also, upon 30 days' written notice, you may  
 1303 cancel any extension of the rental agreement.

1304 b. If your rental agreement was not begun or was not  
 1305 extended or renewed after May 1, 1980, you may not cancel the  
 1306 rental agreement without the consent of the developer. If your  
 1307 rental agreement, including extensions and renewals, has an  
 1308 unexpired term of 180 days or less, you may, however, upon 30  
 1309 days' written notice cancel any extension of the rental  
 1310 agreement.

1311 5. All notices must be given in writing and sent by mail,  
 1312 return receipt requested, or delivered in person to the  
 1313 developer at this address: ... (name and address of  
 1314 developer)....

1315 6. If you have continuously been a resident of these  
 1316 apartments during the last 180 days:

1317 a. You have the right to purchase your apartment and will  
 1318 have 45 days to decide whether to purchase. If you do not buy  
 1319 the unit at that price and the unit is later offered at a lower  
 1320 price, you will have the opportunity to buy the unit at the  
 1321 lower price. However, in all events your right to purchase the  
 1322 unit ends when the rental agreement or any extension of the  
 1323 rental agreement ends or when you waive this right in writing.

1324 b. Within 90 days you will be provided purchase  
 1325 information relating to your apartment, including the price of

1326 | your unit and the condition of the building. If you do not  
1327 | receive this information within 90 days, your rental agreement  
1328 | and any extension will be extended 1 day for each day over 90  
1329 | days until you are given the purchase information. If you do not  
1330 | want this rental agreement extension, you must notify the  
1331 | developer in writing.

1332 |         7. If you have any questions regarding this conversion or  
1333 | the Condominium Act, you may contact the developer or the state  
1334 | agency which regulates condominiums: The Division of Florida  
1335 | Condominiums, Timeshares, Yacht Brokers, and Mobile Homes,  
1336 | ... (Tallahassee address and telephone number of division)....

1337 |         Section 22. Subsection (17) of section 719.103, Florida  
1338 | Statutes, is amended to read:

1339 |             719.103 Definitions.—As used in this chapter:

1340 |             (17) "Division" means the Division of Florida  
1341 | Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the  
1342 | Department of Business and Professional Regulation.

1343 |         Section 23. Section 719.1255, Florida Statutes, is amended  
1344 | to read:

1345 |             719.1255 Alternative resolution of disputes.—The Division  
1346 | of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile  
1347 | Homes of the Department of Business and Professional Regulation  
1348 | shall provide for alternative dispute resolution in accordance  
1349 | with s. 718.1255.

1350 |         Section 24. Paragraph (d) of subsection (1) and paragraph

1351 (b) of subsection (2) of section 719.501, Florida Statutes, are  
 1352 amended to read:

1353 719.501 Powers and duties of Division of Florida  
 1354 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes.—

1355 (1) The Division of Florida Condominiums, Timeshares,  
 1356 Yacht Brokers, and Mobile Homes of the Department of Business  
 1357 and Professional Regulation, referred to as the "division" in  
 1358 this part, in addition to other powers and duties prescribed by  
 1359 chapter 718, has the power to enforce and ensure compliance with  
 1360 this chapter and adopted rules relating to the development,  
 1361 construction, sale, lease, ownership, operation, and management  
 1362 of residential cooperative units; complaints related to the  
 1363 procedural completion of the structural integrity reserve  
 1364 studies under s. 719.106(1)(k); and complaints related to the  
 1365 procedural completion of milestone inspections under s. 553.899.  
 1366 In performing its duties, the division shall have the following  
 1367 powers and duties:

1368 (d) Notwithstanding any remedies available to unit owners  
 1369 and associations, if the division has reasonable cause to  
 1370 believe that a violation of any provision of this chapter or  
 1371 related rule has occurred, the division may institute  
 1372 enforcement proceedings in its own name against a developer,  
 1373 association, officer, or member of the board, or its assignees  
 1374 or agents, as follows:

1375 1. The division may permit a person whose conduct or

1376 actions may be under investigation to waive formal proceedings  
 1377 and enter into a consent proceeding whereby orders, rules, or  
 1378 letters of censure or warning, whether formal or informal, may  
 1379 be entered against the person.

1380 2. The division may issue an order requiring the  
 1381 developer, association, officer, or member of the board, or its  
 1382 assignees or agents, to cease and desist from the unlawful  
 1383 practice and take such affirmative action as in the judgment of  
 1384 the division will carry out the purposes of this chapter. Such  
 1385 affirmative action may include, but is not limited to, an order  
 1386 requiring a developer to pay moneys determined to be owed to a  
 1387 condominium association.

1388 3. The division may bring an action in circuit court on  
 1389 behalf of a class of unit owners, lessees, or purchasers for  
 1390 declaratory relief, injunctive relief, or restitution.

1391 4. The division may impose a civil penalty against a  
 1392 developer or association, or its assignees or agents, for any  
 1393 violation of this chapter or related rule. The division may  
 1394 impose a civil penalty individually against any officer or board  
 1395 member who willfully and knowingly violates a provision of this  
 1396 chapter, a rule adopted pursuant to this chapter, or a final  
 1397 order of the division. The term "willfully and knowingly" means  
 1398 that the division informed the officer or board member that his  
 1399 or her action or intended action violates this chapter, a rule  
 1400 adopted under this chapter, or a final order of the division,



1401 and that the officer or board member refused to comply with the  
1402 requirements of this chapter, a rule adopted under this chapter,  
1403 or a final order of the division. The division, prior to  
1404 initiating formal agency action under chapter 120, shall afford  
1405 the officer or board member an opportunity to voluntarily comply  
1406 with this chapter, a rule adopted under this chapter, or a final  
1407 order of the division. An officer or board member who complies  
1408 within 10 days is not subject to a civil penalty. A penalty may  
1409 be imposed on the basis of each day of continuing violation, but  
1410 in no event shall the penalty for any offense exceed \$5,000. By  
1411 January 1, 1998, the division shall adopt, by rule, penalty  
1412 guidelines applicable to possible violations or to categories of  
1413 violations of this chapter or rules adopted by the division. The  
1414 guidelines must specify a meaningful range of civil penalties  
1415 for each such violation of the statute and rules and must be  
1416 based upon the harm caused by the violation, upon the repetition  
1417 of the violation, and upon such other factors deemed relevant by  
1418 the division. For example, the division may consider whether the  
1419 violations were committed by a developer or owner-controlled  
1420 association, the size of the association, and other factors. The  
1421 guidelines must designate the possible mitigating or aggravating  
1422 circumstances that justify a departure from the range of  
1423 penalties provided by the rules. It is the legislative intent  
1424 that minor violations be distinguished from those which endanger  
1425 the health, safety, or welfare of the cooperative residents or

1426 other persons and that such guidelines provide reasonable and  
1427 meaningful notice to the public of likely penalties that may be  
1428 imposed for proscribed conduct. This subsection does not limit  
1429 the ability of the division to informally dispose of  
1430 administrative actions or complaints by stipulation, agreed  
1431 settlement, or consent order. All amounts collected shall be  
1432 deposited with the Chief Financial Officer to the credit of the  
1433 Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
1434 Mobile Homes Trust Fund. If a developer fails to pay the civil  
1435 penalty, the division shall thereupon issue an order directing  
1436 that such developer cease and desist from further operation  
1437 until such time as the civil penalty is paid or may pursue  
1438 enforcement of the penalty in a court of competent jurisdiction.  
1439 If an association fails to pay the civil penalty, the division  
1440 shall thereupon pursue enforcement in a court of competent  
1441 jurisdiction, and the order imposing the civil penalty or the  
1442 cease and desist order shall not become effective until 20 days  
1443 after the date of such order. Any action commenced by the  
1444 division shall be brought in the county in which the division  
1445 has its executive offices or in the county where the violation  
1446 occurred.

1447 (2)

1448 (b) All fees shall be deposited in the Division of Florida  
1449 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust  
1450 Fund as provided by law.

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1451 Section 25. Paragraph (a) of subsection (2) of section  
1452 719.502, Florida Statutes, is amended to read:  
1453 719.502 Filing prior to sale or lease.—  
1454 (2)(a) Prior to filing as required by subsection (1), and  
1455 prior to acquiring an ownership, leasehold, or contractual  
1456 interest in the land upon which the cooperative is to be  
1457 developed, a developer shall not offer a contract for purchase  
1458 or lease of a unit for more than 5 years. However, the developer  
1459 may accept deposits for reservations upon the approval of a  
1460 fully executed escrow agreement and reservation agreement form  
1461 properly filed with the Division of Florida Condominiums,  
1462 Timeshares, Yacht Brokers, and Mobile Homes. Each filing of a  
1463 proposed reservation program shall be accompanied by a filing  
1464 fee of \$250. Reservations shall not be taken on a proposed  
1465 cooperative unless the developer has an ownership, leasehold, or  
1466 contractual interest in the land upon which the cooperative is  
1467 to be developed. The division shall notify the developer within  
1468 20 days of receipt of the reservation filing of any deficiencies  
1469 contained therein. Such notification shall not preclude the  
1470 determination of reservation filing deficiencies at a later  
1471 date, nor shall it relieve the developer of any responsibility  
1472 under the law. The escrow agreement and the reservation  
1473 agreement form shall include a statement of the right of the  
1474 prospective purchaser to an immediate unqualified refund of the  
1475 reservation deposit moneys upon written request to the escrow

1476 agent by the prospective purchaser or the developer.

1477 Section 26. Section 719.504, Florida Statutes, is amended  
1478 to read:

1479 719.504 Prospectus or offering circular.—Every developer  
1480 of a residential cooperative which contains more than 20  
1481 residential units, or which is part of a group of residential  
1482 cooperatives which will be served by property to be used in  
1483 common by unit owners of more than 20 residential units, shall  
1484 prepare a prospectus or offering circular and file it with the  
1485 Division of Florida Condominiums, Timeshares, Yacht Brokers, and  
1486 Mobile Homes prior to entering into an enforceable contract of  
1487 purchase and sale of any unit or lease of a unit for more than 5  
1488 years and shall furnish a copy of the prospectus or offering  
1489 circular to each buyer. In addition to the prospectus or  
1490 offering circular, each buyer shall be furnished a separate page  
1491 entitled "Frequently Asked Questions and Answers," which must be  
1492 in accordance with a format approved by the division. This page  
1493 must, in readable language: inform prospective purchasers  
1494 regarding their voting rights and unit use restrictions,  
1495 including restrictions on the leasing of a unit; indicate  
1496 whether and in what amount the unit owners or the association is  
1497 obligated to pay rent or land use fees for recreational or other  
1498 commonly used facilities; contain a statement identifying that  
1499 amount of assessment which, pursuant to the budget, would be  
1500 levied upon each unit type, exclusive of any special

1501 assessments, and which identifies the basis upon which  
 1502 assessments are levied, whether monthly, quarterly, or  
 1503 otherwise; state and identify any court cases in which the  
 1504 association is currently a party of record in which the  
 1505 association may face liability in excess of \$100,000; and state  
 1506 whether membership in a recreational facilities association is  
 1507 mandatory and, if so, identify the fees currently charged per  
 1508 unit type. The division shall by rule require such other  
 1509 disclosure as in its judgment will assist prospective  
 1510 purchasers. The prospectus or offering circular may include more  
 1511 than one cooperative, although not all such units are being  
 1512 offered for sale as of the date of the prospectus or offering  
 1513 circular. The prospectus or offering circular must contain the  
 1514 following information:

1515 (1) The front cover or the first page must contain only:

1516 (a) The name of the cooperative.

1517 (b) The following statements in conspicuous type:

1518 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
 1519 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

1520 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
 1521 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
 1522 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
 1523 MATERIALS.

1524 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
 1525 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS

1526 | PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
 1527 | REPRESENTATIONS.

1528 |         (2) Summary: The next page must contain all statements  
 1529 | required to be in conspicuous type in the prospectus or offering  
 1530 | circular.

1531 |         (3) A separate index of the contents and exhibits of the  
 1532 | prospectus.

1533 |         (4) Beginning on the first page of the text (not including  
 1534 | the summary and index), a description of the cooperative,  
 1535 | including, but not limited to, the following information:

1536 |             (a) Its name and location.

1537 |             (b) A description of the cooperative property, including,  
 1538 | without limitation:

1539 |                 1. The number of buildings, the number of units in each  
 1540 | building, the number of bathrooms and bedrooms in each unit, and  
 1541 | the total number of units, if the cooperative is not a phase  
 1542 | cooperative; or, if the cooperative is a phase cooperative, the  
 1543 | maximum number of buildings that may be contained within the  
 1544 | cooperative, the minimum and maximum number of units in each  
 1545 | building, the minimum and maximum number of bathrooms and  
 1546 | bedrooms that may be contained in each unit, and the maximum  
 1547 | number of units that may be contained within the cooperative.

1548 |                 2. The page in the cooperative documents where a copy of  
 1549 | the survey and plot plan of the cooperative is located.

1550 |                 3. The estimated latest date of completion of

1551 constructing, finishing, and equipping. In lieu of a date, a  
1552 statement that the estimated date of completion of the  
1553 cooperative is in the purchase agreement and a reference to the  
1554 article or paragraph containing that information.

1555 (c) The maximum number of units that will use facilities  
1556 in common with the cooperative. If the maximum number of units  
1557 will vary, a description of the basis for variation and the  
1558 minimum amount of dollars per unit to be spent for additional  
1559 recreational facilities or enlargement of such facilities. If  
1560 the addition or enlargement of facilities will result in a  
1561 material increase of a unit owner's maintenance expense or  
1562 rental expense, if any, the maximum increase and limitations  
1563 thereon shall be stated.

1564 (5)(a) A statement in conspicuous type describing whether  
1565 the cooperative is created and being sold as fee simple  
1566 interests or as leasehold interests. If the cooperative is  
1567 created or being sold on a leasehold, the location of the lease  
1568 in the disclosure materials shall be stated.

1569 (b) If timeshare estates are or may be created with  
1570 respect to any unit in the cooperative, a statement in  
1571 conspicuous type stating that timeshare estates are created and  
1572 being sold in such specified units in the cooperative.

1573 (6) A description of the recreational and other common  
1574 areas that will be used only by unit owners of the cooperative,  
1575 including, but not limited to, the following:

1576 (a) Each room and its intended purposes, location,  
 1577 approximate floor area, and capacity in numbers of people.

1578 (b) Each swimming pool, as to its general location,  
 1579 approximate size and depths, approximate deck size and capacity,  
 1580 and whether heated.

1581 (c) Additional facilities, as to the number of each  
 1582 facility, its approximate location, approximate size, and  
 1583 approximate capacity.

1584 (d) A general description of the items of personal  
 1585 property and the approximate number of each item of personal  
 1586 property that the developer is committing to furnish for each  
 1587 room or other facility or, in the alternative, a representation  
 1588 as to the minimum amount of expenditure that will be made to  
 1589 purchase the personal property for the facility.

1590 (e) The estimated date when each room or other facility  
 1591 will be available for use by the unit owners.

1592 (f)1. An identification of each room or other facility to  
 1593 be used by unit owners that will not be owned by the unit owners  
 1594 or the association;

1595 2. A reference to the location in the disclosure materials  
 1596 of the lease or other agreements providing for the use of those  
 1597 facilities; and

1598 3. A description of the terms of the lease or other  
 1599 agreements, including the length of the term; the rent payable,  
 1600 directly or indirectly, by each unit owner, and the total rent



1601 payable to the lessor, stated in monthly and annual amounts for  
 1602 the entire term of the lease; and a description of any option to  
 1603 purchase the property leased under any such lease, including the  
 1604 time the option may be exercised, the purchase price or how it  
 1605 is to be determined, the manner of payment, and whether the  
 1606 option may be exercised for a unit owner's share or only as to  
 1607 the entire leased property.

1608 (g) A statement as to whether the developer may provide  
 1609 additional facilities not described above, their general  
 1610 locations and types, improvements or changes that may be made,  
 1611 the approximate dollar amount to be expended, and the maximum  
 1612 additional common expense or cost to the individual unit owners  
 1613 that may be charged during the first annual period of operation  
 1614 of the modified or added facilities.

1615  
 1616 Descriptions as to locations, areas, capacities, numbers,  
 1617 volumes, or sizes may be stated as approximations or minimums.

1618 (7) A description of the recreational and other facilities  
 1619 that will be used in common with other cooperatives, community  
 1620 associations, or planned developments which require the payment  
 1621 of the maintenance and expenses of such facilities, directly or  
 1622 indirectly, by the unit owners. The description shall include,  
 1623 but not be limited to, the following:

- 1624 (a) Each building and facility committed to be built.
- 1625 (b) Facilities not committed to be built except under

1626 certain conditions, and a statement of those conditions or  
1627 contingencies.

1628 (c) As to each facility committed to be built, or which  
1629 will be committed to be built upon the happening of one of the  
1630 conditions in paragraph (b), a statement of whether it will be  
1631 owned by the unit owners having the use thereof or by an  
1632 association or other entity which will be controlled by them, or  
1633 others, and the location in the exhibits of the lease or other  
1634 document providing for use of those facilities.

1635 (d) The year in which each facility will be available for  
1636 use by the unit owners or, in the alternative, the maximum  
1637 number of unit owners in the project at the time each of all of  
1638 the facilities is committed to be completed.

1639 (e) A general description of the items of personal  
1640 property, and the approximate number of each item of personal  
1641 property, that the developer is committing to furnish for each  
1642 room or other facility or, in the alternative, a representation  
1643 as to the minimum amount of expenditure that will be made to  
1644 purchase the personal property for the facility.

1645 (f) If there are leases, a description thereof, including  
1646 the length of the term, the rent payable, and a description of  
1647 any option to purchase.

1648  
1649 Descriptions shall include location, areas, capacities, numbers,  
1650 volumes, or sizes and may be stated as approximations or

1651 | minimums.

1652 |       (8) Recreation lease or associated club membership:

1653 |       (a) If any recreational facilities or other common areas  
 1654 | offered by the developer and available to, or to be used by,  
 1655 | unit owners are to be leased or have club membership associated,  
 1656 | the following statement in conspicuous type shall be included:  
 1657 | THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 1658 | COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 1659 | COOPERATIVE. There shall be a reference to the location in the  
 1660 | disclosure materials where the recreation lease or club  
 1661 | membership is described in detail.

1662 |       (b) If it is mandatory that unit owners pay a fee, rent,  
 1663 | dues, or other charges under a recreational facilities lease or  
 1664 | club membership for the use of facilities, there shall be in  
 1665 | conspicuous type the applicable statement:

1666 |       1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
 1667 | MANDATORY FOR UNIT OWNERS; or

1668 |       2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
 1669 | TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

1670 |       3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
 1671 | COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
 1672 | REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
 1673 | LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

1674 |       4. A similar statement of the nature of the organization  
 1675 | or manner in which the use rights are created, and that unit

1676 owners are required to pay.

1677

1678 Immediately following the applicable statement, the location in  
 1679 the disclosure materials where the development is described in  
 1680 detail shall be stated.

1681 (c) If the developer, or any other person other than the  
 1682 unit owners and other persons having use rights in the  
 1683 facilities, reserves, or is entitled to receive, any rent, fee,  
 1684 or other payment for the use of the facilities, then there shall  
 1685 be the following statement in conspicuous type: THE UNIT OWNERS  
 1686 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 1687 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this  
 1688 statement, the location in the disclosure materials where the  
 1689 rent or land use fees are described in detail shall be stated.

1690 (d) If, in any recreation format, whether leasehold, club,  
 1691 or other, any person other than the association has the right to  
 1692 a lien on the units to secure the payment of assessments, rent,  
 1693 or other exactions, there shall appear a statement in  
 1694 conspicuous type in substantially the following form:

1695 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 1696 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
 1697 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 1698 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

1699 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 1700 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE

1701 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
 1702 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 1703 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

1704  
 1705 Immediately following the applicable statement, the location in  
 1706 the disclosure materials where the lien or lien right is  
 1707 described in detail shall be stated.

1708 (9) If the developer or any other person has the right to  
 1709 increase or add to the recreational facilities at any time after  
 1710 the establishment of the cooperative whose unit owners have use  
 1711 rights therein, without the consent of the unit owners or  
 1712 associations being required, there shall appear a statement in  
 1713 conspicuous type in substantially the following form:

1714 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
 1715 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
 1716 statement, the location in the disclosure materials where such  
 1717 reserved rights are described shall be stated.

1718 (10) A statement of whether the developer's plan includes  
 1719 a program of leasing units rather than selling them, or leasing  
 1720 units and selling them subject to such leases. If so, there  
 1721 shall be a description of the plan, including the number and  
 1722 identification of the units and the provisions and term of the  
 1723 proposed leases, and a statement in boldfaced type that: THE  
 1724 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

1725 (11) The arrangements for management of the association

1726 and maintenance and operation of the cooperative property and of  
1727 other property that will serve the unit owners of the  
1728 cooperative property, and a description of the management  
1729 contract and all other contracts for these purposes having a  
1730 term in excess of 1 year, including the following:

1731 (a) The names of contracting parties.

1732 (b) The term of the contract.

1733 (c) The nature of the services included.

1734 (d) The compensation, stated on a monthly and annual  
1735 basis, and provisions for increases in the compensation.

1736 (e) A reference to the volumes and pages of the  
1737 cooperative documents and of the exhibits containing copies of  
1738 such contracts.

1739

1740 Copies of all described contracts shall be attached as exhibits.

1741 If there is a contract for the management of the cooperative  
1742 property, then a statement in conspicuous type in substantially  
1743 the following form shall appear, identifying the proposed or  
1744 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
1745 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE  
1746 CONTRACT MANAGER). Immediately following this statement, the  
1747 location in the disclosure materials of the contract for  
1748 management of the cooperative property shall be stated.

1749 (12) If the developer or any other person or persons other  
1750 than the unit owners has the right to retain control of the

1751 board of administration of the association for a period of time  
1752 which can exceed 1 year after the closing of the sale of a  
1753 majority of the units in that cooperative to persons other than  
1754 successors or alternate developers, then a statement in  
1755 conspicuous type in substantially the following form shall be  
1756 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
1757 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
1758 HAVE BEEN SOLD. Immediately following this statement, the  
1759 location in the disclosure materials where this right to control  
1760 is described in detail shall be stated.

1761 (13) If there are any restrictions upon the sale,  
1762 transfer, conveyance, or leasing of a unit, then a statement in  
1763 conspicuous type in substantially the following form shall be  
1764 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
1765 CONTROLLED. Immediately following this statement, the location  
1766 in the disclosure materials where the restriction, limitation,  
1767 or control on the sale, lease, or transfer of units is described  
1768 in detail shall be stated.

1769 (14) If the cooperative is part of a phase project, the  
1770 following shall be stated:

1771 (a) A statement in conspicuous type in substantially the  
1772 following form shall be included: THIS IS A PHASE COOPERATIVE.  
1773 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
1774 Immediately following this statement, the location in the  
1775 disclosure materials where the phasing is described shall be

1776 | stated.

1777 |       (b) A summary of the provisions of the declaration

1778 | providing for the phasing.

1779 |       (c) A statement as to whether or not residential buildings

1780 | and units which are added to the cooperative may be

1781 | substantially different from the residential buildings and units

1782 | originally in the cooperative, and, if the added residential

1783 | buildings and units may be substantially different, there shall

1784 | be a general description of the extent to which such added

1785 | residential buildings and units may differ, and a statement in

1786 | conspicuous type in substantially the following form shall be

1787 | included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE

1788 | MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND

1789 | UNITS IN THE COOPERATIVE. Immediately following this statement,

1790 | the location in the disclosure materials where the extent to

1791 | which added residential buildings and units may substantially

1792 | differ is described shall be stated.

1793 |       (d) A statement of the maximum number of buildings

1794 | containing units, the maximum and minimum number of units in

1795 | each building, the maximum number of units, and the minimum and

1796 | maximum square footage of the units that may be contained within

1797 | each parcel of land which may be added to the cooperative.

1798 |       (15) If the cooperative is created by conversion of

1799 | existing improvements, the following information shall be

1800 | stated:



1801 (a) The information required by s. 719.616.

1802 (b) A caveat that there are no express warranties unless  
1803 they are stated in writing by the developer.

1804 (16) A summary of the restrictions, if any, to be imposed  
1805 on units concerning the use of any of the cooperative property,  
1806 including statements as to whether there are restrictions upon  
1807 children and pets, and reference to the volumes and pages of the  
1808 cooperative documents where such restrictions are found, or if  
1809 such restrictions are contained elsewhere, then a copy of the  
1810 documents containing the restrictions shall be attached as an  
1811 exhibit.

1812 (17) If there is any land that is offered by the developer  
1813 for use by the unit owners and that is neither owned by them nor  
1814 leased to them, the association, or any entity controlled by  
1815 unit owners and other persons having the use rights to such  
1816 land, a statement shall be made as to how such land will serve  
1817 the cooperative. If any part of such land will serve the  
1818 cooperative, the statement shall describe the land and the  
1819 nature and term of service, and the cooperative documents or  
1820 other instrument creating such servitude shall be included as an  
1821 exhibit.

1822 (18) The manner in which utility and other services,  
1823 including, but not limited to, sewage and waste disposal, water  
1824 supply, and storm drainage, will be provided and the person or  
1825 entity furnishing them.

1826 (19) An explanation of the manner in which the  
1827 apportionment of common expenses and ownership of the common  
1828 areas have been determined.

1829 (20) An estimated operating budget for the cooperative and  
1830 the association, and a schedule of the unit owner's expenses  
1831 shall be attached as an exhibit and shall contain the following  
1832 information:

1833 (a) The estimated monthly and annual expenses of the  
1834 cooperative and the association that are collected from unit  
1835 owners by assessments.

1836 (b) The estimated monthly and annual expenses of each unit  
1837 owner for a unit, other than assessments payable to the  
1838 association, payable by the unit owner to persons or entities  
1839 other than the association, and the total estimated monthly and  
1840 annual expense. There may be excluded from this estimate  
1841 expenses that are personal to unit owners, which are not  
1842 uniformly incurred by all unit owners, or which are not provided  
1843 for or contemplated by the cooperative documents, including, but  
1844 not limited to, the costs of private telephone; maintenance of  
1845 the interior of cooperative units, which is not the obligation  
1846 of the association; maid or janitorial services privately  
1847 contracted for by the unit owners; utility bills billed directly  
1848 to each unit owner for utility services to his or her unit;  
1849 insurance premiums other than those incurred for policies  
1850 obtained by the cooperative; and similar personal expenses of

1851 the unit owner. A unit owner's estimated payments for  
 1852 assessments shall also be stated in the estimated amounts for  
 1853 the times when they will be due.

1854 (c) The estimated items of expenses of the cooperative and  
 1855 the association, except as excluded under paragraph (b),  
 1856 including, but not limited to, the following items, which shall  
 1857 be stated as an association expense collectible by assessments  
 1858 or as unit owners' expenses payable to persons other than the  
 1859 association:

- 1860 1. Expenses for the association and cooperative:
- 1861 a. Administration of the association.
- 1862 b. Management fees.
- 1863 c. Maintenance.
- 1864 d. Rent for recreational and other commonly used areas.
- 1865 e. Taxes upon association property.
- 1866 f. Taxes upon leased areas.
- 1867 g. Insurance.
- 1868 h. Security provisions.
- 1869 i. Other expenses.
- 1870 j. Operating capital.
- 1871 k. Reserves.
- 1872 1. Fee payable to the division.
- 1873 2. Expenses for a unit owner:
- 1874 a. Rent for the unit, if subject to a lease.
- 1875 b. Rent payable by the unit owner directly to the lessor

1876 or agent under any recreational lease or lease for the use of  
1877 commonly used areas, which use and payment are a mandatory  
1878 condition of ownership and are not included in the common  
1879 expense or assessments for common maintenance paid by the unit  
1880 owners to the association.

1881 (d) The following statement in conspicuous type: THE  
1882 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
1883 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE  
1884 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
1885 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
1886 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
1887 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
1888 THE OFFERING.

1889 (e) Each budget for an association prepared by a developer  
1890 consistent with this subsection shall be prepared in good faith  
1891 and shall reflect accurate estimated amounts for the required  
1892 items in paragraph (c) at the time of the filing of the offering  
1893 circular with the division, and subsequent increased amounts of  
1894 any item included in the association's estimated budget that are  
1895 beyond the control of the developer shall not be considered an  
1896 amendment that would give rise to rescission rights set forth in  
1897 s. 719.503(1)(a) or (b), nor shall such increases modify, void,  
1898 or otherwise affect any guarantee of the developer contained in  
1899 the offering circular or any purchase contract. It is the intent  
1900 of this paragraph to clarify existing law.

1901 (f) The estimated amounts shall be stated for a period of  
 1902 at least 12 months and may distinguish between the period prior  
 1903 to the time unit owners other than the developer elect a  
 1904 majority of the board of administration and the period after  
 1905 that date.

1906 (21) A schedule of estimated closing expenses to be paid  
 1907 by a buyer or lessee of a unit and a statement of whether title  
 1908 opinion or title insurance policy is available to the buyer and,  
 1909 if so, at whose expense.

1910 (22) The identity of the developer and the chief operating  
 1911 officer or principal directing the creation and sale of the  
 1912 cooperative and a statement of its and his or her experience in  
 1913 this field.

1914 (23) Copies of the following, to the extent they are  
 1915 applicable, shall be included as exhibits:

1916 (a) The cooperative documents, or the proposed cooperative  
 1917 documents if the documents have not been recorded.

1918 (b) The articles of incorporation creating the  
 1919 association.

1920 (c) The bylaws of the association.

1921 (d) The ground lease or other underlying lease of the  
 1922 cooperative.

1923 (e) The management agreement and all maintenance and other  
 1924 contracts for management of the association and operation of the  
 1925 cooperative and facilities used by the unit owners having a

1926 | service term in excess of 1 year.

1927 |       (f) The estimated operating budget for the cooperative and

1928 | the required schedule of unit owners' expenses.

1929 |       (g) A copy of the floor plan of the unit and the plot plan

1930 | showing the location of the residential buildings and the

1931 | recreation and other common areas.

1932 |       (h) The lease of recreational and other facilities that

1933 | will be used only by unit owners of the subject cooperative.

1934 |       (i) The lease of facilities used by owners and others.

1935 |       (j) The form of unit lease, if the offer is of a

1936 | leasehold.

1937 |       (k) A declaration of servitude of properties serving the

1938 | cooperative but not owned by unit owners or leased to them or

1939 | the association.

1940 |       (l) The statement of condition of the existing building or

1941 | buildings, if the offering is of units in an operation being

1942 | converted to cooperative ownership.

1943 |       (m) The statement of inspection for termite damage and

1944 | treatment of the existing improvements, if the cooperative is a

1945 | conversion.

1946 |       (n) The form of agreement for sale or lease of units.

1947 |       (o) A copy of the agreement for escrow of payments made to

1948 | the developer prior to closing.

1949 |       (p) A copy of the documents containing any restrictions on

1950 | use of the property required by subsection (16).

1951 (q) A copy of the inspector-prepared summary of the  
 1952 milestone inspection report as described in ss. 553.899 and  
 1953 719.301(4)(p), if applicable.

1954 (r) The association's most recent structural integrity  
 1955 reserve study or a statement that the association has not  
 1956 completed a structural integrity reserve study.

1957 (24) Any prospectus or offering circular complying with  
 1958 the provisions of former ss. 711.69 and 711.802 may continue to  
 1959 be used without amendment, or may be amended to comply with this  
 1960 chapter.

1961 (25) A brief narrative description of the location and  
 1962 effect of all existing and intended easements located or to be  
 1963 located on the cooperative property other than those in the  
 1964 declaration.

1965 (26) If the developer is required by state or local  
 1966 authorities to obtain acceptance or approval of any dock or  
 1967 marina facility intended to serve the cooperative, a copy of  
 1968 such acceptance or approval acquired by the time of filing with  
 1969 the division pursuant to s. 719.502 or a statement that such  
 1970 acceptance has not been acquired or received.

1971 (27) Evidence demonstrating that the developer has an  
 1972 ownership, leasehold, or contractual interest in the land upon  
 1973 which the cooperative is to be developed.

1974 Section 27. Section 719.508, Florida Statutes, is amended  
 1975 to read:

1976           719.508 Regulation by Division of Hotels and Restaurants.—  
 1977 In addition to the authority, regulation, or control exercised  
 1978 by the Division of Florida Condominiums, Timeshares, Yacht  
 1979 Brokers, and Mobile Homes pursuant to this act with respect to  
 1980 cooperatives, buildings included in a cooperative property shall  
 1981 be subject to the authority, regulation, or control of the  
 1982 Division of Hotels and Restaurants of the Department of Business  
 1983 and Professional Regulation, to the extent provided in chapters  
 1984 399 and 509.

1985           Section 28. Paragraph (a) of subsection (2) of section  
 1986 719.608, Florida Statutes, is amended to read:

1987           719.608 Notice of intended conversion; time of delivery;  
 1988 content.—

1989           (2) (a) Each notice of intended conversion shall be dated  
 1990 and in writing. The notice shall contain the following  
 1991 statement, with the phrases of the following statement which  
 1992 appear in upper case printed in conspicuous type:

1993           These apartments are being converted to cooperative by  
 1994 ... (name of developer) ..., the developer.

1995           1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
 1996 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
 1997 AGREEMENT AS FOLLOWS:

1998           a. If you have continuously been a resident of these  
 1999 apartments during the last 180 days and your rental agreement  
 2000 expires during the next 270 days, you may extend your rental



2001 agreement for up to 270 days after the date of this notice.

2002       b. If you have not been a continuous resident of these  
 2003 apartments for the last 180 days and your rental agreement  
 2004 expires during the next 180 days, you may extend your rental  
 2005 agreement for up to 180 days after the date of this notice.

2006       c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
 2007 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
 2008 DATE OF THIS NOTICE.

2009       2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
 2010 you may extend your rental agreement for up to 45 days after the  
 2011 date of this notice while you decide whether to extend your  
 2012 rental agreement as explained above. To do so, you must notify  
 2013 the developer in writing. You will then have the full 45 days to  
 2014 decide whether to extend your rental agreement as explained  
 2015 above.

2016       3. During the extension of your rental agreement you will  
 2017 be charged the same rent that you are now paying.

2018       4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
 2019 OF THE RENTAL AGREEMENT AS FOLLOWS:

2020       a. If your rental agreement began or was extended or  
 2021 renewed after May 1, 1980, and your rental agreement, including  
 2022 extensions and renewals, has an unexpired term of 180 days or  
 2023 less, you may cancel your rental agreement upon 30 days' written  
 2024 notice and move. Also, upon 30 days' written notice, you may  
 2025 cancel any extension of the rental agreement.

2026           b. If your rental agreement was not begun or was not  
 2027 extended or renewed after May 1, 1980, you may not cancel the  
 2028 rental agreement without the consent of the developer. If your  
 2029 rental agreement, including extensions and renewals, has an  
 2030 unexpired term of 180 days or less, you may, however, upon 30  
 2031 days' written notice cancel any extension of the rental  
 2032 agreement.

2033           5. All notices must be given in writing and sent by mail,  
 2034 return receipt requested, or delivered in person to the  
 2035 developer at this address: ... (name and address of  
 2036 developer)....

2037           6. If you have continuously been a resident of these  
 2038 apartments during the last 180 days:

2039           a. You have the right to purchase your apartment and will  
 2040 have 45 days to decide whether to purchase. If you do not buy  
 2041 the unit at that price and the unit is later offered at a lower  
 2042 price, you will have the opportunity to buy the unit at the  
 2043 lower price. However, in all events your right to purchase the  
 2044 unit ends when the rental agreement or any extension of the  
 2045 rental agreement ends or when you waive this right in writing.

2046           b. Within 90 days you will be provided purchase  
 2047 information relating to your apartment, including the price of  
 2048 your unit and the condition of the building. If you do not  
 2049 receive this information within 90 days, your rental agreement  
 2050 and any extension will be extended 1 day for each day over 90

2051 days until you are given the purchase information. If you do not  
 2052 want this rental agreement extension, you must notify the  
 2053 developer in writing.

2054 7. If you have any questions regarding this conversion or  
 2055 the Cooperative Act, you may contact the developer or the state  
 2056 agency which regulates cooperatives: The Division of Florida  
 2057 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes,  
 2058 ... (Tallahassee address and telephone number of division)....

2059 Section 29. Subsection (7) of section 720.301, Florida  
 2060 Statutes, is amended to read:

2061 720.301 Definitions.—As used in this chapter, the term:

2062 (7) "Division" means the Division of Florida Condominiums,  
 2063 Timeshares, Yacht Brokers, and Mobile Homes in the Department of  
 2064 Business and Professional Regulation.

2065 Section 30. Subsection (11) of section 721.05, Florida  
 2066 Statutes, is amended to read:

2067 721.05 Definitions.—As used in this chapter, the term:

2068 (11) "Division" means the Division of Florida  
 2069 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the  
 2070 Department of Business and Professional Regulation.

2071 Section 31. Paragraph (d) of subsection (2) of section  
 2072 721.07, Florida Statutes, is amended to read:

2073 721.07 Public offering statement.—Prior to offering any  
 2074 timeshare plan, the developer must submit a filed public  
 2075 offering statement to the division for approval as prescribed by

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2076 s. 721.03, s. 721.55, or this section. Until the division  
2077 approves such filing, any contract regarding the sale of that  
2078 timeshare plan is subject to cancellation by the purchaser  
2079 pursuant to s. 721.10.

2080 (2)

2081 (d) A developer shall have the authority to deliver to  
2082 purchasers any purchaser public offering statement that is not  
2083 yet approved by the division, provided that the following shall  
2084 apply:

2085 1. At the time the developer delivers an unapproved  
2086 purchaser public offering statement to a purchaser pursuant to  
2087 this paragraph, the developer shall deliver a fully completed  
2088 and executed copy of the purchase contract required by s. 721.06  
2089 that contains the following statement in conspicuous type in  
2090 substantially the following form which shall replace the  
2091 statements required by s. 721.06(1)(g):

2092 The developer is delivering to you a public offering statement  
2093 that has been filed with but not yet approved by the Division of  
2094 Florida Condominiums, Timeshares, Yacht Brokers, and Mobile  
2095 Homes. Any revisions to the unapproved public offering statement  
2096 you have received must be delivered to you, but only if the  
2097 revisions materially alter or modify the offering in a manner  
2098 adverse to you. After the division approves the public offering  
2099 statement, you will receive notice of the approval from the  
2100 developer and the required revisions, if any.

2101 Your statutory right to cancel this transaction without any  
 2102 penalty or obligation expires 10 calendar days after the date  
 2103 you signed your purchase contract or the date on which you  
 2104 receive the last of all documents required to be given to you  
 2105 pursuant to section 721.07(6), Florida Statutes, or 10 calendar  
 2106 days after you receive revisions required to be delivered to  
 2107 you, if any, whichever is later. If you decide to cancel this  
 2108 contract, you must notify the seller in writing of your intent  
 2109 to cancel. Your notice of cancellation shall be effective upon  
 2110 the date sent and shall be sent to ...(Name of Seller)... at  
 2111 ...(Address of Seller).... Any attempt to obtain a waiver of  
 2112 your cancellation right is void and of no effect. While you may  
 2113 execute all closing documents in advance, the closing, as  
 2114 evidenced by delivery of the deed or other document, before  
 2115 expiration of your 10-day cancellation period, is prohibited.

2116 2. After receipt of approval from the division and prior  
 2117 to closing, if any revisions made to the documents contained in  
 2118 the purchaser public offering statement materially alter or  
 2119 modify the offering in a manner adverse to a purchaser, the  
 2120 developer shall send the purchaser such revisions, together with  
 2121 a notice containing a statement in conspicuous type in  
 2122 substantially the following form:

2123 The unapproved public offering statement previously delivered to  
 2124 you, together with the enclosed revisions, has been approved by  
 2125 the Division of Florida Condominiums, Timeshares, Yacht Brokers,

2126 and Mobile Homes. Accordingly, your cancellation right expires  
2127 10 calendar days after you sign your purchase contract or 10  
2128 calendar days after you receive these revisions, whichever is  
2129 later. If you have any questions regarding your cancellation  
2130 rights, you may contact the division at [insert division's  
2131 current address].

2132 3. After receipt of approval from the division and prior  
2133 to closing, if no revisions have been made to the documents  
2134 contained in the unapproved purchaser public offering statement,  
2135 or if such revisions do not materially alter or modify the  
2136 offering in a manner adverse to a purchaser, the developer shall  
2137 send the purchaser a notice containing a statement in  
2138 conspicuous type in substantially the following form:

2139 The unapproved public offering statement previously delivered to  
2140 you has been approved by the Division of Florida Condominiums,  
2141 Timeshares, Yacht Brokers, and Mobile Homes. Revisions made to  
2142 the unapproved public offering statement, if any, are not  
2143 required to be delivered to you or are not deemed by the  
2144 developer, in its opinion, to materially alter or modify the  
2145 offering in a manner that is adverse to you. Accordingly, your  
2146 cancellation right expired 10 days after you signed your  
2147 purchase contract. A complete copy of the approved public  
2148 offering statement is available through the managing entity for  
2149 inspection as part of the books and records of the plan. If you  
2150 have any questions regarding your cancellation rights, you may

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2151 | contact the division at [insert division's current address].

2152 |       Section 32. Subsection (8) of section 721.08, Florida  
2153 | Statutes, is amended to read:

2154 |       721.08 Escrow accounts; nondisturbance instruments;  
2155 | alternate security arrangements; transfer of legal title.—

2156 |       (8) An escrow agent holding escrowed funds pursuant to  
2157 | this chapter that have not been claimed for a period of 5 years  
2158 | after the date of deposit shall make at least one reasonable  
2159 | attempt to deliver such unclaimed funds to the purchaser who  
2160 | submitted such funds to escrow. In making such attempt, an  
2161 | escrow agent is entitled to rely on a purchaser's last known  
2162 | address as set forth in the books and records of the escrow  
2163 | agent and is not required to conduct any further search for the  
2164 | purchaser. If an escrow agent's attempt to deliver unclaimed  
2165 | funds to any purchaser is unsuccessful, the escrow agent may  
2166 | deliver such unclaimed funds to the division and the division  
2167 | shall deposit such unclaimed funds in the Division of Florida  
2168 | Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust  
2169 | Fund, 30 days after giving notice in a publication of general  
2170 | circulation in the county in which the timeshare property  
2171 | containing the purchaser's timeshare interest is located. The  
2172 | purchaser may claim the same at any time prior to the delivery  
2173 | of such funds to the division. After delivery of such funds to  
2174 | the division, the purchaser shall have no more rights to the  
2175 | unclaimed funds. The escrow agent shall not be liable for any

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2176 claims from any party arising out of the escrow agent's delivery  
2177 of the unclaimed funds to the division pursuant to this section.

2178 Section 33. Paragraph (e) of subsection (5) of section  
2179 721.26, Florida Statutes, is amended to read:

2180 721.26 Regulation by division.—The division has the power  
2181 to enforce and ensure compliance with this chapter, except for  
2182 parts III and IV, using the powers provided in this chapter, as  
2183 well as the powers prescribed in chapters 718 and 719. In  
2184 performing its duties, the division shall have the following  
2185 powers and duties:

2186 (5) Notwithstanding any remedies available to purchasers,  
2187 if the division has reasonable cause to believe that a violation  
2188 of this chapter, or of any division rule adopted or order issued  
2189 pursuant to this chapter, has occurred, the division may  
2190 institute enforcement proceedings in its own name against any  
2191 regulated party, as such term is defined in this subsection:

2192 (e)1. The division may impose a penalty against any  
2193 regulated party for a violation of this chapter or any rule  
2194 adopted thereunder. A penalty may be imposed on the basis of  
2195 each day of continuing violation, but in no event may the  
2196 penalty for any offense exceed \$10,000. All accounts collected  
2197 shall be deposited with the Chief Financial Officer to the  
2198 credit of the Division of Florida Condominiums, Timeshares,  
2199 Yacht Brokers, and Mobile Homes Trust Fund.

2200 2.a. If a regulated party fails to pay a penalty, the



2201 division shall thereupon issue an order directing that such  
 2202 regulated party cease and desist from further operation until  
 2203 such time as the penalty is paid; or the division may pursue  
 2204 enforcement of the penalty in a court of competent jurisdiction.

2205 b. If an owners' association or managing entity fails to  
 2206 pay a civil penalty, the division may pursue enforcement in a  
 2207 court of competent jurisdiction.

2208 Section 34. Section 721.28, Florida Statutes, is amended  
 2209 to read:

2210 721.28 Division of Florida Condominiums, Timeshares, Yacht  
 2211 Brokers, and Mobile Homes Trust Fund.—All funds collected by the  
 2212 division and any amounts paid as fees or penalties under this  
 2213 chapter shall be deposited in the State Treasury to the credit  
 2214 of the Division of Florida Condominiums, Timeshares, Yacht  
 2215 Brokers, and Mobile Homes Trust Fund created by s. 718.509.

2216 Section 35. Paragraph (c) of subsection (1) of section  
 2217 721.301, Florida Statutes, is amended to read:

2218 721.301 Florida Timesharing, Vacation Club, and  
 2219 Hospitality Program.—

2220 (1)

2221 (c) The director may designate funds from the Division of  
 2222 Florida Condominiums, Timeshares, Yacht Brokers, and Mobile  
 2223 Homes Trust Fund, not to exceed \$50,000 annually, to support the  
 2224 projects and proposals undertaken pursuant to paragraph (b). All  
 2225 state trust funds to be expended pursuant to this section must

2226 | be matched equally with private moneys and shall comprise no  
 2227 | more than half of the total moneys expended annually.

2228 |         Section 36. Subsection (2) and paragraph (a) of subsection  
 2229 | (7) of section 723.003, Florida Statutes, are amended to read:

2230 |             723.003 Definitions.—As used in this chapter, the term:

2231 |             (2) "Division" means the Division of Florida Condominiums,  
 2232 | Timeshares, Yacht Brokers, and Mobile Homes of the Department of  
 2233 | Business and Professional Regulation.

2234 |             (7)(a) "Mediation" means a process whereby a mediator  
 2235 | appointed by the Division of Florida Condominiums, Timeshares,  
 2236 | Yacht Brokers, and Mobile Homes, or mutually selected by the  
 2237 | parties, acts to encourage and facilitate the resolution of a  
 2238 | dispute. It is an informal and nonadversarial process with the  
 2239 | objective of helping the disputing parties reach a mutually  
 2240 | acceptable agreement.

2241 |         Section 37. Paragraph (e) of subsection (5) of section  
 2242 | 723.006, Florida Statutes, is amended to read:

2243 |             723.006 Powers and duties of division.—In performing its  
 2244 | duties, the division has the following powers and duties:

2245 |             (5) Notwithstanding any remedies available to mobile home  
 2246 | owners, mobile home park owners, and homeowners' associations,  
 2247 | if the division has reasonable cause to believe that a violation  
 2248 | of any provision of this chapter or related rule has occurred,  
 2249 | the division may institute enforcement proceedings in its own  
 2250 | name against a developer, mobile home park owner, or homeowners'

2251 association, or its assignee or agent, as follows:

2252 (e)1. The division may impose a civil penalty against a  
 2253 mobile home park owner or homeowners' association, or its  
 2254 assignee or agent, for any violation of this chapter, a properly  
 2255 adopted park rule or regulation, or a rule adopted pursuant  
 2256 hereto. A penalty may be imposed on the basis of each separate  
 2257 violation and, if the violation is a continuing one, for each  
 2258 day of continuing violation, but in no event may the penalty for  
 2259 each separate violation or for each day of continuing violation  
 2260 exceed \$5,000. All amounts collected shall be deposited with the  
 2261 Chief Financial Officer to the credit of the Division of Florida  
 2262 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust  
 2263 Fund.

2264 2. If a violator fails to pay the civil penalty, the  
 2265 division shall thereupon issue an order directing that such  
 2266 violator cease and desist from further violation until such time  
 2267 as the civil penalty is paid or may pursue enforcement of the  
 2268 penalty in a court of competent jurisdiction. If a homeowners'  
 2269 association fails to pay the civil penalty, the division shall  
 2270 thereupon pursue enforcement in a court of competent  
 2271 jurisdiction, and the order imposing the civil penalty or the  
 2272 cease and desist order shall not become effective until 20 days  
 2273 after the date of such order. Any action commenced by the  
 2274 division shall be brought in the county in which the division  
 2275 has its executive offices or in which the violation occurred.

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2276 Section 38. Section 723.009, Florida Statutes, is amended  
2277 to read:

2278 723.009 Division of Florida Condominiums, Timeshares,  
2279 Yacht Brokers, and Mobile Homes Trust Fund.—All proceeds from  
2280 the fees, penalties, and fines imposed pursuant to this chapter  
2281 shall be deposited into the Division of Florida Condominiums,  
2282 Timeshares, Yacht Brokers, and Mobile Homes Trust Fund created  
2283 by s. 718.509. Moneys in this fund, as appropriated by the  
2284 Legislature pursuant to chapter 216, may be used to defray the  
2285 expenses incurred by the division in administering the  
2286 provisions of this chapter.

2287 Section 39. Paragraph (c) of subsection (2) of section  
2288 723.0611, Florida Statutes, is amended to read:

2289 723.0611 Florida Mobile Home Relocation Corporation.—

2290 (2)

2291 (c) The corporation shall, for purposes of s. 768.28, be  
2292 considered an agency of the state. Agents or employees of the  
2293 corporation, members of the board of directors of the  
2294 corporation, or representatives of the Division of Florida  
2295 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes shall  
2296 be considered officers, employees, or agents of the state, and  
2297 actions against them and the corporation shall be governed by s.  
2298 768.28.

2299 Section 40. This act shall take effect July 1, 2023.