



1 administration to be unit owners, absent  
2 provisions indicating board member  
3 requirements; requiring the board to respond to  
4 certain inquiries by certified mail, return  
5 receipt requested; removing a provision  
6 allowing a condominium association to only  
7 respond once every 30 days to unit owner  
8 inquiries; providing board of administration  
9 and unit owners' meeting requirements;  
10 providing that no action shall be taken or  
11 resolution made without an open meeting of the  
12 board; requiring the board to address agenda  
13 items proposed by a petition of 20 percent of  
14 the unit owners; revising notice procedures;  
15 revising the terms of office and reelection of  
16 the members of a condominium association board;  
17 providing that certain persons providing notice  
18 of a meeting must provide an affidavit  
19 affirming that the notices were delivered;  
20 authorizing the association's representative to  
21 provide certain notices; removing a provision  
22 allowing an association to print or duplicate  
23 certain information sheets on both sides of the  
24 paper; providing for the securing of ballots;  
25 revising procedures relating to the filling of  
26 a vacancy on the board; removing a provision  
27 allowing an association to provide for  
28 different voting and election procedures in its  
29 bylaws; providing unit owners with the right to  
30 have items placed on the agenda of the annual  
31 meeting and voted upon under certain

1 conditions; requiring the association to  
2 prepare an annual budget of estimated revenues  
3 and expenses; requiring the budget to include  
4 reserve accounts for certain purposes;  
5 requiring certain ballot statements to contain  
6 certain statements; requiring a vote to provide  
7 for no reserves or percentage of reserves to be  
8 made at certain times; authorizing the  
9 association to use reserve funds for  
10 nonscheduled purposes under certain conditions;  
11 prohibiting the board from applying for or  
12 accepting certain loans or lines of credit;  
13 requiring common expenses to be paid by the  
14 developer during a specified time; requiring  
15 that assessments be made against units on a  
16 quarter-annual or more frequent basis;  
17 providing that certain provisions shall not  
18 preclude the right of an association to  
19 accelerate assessments of certain owners  
20 delinquent in payment of common expenses;  
21 providing that accelerated assessments shall be  
22 due and payable after the claim of lien is  
23 filed; revising assessment requirements;  
24 revising procedures relating to the recall of a  
25 board member; deleting the requirement that the  
26 bylaws include an element for mandatory  
27 nonbinding arbitration; amending s. 718.113,  
28 F.S.; requiring boards of administration to  
29 adopt or restate hurricane shutter  
30 specifications yearly at the annual meeting;  
31 authorizing the board to install hurricane

1 protection that complies with the applicable  
2 building code; requiring the board to have the  
3 condominium buildings periodically inspected  
4 for structural and electrical soundness by a  
5 professional engineer or professional architect  
6 registered in the state; requiring the  
7 inspector to provide a report to the  
8 association; prohibiting the board from  
9 impairing certain constitutional rights of unit  
10 owners; prohibiting the board from prohibiting  
11 the display of certain religiously mandated  
12 objects on the front-door area of a unit;  
13 amending s. 718.115, F.S.; providing that a  
14 bulk contract for basic service may be deemed a  
15 common expense; creating s. 718.1123, F.S.;  
16 requiring any complaint of abuse filed with the  
17 Division of Florida Land Sales, Condominiums,  
18 Homeowners' Associations, and Mobile Homes to  
19 be immediately investigated by the division;  
20 requiring the division to institute enforcement  
21 proceedings under certain circumstances;  
22 defining the term "abuse"; creating s.  
23 718.1224, F.S.; prohibiting certain lawsuits  
24 arising from unit owners' appearances and  
25 presentations before a governmental entity;  
26 providing a definition; providing for award of  
27 damages and attorney's fees; amending s.  
28 718.1255, F.S.; requiring the division to  
29 promptly refer certain cases to mediation;  
30 amending s. 718.302, F.S.; conforming  
31 provisions; amending s. 718.3025, F.S.;

1 providing requirements for certain contracts  
2 between a party contracting to provide  
3 maintenance or management services and an  
4 association; amending s. 718.3026, F.S.;  
5 providing that certain contracts between a  
6 service provider and an association shall not  
7 be for a term in excess of 3 years and shall  
8 not contain an automatic renewal clause;  
9 requiring that certain contracts for  
10 construction have approval from an attorney  
11 hired by the association; amending s. 718.303,  
12 F.S.; requiring hearings to levy fines to be  
13 held before a committee of unit owners who are  
14 not members of the board; requiring that  
15 persons subject to certain actions be notified  
16 of their violations in a certain manner;  
17 providing a timeframe in which a person must  
18 respond; authorizing the budget to include  
19 reserve accounts for capital expenditures and  
20 deferred maintenance; providing a formula for  
21 calculating the amount to be reserved;  
22 authorizing the association to adjust  
23 replacement reserve assessments annually;  
24 authorizing the developer to vote to waive the  
25 reserves or reduce the funding of reserves for  
26 a certain period; revising provisions relating  
27 to financial reporting; revising time periods  
28 in which the association must complete its  
29 reporting; amending s. 718.501, F.S.; requiring  
30 the division to prepare and disseminate a  
31 prospectus and other information for use by

1 owners, purchasers, lessees, and developers of  
2 residential condominiums; providing that the  
3 board member training provided by the division  
4 shall be provided in conjunction with  
5 recommendations by the ombudsman; providing  
6 powers and duties of the division with respect  
7 to association violations; requiring  
8 associations to provide certain notice and to  
9 participate in certain educational training;  
10 providing a fine for failure to comply;  
11 requiring certain fees deposited by the  
12 division to be allocated and transferred to the  
13 Office of the Condominium Ombudsman; amending  
14 s. 718.5011, F.S.; restricting location of the  
15 Office of the Condominium Ombudsman; providing  
16 that the ombudsman shall exercise his or her  
17 policymaking and other functions independently  
18 of the Department of Business and Professional  
19 Regulation and without approval or control of  
20 the department; requiring the department to  
21 render administrative support for certain  
22 matters; requiring that revenues collected by  
23 the department for the Office of the  
24 Condominium Ombudsman be deposited in a  
25 separate fund or account under specified  
26 conditions; removing provisions prohibiting the  
27 ombudsman and staff from engaging in any other  
28 profession, serving as a representative or  
29 employee of any political party, or receiving  
30 remuneration for activities on behalf of  
31 political candidates; removing provisions

1 prohibiting the ombudsman and staff from  
2 seeking public office unless resigned from the  
3 Office of the Condominium Ombudsman; amending  
4 s. 718.5012, F.S.; removing requirements that  
5 the ombudsman develop certain policies and  
6 procedures; providing additional powers and  
7 duties of the ombudsman; providing that the  
8 division shall process the ombudsman's  
9 recommendations and petitions in an expedited  
10 manner and defer to his or her findings;  
11 authorizing the ombudsman to order meetings  
12 between certain parties; authorizing the  
13 ombudsman to make recommendations to the  
14 division to pursue enforcement action in  
15 circuit court on behalf of a class of unit  
16 owners, lessees, or purchasers for certain  
17 purposes; authorizing the ombudsman to order  
18 that any aspect of an association election be  
19 conducted by an election monitor; authorizing  
20 the ombudsman to order an association to  
21 implement certain remedies; authorizing the  
22 ombudsman to order certain persons to cease and  
23 desist from unlawful practices; amending s.  
24 718.504, F.S.; revising and providing  
25 information to be contained in the condominium  
26 prospectus or offering circular; amending s.  
27 719.1055, F.S.; providing application of  
28 amendments restricting cooperative owners'  
29 rights relating to the rental of units;  
30 amending s. 720.301, F.S.; revising and  
31 providing definitions; amending s. 720.302,

1 F.S.; revising the purpose, scope, and  
2 application of the chapter; providing  
3 legislative findings and intent; requiring the  
4 office to establish a process for collecting an  
5 annual fee for association members; requiring  
6 governing documents transferred from the  
7 developer to parcel owners to be approved by a  
8 two-thirds vote; amending s. 720.303, F.S.;  
9 revising powers and duties of homeowners'  
10 associations; prohibiting officers and  
11 directors from taking any action inconsistent  
12 with the declaration of covenants; revising  
13 requirements authorizing the association to  
14 participate in litigation; creating liability  
15 for officers and directors under certain  
16 circumstances; providing criteria for setback  
17 limits; revising procedures relating to board  
18 meetings; providing for notice of board  
19 meetings and the agenda; revising voting  
20 procedures; requiring board director votes to  
21 be recorded in the minutes; requiring the  
22 association to maintain certain documents;  
23 revising procedures relating to the inspection  
24 and copying of records; authorizing a fee;  
25 revising procedures used in preparing the  
26 association's annual financial report;  
27 prohibiting developers in control of a  
28 homeowners' association from commingling  
29 association funds with funds of a corporation  
30 for profit created by the developer; revising  
31 board director recall procedures, including

1 voting procedures of such recalls; amending s.  
2 720.304, F.S.; authorizing homeowners to  
3 display certain flags; providing criteria for  
4 the display of signs in certain areas;  
5 prohibiting associations from abridging the  
6 constitutional rights of homeowners relating to  
7 use of common areas; providing penalties;  
8 amending s. 720.305, F.S.; revising remedies at  
9 law or in equity against certain association  
10 officers or directors; amending s. 720.3055,  
11 F.S.; removing a requirement that governing  
12 documents be in writing; providing that certain  
13 contracts are subject to competitive bid;  
14 amending s. 720.306, F.S.; deleting provisions  
15 relating to quorum at a meeting of members;  
16 revising provisions relating to the voting on  
17 an amendment of governing documents; requiring  
18 amendments to be submitted in their entirety;  
19 providing a timeframe for registered covenants  
20 and restrictions to be in a certain form;  
21 removing authority of governing documents to  
22 provide for the election of directors, to  
23 provide for special meetings, and to require  
24 notice of the annual meeting; requiring an  
25 annual meeting notice to include an agenda;  
26 providing members with the right to speak about  
27 any item on the agenda; authorizing members to  
28 speak at least once on each agenda item for a  
29 specified time; authorizing vote by limited  
30 proxy; providing guidelines for elections;  
31 requiring members to be provided with certain

1 information regarding the elections; providing  
2 voting requirements; authorizing directors to  
3 fill vacancies; authorizing a specified amount  
4 of voting interests to petition the division to  
5 appoint an election monitor; providing  
6 eligibility requirements for candidates;  
7 authorizing any parcel owner to electronically  
8 record any meeting of the board or members;  
9 providing that the directors may adopt certain  
10 rules governing such recording but may not  
11 restrict an owner's right to record the  
12 meeting; amending s. 720.307, F.S., relating to  
13 transition of association control in a  
14 community; revising criteria with respect to  
15 election of members to the board of directors;  
16 requiring certain developers and owners to  
17 convey title to all common areas prior to  
18 turnover; revising requirements for turnover of  
19 documents; requiring certain information to be  
20 included in the records and for the records to  
21 be prepared in a specified manner; revising  
22 application to include certain associations;  
23 creating s. 720.3071, F.S.; requiring training  
24 of homeowners' association board members;  
25 amending s. 720.3075, F.S.; prohibiting  
26 association documents at the time of transition  
27 from preventing associations from functioning;  
28 prohibiting association documents at the time  
29 of transition from restricting an association's  
30 ability to amend association documents;  
31 prohibiting associations from restricting the

1 use of hurricane shutters in certain  
2 circumstances; providing guidelines for the use  
3 of hurricane shutters; authorizing associations  
4 to enforce certain hurricane shutter  
5 restrictions; amending s. 720.3086, F.S.;  
6 requiring the annual financial report to be  
7 mailed to certain parcel owners; providing for  
8 the exclusive use of certain properties;  
9 amending s. 720.401, F.S.; requiring certain  
10 documents to be provided to prospective  
11 purchasers; revising information to be  
12 contained in a disclosure summary; creating s.  
13 720.501, F.S.; providing powers and duties of  
14 the Division of Florida Land Sales,  
15 Condominiums, Homeowners' Associations, and  
16 Mobile Homes; authorizing the division to  
17 conduct certain investigations; authorizing  
18 certain officers and employees to administer  
19 oaths or affirmations and to subpoena witnesses  
20 and compel their attendance; authorizing the  
21 division to issue certain orders; authorizing  
22 the division to bring certain actions in  
23 circuit court; authorizing the division to  
24 impose civil penalties; authorizing the  
25 division to prepare and disseminate a  
26 prospectus; requiring the division to provide  
27 associations with certain documents; requiring  
28 the division to provide training programs for  
29 association board members and lot owners;  
30 requiring the division to develop a mediation  
31 certification program; requiring homeowners'

1 associations to pay an annual fee to the  
2 division; creating s. 720.505, F.S.; creating  
3 the Advisory Council on Mandated Properties;  
4 providing for appointments by the President of  
5 the Senate, the Speaker of the House of  
6 Representatives, and the Governor; providing  
7 limited compensation and other terms of  
8 service; specifying functions; amending s.  
9 20.165, F.S.; redesignating the Division of  
10 Florida Land Sales, Condominiums, and Mobile  
11 Homes as the Division of Florida Land Sales,  
12 Condominiums, Homeowners' Associations, and  
13 Mobile Homes; amending ss. 73.073, 190.009,  
14 190.0485, 192.037, 213.053, 215.20, 326.002,  
15 326.006, 380.0651, 455.116, 475.455, 498.005,  
16 498.019, 498.047, 498.049, 509.512, 559.935,  
17 718.103, 718.105, 718.502, 718.504, 718.508,  
18 718.509, 718.608, 719.103, 719.1255, 719.501,  
19 719.502, 719.504, 719.508, 719.608, 721.05,  
20 721.07, 721.08, 721.26, 721.28, 721.301,  
21 723.003, 723.006, 723.009, and 723.0611, F.S.;  
22 conforming provisions; requiring condominium  
23 developers to pay monthly maintenance fees on  
24 unsold condominium units that are rented;  
25 providing an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Subsection (2) of section 20.165, Florida  
30 Statutes, is amended to read:

31

1           20.165 Department of Business and Professional  
2 Regulation.--There is created a Department of Business and  
3 Professional Regulation.

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

6           (a) Division of Administration.

7           (b) Division of Alcoholic Beverages and Tobacco.

8           (c) Division of Certified Public Accounting.

9           1. The director of the division shall be appointed by  
10 the secretary of the department, subject to approval by a  
11 majority of the Board of Accountancy.

12           2. The offices of the division shall be located in  
13 Gainesville.

14           (d) Division of Florida Land Sales, Condominiums,  
15 Homeowners' Associations, and Mobile Homes.

16           (e) Division of Hotels and Restaurants.

17           (f) Division of Mandated Properties.

18           ~~(g)(f)~~ Division of Pari-mutuel Wagering.

19           ~~(h)(g)~~ Division of Professions.

20           (i)(h) Division of Real Estate.

21           1. The director of the division shall be appointed by  
22 the secretary of the department, subject to approval by a  
23 majority of the Florida Real Estate Commission.

24           2. The offices of the division shall be located in  
25 Orlando.

26           ~~(j)(i)~~ Division of Regulation.

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

28           Section 2. Subsection (2) of section 73.073, Florida  
29 Statutes, is amended to read:

30           73.073 Eminent domain procedure with respect to  
31 condominium common elements.--

1           (2) With respect to the exercise of eminent domain or  
2 a negotiated sale for the purchase or taking of a portion of  
3 the common elements of a condominium, the condemning authority  
4 shall have the responsibility of contacting the condominium  
5 association and acquiring the most recent rolls indicating the  
6 names of the unit owners or contacting the appropriate taxing  
7 authority to obtain the names of the owners of record on the  
8 tax rolls. Notification shall thereupon be sent by certified  
9 mail, return receipt requested, to the unit owners of record  
10 of the condominium units by the condemning authority  
11 indicating the intent to purchase or take the required  
12 property and requesting a response from the unit owner. The  
13 condemning authority shall be responsible for the expense of  
14 sending notification pursuant to this section. Such notice  
15 shall, at a minimum, include:

16           (a) The name and address of the condemning authority.

17           (b) A written or visual description of the property.

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

20           (d) The appraisal value of the property.

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

24           (f) A clear, concise statement relating to the power  
25 of the association to convey the property on behalf of the  
26 unit owners if no objection to the taking or appraisal value  
27 is raised, and the effects of this alternative on the unit  
28 owner.

29

30 The Division of Florida Land Sales, Condominiums, Homeowners'  
31 Associations, and Mobile Homes of the Department of Business

1 and Professional Regulation may adopt, by rule, a standard  
2 form for such notice and may require the notice to include any  
3 additional relevant information.

4 Section 3. Subsection (2) of section 190.009, Florida  
5 Statutes, is amended to read:

6 190.009 Disclosure of public financing.--

7 (2) The Division of Florida Land Sales, Condominiums,  
8 Homeowners' Associations, and Mobile Homes of the Department  
9 of Business and Professional Regulation shall ensure that  
10 disclosures made by developers pursuant to chapter 498 meet  
11 the requirements of subsection (1).

12 Section 4. Section 190.048, Florida Statutes, is  
13 amended to read:

14 190.048 Sale of real estate within a district;  
15 required disclosure to purchaser.--

16 (1)(a) Subsequent to the establishment of a district  
17 under this chapter, each contract for the initial sale of a  
18 parcel of real property and each contract for the initial sale  
19 of a residential unit within the district shall include as a  
20 separate addendum to the contract, immediately prior to the

21 space reserved in the contract for the signature of the  
22 purchaser, the following disclosure statement in boldfaced and  
23 conspicuous type which is larger than the type in the  
24 remaining text of the contract: "THE (Name of District)

25 COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR  
26 ASSESSMENTS,

27 OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES  
28 AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND  
29 MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF  
30 THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF  
31 THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO

1 COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND  
2 ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

3 (b) The disclosure statement in paragraph (a) shall  
4 also fully disclose all covenants and restrictions to which  
5 the property is subject. This addendum shall disclose any  
6 existing agreement between a developer and other party that  
7 obligates the purchaser of the unit to additional taxes,  
8 assessments, or fees within 10 years following the sale of the  
9 unit. Such disclosure shall provide a reasonable estimate of  
10 the first 3 years for each tax, assessment, or fee. Such  
11 disclosure shall be provided to the purchaser within 10 days  
12 after the execution of the sales contract; otherwise, the  
13 contract may be voided at the election of the purchaser and  
14 any deposits shall be returned in full. However, such  
15 disclosure may be provided to the purchaser later than 10 days  
16 after the execution of the sales contract if the closing date  
17 has been extended by an additional 10 days.

18 (2)(a) Failure to provide the disclosure statement as  
19 required in subsection (1) within 10 days shall constitute a  
20 rebuttable presumption of willful noncompliance with  
21 subsection (1) and shall result in a fine of \$2,500 for each  
22 violation, up to a maximum of \$10,000, payable to the  
23 prospective buyer, and shall include reasonable attorney's  
24 fees and collection costs, due 30 days after the execution or  
25 voiding of the sales contract.

26 (b) The developer and sales agent shall submit an  
27 annual report to the Department of Community Affairs that  
28 certifies compliance with this section and payment of any  
29 related fines and criminal penalties for such noncompliance as  
30 may be passed by the Legislature. Failure by the developer or  
31

1 sales agent to provide an annual report shall result in a  
2 \$50,000 fine payable to the department.

3 Section 5. Section 190.0485, Florida Statutes, is  
4 amended to read:

5 190.0485 Notice of establishment.--Within 30 days  
6 after the effective date of a rule or ordinance establishing a  
7 community development district under this act, the district  
8 shall cause to be recorded in the property records in the  
9 county in which it is located a "Notice of Establishment of  
10 the \_\_\_\_\_ Community Development District." The notice  
11 shall, at a minimum, include the legal description of the  
12 district and a copy of the disclosure statement specified in  
13 s. 190.048(1)(a).

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

16 192.037 Fee timeshare real property; taxes and  
17 assessments; escrow.--

18 (6)

19 (e) On or before May 1 of each year, a statement of  
20 receipts and disbursements of the escrow account must be filed  
21 with the Division of Florida Land Sales, Condominiums,  
22 Homeowners' Associations, and Mobile Homes of the Department  
23 of Business and Professional Regulation, which may enforce  
24 this paragraph pursuant to s. 721.26. This statement must  
25 appropriately show the amount of principal and interest in  
26 such account.

27 Section 7. Paragraph (i) of subsection (8) of section  
28 213.053, Florida Statutes, is amended to read:

29 213.053 Confidentiality and information sharing.--

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

1 (i) Information relative to chapters 212 and 326 to  
2 the Division of Florida Land Sales, Condominiums, Homeowners'  
3 Associations, and Mobile Homes of the Department of Business  
4 and Professional Regulation in the conduct of its official  
5 duties.

6  
7 Disclosure of information under this subsection shall be  
8 pursuant to a written agreement between the executive director  
9 and the agency. Such agencies, governmental or  
10 nongovernmental, shall be bound by the same requirements of  
11 confidentiality as the Department of Revenue. Breach of  
12 confidentiality is a misdemeanor of the first degree,  
13 punishable as provided by s. 775.082 or s. 775.083.

14 Section 8. Paragraph (d) of subsection (4) of section  
15 215.20, Florida Statutes, is amended to read:

16 215.20 Certain income and certain trust funds to  
17 contribute to the General Revenue Fund.--

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

22 (d) Within the Department of Business and Professional  
23 Regulation:

- 24 1. The Administrative Trust Fund.
- 25 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 26 3. The Cigarette Tax Collection Trust Fund.
- 27 4. The Division of Florida Land Sales, Condominiums,  
28 Homeowners' Associations, and Mobile Homes Trust Fund.
- 29 5. The Hotel and Restaurant Trust Fund, with the  
30 exception of those fees collected for the purpose of funding  
31 of the hospitality education program as stated in s. 509.302.

1           6. The Professional Regulation Trust Fund.

2           7. The trust funds administered by the Division of  
3 Pari-mutuel Wagering.

4  
5 The enumeration of the foregoing moneys or trust funds shall  
6 not prohibit the applicability thereto of s. 215.24 should the  
7 Governor determine that for the reasons mentioned in s. 215.24  
8 the money or trust funds should be exempt herefrom, as it is  
9 the purpose of this law to exempt income from its force and  
10 effect when, by the operation of this law, federal matching  
11 funds or contributions or private grants to any trust fund  
12 would be lost to the state.

13           Section 9. Subsection (2) of section 326.002, Florida  
14 Statutes, is amended to read:

15           326.002 Definitions.--As used in ss. 326.001-326.006,  
16 the term:

17           (2) "Division" means the Division of Florida Land  
18 Sales, Condominiums, Homeowners' Associations, and Mobile  
19 Homes of the Department of Business and Professional  
20 Regulation.

21           Section 10. Paragraph (d) of subsection (2) and  
22 subsection (3) of section 326.006, Florida Statutes, are  
23 amended to read:

24           326.006 Powers and duties of division.--

25           (2) The division has the power to enforce and ensure  
26 compliance with the provisions of this chapter and rules  
27 adopted under this chapter relating to the sale and ownership  
28 of yachts and ships. In performing its duties, the division  
29 has the following powers and duties:

30           (d) Notwithstanding any remedies available to a yacht  
31 or ship purchaser, if the division has reasonable cause to

1 believe that a violation of any provision of this chapter or  
2 rule adopted under this chapter has occurred, the division may  
3 institute enforcement proceedings in its own name against any  
4 broker or salesperson or any of his or her assignees or  
5 agents, or against any unlicensed person or any of his or her  
6 assignees or agents, as follows:

7         1. The division may permit a person whose conduct or  
8 actions are under investigation to waive formal proceedings  
9 and enter into a consent proceeding whereby orders, rules, or  
10 letters of censure or warning, whether formal or informal, may  
11 be entered against the person.

12         2. The division may issue an order requiring the  
13 broker or salesperson or any of his or her assignees or  
14 agents, or requiring any unlicensed person or any of his or  
15 her assignees or agents, to cease and desist from the unlawful  
16 practice and take such affirmative action as in the judgment  
17 of the division will carry out the purposes of this chapter.

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

21         4. The division may impose a civil penalty against a  
22 broker or salesperson or any of his or her assignees or  
23 agents, or against an unlicensed person or any of his or her  
24 assignees or agents, for any violation of this chapter or a  
25 rule adopted under this chapter. A penalty may be imposed for  
26 each day of continuing violation, but in no event may the  
27 penalty for any offense exceed \$10,000. All amounts collected  
28 must be deposited with the Chief Financial Officer to the  
29 credit of the Division of Florida Land Sales, Condominiums,  
30 Homeowners' Associations, and Mobile Homes Trust Fund. If a  
31 broker, salesperson, or unlicensed person working for a

1 broker, fails to pay the civil penalty, the division shall  
2 thereupon issue an order suspending the broker's license until  
3 such time as the civil penalty is paid or may pursue  
4 enforcement of the penalty in a court of competent  
5 jurisdiction. The order imposing the civil penalty or the  
6 order of suspension may not become effective until 20 days  
7 after the date of such order. Any action commenced by the  
8 division must be brought in the county in which the division  
9 has its executive offices or in the county where the violation  
10 occurred.

11 (3) All fees must be deposited in the Division of  
12 Florida Land Sales, Condominiums, Homeowners' Associations,  
13 and Mobile Homes Trust Fund as provided by law.

14 Section 11. Paragraph (a) of subsection (4) of section  
15 380.0651, Florida Statutes, is amended to read:

16 380.0651 Statewide guidelines and standards.--

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

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

25 1.a. The same person has retained or shared control of  
26 the developments;

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

29 c. There is common management of the developments  
30 controlling the form of physical development or disposition of  
31 parcels of the development.

1           2. There is a reasonable closeness in time between the  
2 completion of 80 percent or less of one development and the  
3 submission to a governmental agency of a master plan or series  
4 of plans or drawings for the other development which is  
5 indicative of a common development effort.

6           3. A master plan or series of plans or drawings exists  
7 covering the developments sought to be aggregated which have  
8 been submitted to a local general-purpose government, water  
9 management district, the Florida Department of Environmental  
10 Protection, or the Division of Florida Land Sales,  
11 Condominiums, Homeowners' Associations, and Mobile Homes for  
12 authorization to commence development. The existence or  
13 implementation of a utility's master utility plan required by  
14 the Public Service Commission or general-purpose local  
15 government or a master drainage plan shall not be the sole  
16 determinant of the existence of a master plan.

17           4. The voluntary sharing of infrastructure that is  
18 indicative of a common development effort or is designated  
19 specifically to accommodate the developments sought to be  
20 aggregated, except that which was implemented because it was  
21 required by a local general-purpose government; water  
22 management district; the Department of Environmental  
23 Protection; the Division of Florida Land Sales, Condominiums,  
24 Homeowners' Associations, and Mobile Homes; or the Public  
25 Service Commission.

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

28           Section 12. Subsection (5) of section 455.116, Florida  
29 Statutes, is amended to read:

30           455.116 Regulation trust funds.--The following trust  
31 funds shall be placed in the department:

1           (5) Division of Florida Land Sales, Condominiums,  
2 Homeowners' Associations, and Mobile Homes Trust Fund.

3           Section 13. Section 475.455, Florida Statutes, is  
4 amended to read:

5           475.455 Exchange of disciplinary information.--The  
6 commission shall inform the Division of Florida Land Sales,  
7 Condominiums, Homeowners' Associations, and Mobile Homes of  
8 the Department of Business and Professional Regulation of any  
9 disciplinary action the commission has taken against any of  
10 its licensees. The division shall inform the commission of any  
11 disciplinary action the division has taken against any broker  
12 or sales associate registered with the division.

13           Section 14. Subsection (5) of section 498.005, Florida  
14 Statutes, is amended to read:

15           498.005 Definitions.--As used in this chapter, unless  
16 the context otherwise requires, the term:

17           (5) "Division" means the Division of Florida Land  
18 Sales, Condominiums, Homeowners' Associations, and Mobile  
19 Homes of the Department of Business and Professional  
20 Regulation.

21           Section 15. Section 498.019, Florida Statutes, is  
22 amended to read:

23           498.019 Division of Florida Land Sales, Condominiums,  
24 Homeowners' Associations, and Mobile Homes Trust Fund.--

25           (1) There is created within the State Treasury the  
26 Division of Florida Land Sales, Condominiums, Homeowners'  
27 Associations, and Mobile Homes Trust Fund to be used for the  
28 administration and operation of this chapter and chapters 718,  
29 719, 721, and 723 by the division.

30           (2) All moneys collected by the division from fees,  
31 fines, or penalties or from costs awarded to the division by a

1 court shall be paid into the Division of Florida Land Sales,  
2 Condominiums, Homeowners' Associations, and Mobile Homes Trust  
3 Fund. The Legislature shall appropriate funds from this trust  
4 fund sufficient to carry out the provisions of this chapter  
5 and the provisions of law with respect to each category of  
6 business covered by this trust fund. The division shall  
7 maintain separate revenue accounts in the trust fund for each  
8 of the businesses regulated by the division. The division  
9 shall provide for the proportionate allocation among the  
10 accounts of expenses incurred by the division in the  
11 performance of its duties with respect to each of these  
12 businesses. As part of its normal budgetary process, the  
13 division shall prepare an annual report of revenue and  
14 allocated expenses related to the operation of each of these  
15 businesses which may be used to determine fees charged by the  
16 division. This subsection shall operate pursuant to the  
17 provisions of s. 215.20.

18 Section 16. Paragraph (a) of subsection (8) of section  
19 498.047, Florida Statutes, is amended to read:

20 498.047 Investigations.--

21 (8)(a) Information held by the Division of Florida  
22 Land Sales, Condominiums, Homeowners' Associations, and Mobile  
23 Homes relative to an investigation pursuant to this chapter,  
24 including any consumer complaint, is confidential and exempt  
25 from s. 119.07(1) and s. 24(a), Art. I of the State  
26 Constitution, until 10 days after a notice to show cause has  
27 been filed by the division, or, in the case in which no notice  
28 to show cause is filed, the investigation is completed or  
29 ceases to be active. For purposes of this section, an  
30 investigation shall be considered "active" so long as the  
31 division or any law enforcement or administrative agency or

1 regulatory organization is proceeding with reasonable dispatch  
2 and has a reasonable good faith belief that the investigation  
3 may lead to the filing of an administrative, civil, or  
4 criminal proceeding or to the denial or conditional grant of a  
5 license or registration. However, in response to a specific  
6 inquiry about the registration status of a registered or  
7 unregistered subdivider, the division may disclose the  
8 existence and the status of an active investigation. This  
9 subsection shall not be construed to prohibit disclosure of  
10 information which is required by law to be filed with the  
11 division and which, but for the investigation, would be  
12 subject to s. 119.07(1).

13 Section 17. Subsection (5) of section 498.049, Florida  
14 Statutes, is amended to read:

15 498.049 Suspension; revocation; civil penalties.--

16 (5) Each person who materially participates in any  
17 offer or disposition of any interest in subdivided lands in  
18 violation of this chapter or relevant rules involving fraud,  
19 deception, false pretenses, misrepresentation, or false  
20 advertising or the disposition, concealment, or diversion of  
21 any funds or assets of any person which adversely affects the  
22 interests of a purchaser of any interest in subdivided lands,  
23 and who directly or indirectly controls a subdivider or is a  
24 general partner, officer, director, agent, or employee of a  
25 subdivider shall also be liable under this subsection jointly  
26 and severally with and to the same extent as the subdivider,  
27 unless that person did not know, and in the exercise of  
28 reasonable care could not have known, of the existence of the  
29 facts creating the alleged liability. Among these persons a  
30 right of contribution shall exist, except that a creditor of a  
31 subdivider shall not be jointly and severally liable unless

1 | the creditor has assumed managerial or fiduciary  
2 | responsibility in a manner related to the basis for the  
3 | liability of the subdivider under this subsection. Civil  
4 | penalties shall be limited to \$10,000 for each offense, and  
5 | all amounts collected shall be deposited with the Chief  
6 | Financial Officer to the credit of the Division of Florida  
7 | Land Sales, Condominiums, Homeowners' Associations, and Mobile  
8 | Homes Trust Fund. No order requiring the payment of a civil  
9 | penalty shall become effective until 20 days after the date of  
10 | the order, unless otherwise agreed in writing by the person on  
11 | whom the penalty is imposed.

12 |         Section 18. Section 509.512, Florida Statutes, is  
13 | amended to read:

14 |             509.512 Timeshare plan developer and exchange company  
15 | exemption.--Sections 509.501-509.511 do not apply to a  
16 | developer of a timeshare plan or an exchange company approved  
17 | by the Division of Florida Land Sales, Condominiums,  
18 | Homeowners' Associations, and Mobile Homes pursuant to chapter  
19 | 721, but only to the extent that the developer or exchange  
20 | company engages in conduct regulated under chapter 721.

21 |         Section 19. Paragraph (h) of subsection (1) of section  
22 | 559.935, Florida Statutes, is amended to read:

23 |             559.935 Exemptions.--

24 |             (1) This part does not apply to:

25 |             (h) A developer of a timeshare plan or an exchange  
26 | company approved by the Division of Florida Land Sales,  
27 | Condominiums, Homeowners' Associations, and Mobile Homes  
28 | pursuant to chapter 721, but only to the extent that the  
29 | developer or exchange company engages in conduct regulated  
30 | under chapter 721; or  
31 |

1           Section 20. Subsection (17) of section 718.103,  
2 Florida Statutes, is amended to read:

3           718.103 Definitions.--As used in this chapter, the  
4 term:

5           (17) "Division" means the Division of Florida Land  
6 Sales, Condominiums, Homeowners' Associations, and Mobile  
7 Homes of the Department of Business and Professional  
8 Regulation.

9           Section 21. Paragraph (f) of subsection (4) of section  
10 718.104, Florida Statutes, is amended to read:

11           718.104 Creation of condominiums; contents of  
12 declaration.--Every condominium created in this state shall be  
13 created pursuant to this chapter.

14           (4) The declaration must contain or provide for the  
15 following matters:

16           (f) The undivided share of ownership of the common  
17 elements and common surplus of the condominium that is  
18 appurtenant to each unit stated as a percentage or a fraction  
19 of the whole. In the declaration of condominium for  
20 residential condominiums created after April 1, 2007 ~~1992~~, the  
21 ownership share of the common elements assigned to each  
22 residential unit shall be based ~~either~~ upon the total square  
23 footage of each residential unit in uniform relationship to  
24 the total square footage of each other residential unit in the  
25 condominium ~~or on an equal fractional basis~~.

26           Section 22. Paragraph (c) of subsection (4) of section  
27 718.105, Florida Statutes, is amended to read:

28           718.105 Recording of declaration.--

29           (4)

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

1 (b) by 3 years after the date the declaration was originally  
2 recorded, the clerk in his or her discretion may notify, in  
3 writing, the registered agent of the association that the sum  
4 is still available and the purpose for which it was deposited.  
5 If the association does not record the certificate within 90  
6 days after the clerk has given the notice, the clerk may  
7 disburse the money to the developer. If the developer cannot  
8 be located, the clerk shall disburse the money to the Division  
9 of Florida Land Sales, Condominiums, Homeowners' Associations,  
10 and Mobile Homes for deposit in the Division of Florida Land  
11 Sales, Condominiums, Homeowners' Associations, and Mobile  
12 Homes Trust Fund.

13 Section 23. Paragraph (d) is added to subsection (1)  
14 of section 718.110, Florida Statutes, to read:

15 718.110 Amendment of declaration; correction of error  
16 or omission in declaration by circuit court.--

17 (1)

18 (d) Notice of a proposed amendment to the declaration  
19 shall be sent to the unit owner by certified mail.

20 Section 24. Subsection (5), paragraph (b) of  
21 subsection (7), paragraphs (b) and (c) of subsection (12), and  
22 subsection (13) of section 718.111, Florida Statutes, are  
23 amended, and subsection (15) is added to that section, to  
24 read:

25 718.111 The association.--

26 (5) RIGHT OF ACCESS TO UNITS.--The association has the  
27 irrevocable right of access to each unit during reasonable  
28 hours, when necessary for the maintenance, repair, or  
29 replacement of any common elements or of any portion of a unit  
30 to be maintained by the association pursuant to the  
31 declaration or as necessary to prevent damage to the common

1 elements or to a unit or units. Except in cases of emergency,  
2 the association must give the unit owner 24 hours' advance  
3 written notice of intent to access the unit and such access  
4 must include two persons, one of whom must be a member of the  
5 board of administration.

6 (7) TITLE TO PROPERTY.--

7 (b) Subject to the provisions of s. 718.112(2)(~~l~~)(~~m~~),  
8 the association, through its board, has the limited power to  
9 convey a portion of the common elements to a condemning  
10 authority for the purposes of providing utility easements,  
11 right-of-way expansion, or other public purposes, whether  
12 negotiated or as a result of eminent domain proceedings.

13 (12) OFFICIAL RECORDS.--

14 (b) The official records of the association shall be  
15 maintained within the state. The records of the association  
16 shall be made available to a unit owner, at a location within  
17 30 miles' driving distance of the condominium property, within  
18 5 working days after receipt of written request by the board  
19 or its designee. This paragraph may be complied with by having  
20 a copy of the official records of the association available  
21 for inspection or copying on the condominium property or  
22 association property.

23 (c) The official records of the association are open  
24 to inspection by any association member or the authorized  
25 representative of such member at all reasonable times. The  
26 right to inspect the records includes the right to make or  
27 obtain copies, at the reasonable expense, if any, of the  
28 association member. The association may adopt reasonable rules  
29 regarding the frequency, time, location, notice, and manner of  
30 record inspections and copying. The failure of an association  
31 to provide the records within 10 working days after receipt of

1 a written request shall create a rebuttable presumption that  
2 the association willfully failed to comply with this  
3 paragraph. A unit owner who is denied access to official  
4 records is entitled to the actual damages or minimum damages  
5 for the association's willful failure to comply with this  
6 paragraph. The minimum damages shall be \$50 per calendar day  
7 up to 10 days, the calculation to begin on the 11th working  
8 day after receipt of the written request. The failure to  
9 permit inspection of the association records as provided  
10 herein entitles any person prevailing in an enforcement action  
11 to recover reasonable attorney's fees from the person in  
12 control of the records who, directly or indirectly, knowingly  
13 denied access to the records for inspection. The association  
14 shall maintain an adequate number of copies of the  
15 declaration, articles of incorporation, bylaws, and rules, and  
16 all amendments to each of the foregoing, as well as the  
17 question and answer sheet provided for in s. 718.504 and  
18 year-end financial information required in this section on the  
19 condominium property to ensure their availability to unit  
20 owners and prospective purchasers, and may charge its actual  
21 costs for preparing and furnishing these documents to those  
22 requesting the same. Notwithstanding the provisions of this  
23 paragraph, the following records shall not be accessible to  
24 unit owners:

25       1. Any record protected by the lawyer-client privilege  
26 as described in s. 90.502; and any record protected by the  
27 work-product privilege, including any record prepared by an  
28 association attorney or prepared at the attorney's express  
29 direction; which reflects a mental impression, conclusion,  
30 litigation strategy, or legal theory of the attorney or the  
31 association, and which was prepared exclusively for civil or

1 | criminal litigation or for adversarial administrative  
2 | proceedings, or which was prepared in anticipation of imminent  
3 | civil or criminal litigation or imminent adversarial  
4 | administrative proceedings until the conclusion of the  
5 | litigation or adversarial administrative proceedings.

6 |         2. Information obtained by an association in  
7 | connection with the approval of the lease, sale, or other  
8 | transfer of a unit.

9 |         3. Medical records of unit owners.

10 |         4. Social security numbers, driver's license numbers,  
11 | credit card numbers, and other personal identifying  
12 | information of unit owners, occupants, or tenants.

13 |         (13) FINANCIAL REPORTING.--Within 90 days after the  
14 | end of the fiscal year, or annually on a date provided in the  
15 | bylaws, the association shall prepare and complete, or  
16 | contract for the preparation and completion of, a financial  
17 | report for the preceding fiscal year. Within 21 days after the  
18 | final financial report is completed by the association or  
19 | received from the third party, but not later than 120 days  
20 | after the end of the fiscal year or other date as provided in  
21 | the bylaws, the association shall mail to each unit owner at  
22 | the address last furnished to the association by the unit  
23 | owner, or hand deliver to each unit owner, a copy of the  
24 | financial report or a notice that a copy of the financial  
25 | report will be mailed or hand delivered to the unit owner,  
26 | ~~without charge, upon receipt of a written request from the~~  
27 | ~~unit owner.~~ The division shall adopt rules setting forth  
28 | uniform accounting principles and standards to be used by all  
29 | associations and shall adopt rules addressing financial  
30 | reporting requirements for multicondominium associations. In  
31 | adopting such rules, the division shall consider the number of

1 members and annual revenues of an association. Financial  
2 reports shall be prepared as follows:

3 (a) An association that meets the criteria of this  
4 paragraph shall prepare or cause to be prepared a complete set  
5 of financial statements in accordance with generally accepted  
6 accounting principles. The financial statements shall be based  
7 upon the association's total annual revenues, as follows:

8 1. An association with total annual revenues of  
9 \$100,000 or more, but less than \$200,000, shall prepare  
10 compiled financial statements.

11 2. An association with total annual revenues of at  
12 least \$200,000, but less than \$400,000, shall prepare reviewed  
13 financial statements.

14 3. An association with total annual revenues of  
15 \$400,000 or more shall prepare audited financial statements.

16 (b)1. An association with total annual revenues of  
17 less than \$100,000 shall prepare a report of cash receipts and  
18 expenditures.

19 2. An association which operates less than 50 units,  
20 regardless of the association's annual revenues, shall prepare  
21 a report of cash receipts and expenditures in lieu of  
22 financial statements required by paragraph (a).

23 3. A report of cash receipts and disbursements must  
24 disclose the amount of receipts by accounts and receipt  
25 classifications and the amount of expenses by accounts and  
26 expense classifications, including, but not limited to, the  
27 following, as applicable: costs for security, professional and  
28 management fees and expenses, taxes, costs for recreation  
29 facilities, expenses for refuse collection and utility  
30 services, expenses for lawn care, costs for building  
31 maintenance and repair, insurance costs, administration and

1 salary expenses, and reserves accumulated and expended for  
2 capital expenditures, deferred maintenance, and any other  
3 category for which the association maintains reserves.

4 (c) An association may prepare or cause to be  
5 prepared, without a meeting of or approval by the unit owners:

6 1. Compiled, reviewed, or audited financial  
7 statements, if the association is required to prepare a report  
8 of cash receipts and expenditures;

9 2. Reviewed or audited financial statements, if the  
10 association is required to prepare compiled financial  
11 statements; or

12 3. Audited financial statements if the association is  
13 required to prepare reviewed financial statements.

14 (d) If approved by a majority of the voting interests  
15 present at a properly called meeting of the association, an  
16 association may prepare or cause to be prepared:

17 1. A report of cash receipts and expenditures in lieu  
18 of a compiled, reviewed, or audited financial statement;

19 2. A report of cash receipts and expenditures or a  
20 compiled financial statement in lieu of a reviewed or audited  
21 financial statement; or

22 3. A report of cash receipts and expenditures, a  
23 compiled financial statement, or a reviewed financial  
24 statement in lieu of an audited financial statement.

25

26 Such meeting and approval must occur prior to the end of the  
27 fiscal year and is effective only for the fiscal year in which  
28 the vote is taken. With respect to an association to which the  
29 developer has not turned over control of the association, all  
30 unit owners, including the developer, may vote on issues  
31 related to the preparation of financial reports for the first

1 2 fiscal years of the association's operation, beginning with  
2 the fiscal year in which the declaration is recorded.  
3 Thereafter, all unit owners except the developer may vote on  
4 such issues until control is turned over to the association by  
5 the developer. An association or board of administration may  
6 not waive the financial reporting requirements of this section  
7 for more than 2 years.

8 (15) RECONSTRUCTION AFTER CASUALTY.--

9 (a) In the event the condominium property and units  
10 are damaged after a casualty, the board of administration  
11 shall obtain reliable and detailed estimates of the cost  
12 necessary to repair and replace the damaged property to  
13 substantially the same condition existing immediately prior to  
14 the casualty and substantially in accordance with the original  
15 plans and specifications of the condominium as soon as  
16 possible and not later than 60 days after the casualty. If the  
17 damage to the condominium property exceeds 50 percent of the  
18 property's value, the condominium may be terminated unless 75  
19 percent of the unit owners agree to reconstruction and repair  
20 within 90 days after the casualty.

21 (b) The board of administration shall engage the  
22 services of a registered architect and knowledgeable  
23 construction specialists to prepare any necessary plans and  
24 specifications and shall receive and approve bids for  
25 reconstruction, execute all necessary contracts for  
26 restoration, and arrange for disbursement of construction  
27 funds, the approval of work, and all other matters pertaining  
28 to the repairs and reconstruction required.

29 (c) If the proceeds of the hazard insurance policy  
30 maintained by the association pursuant to paragraph (11)(b)  
31 are insufficient to pay the estimated costs of reconstruction

1 or at any time during reconstruction and repair, assessments  
2 shall be made against all unit owners according to their share  
3 of the common elements and expenses as set forth in the  
4 declaration of condominium.

5 (d) Assessments shall be made against unit owners for  
6 damage to their units according to the cost of reconstruction  
7 or repair of their respective units. The assessments shall be  
8 levied and collected as all other assessments are provided for  
9 in this chapter.

10 Section 25. Subsection (2) of section 718.112, Florida  
11 Statutes, is amended to read:

12 718.112 Bylaws.--

13 (2) REQUIRED PROVISIONS.--The bylaws of the  
14 association shall provide for the following and, if they do  
15 not do so, shall be deemed to include the following:

16 (a) Administration.--

17 1. The form of administration of the association shall  
18 be described indicating the title of the officers and board of  
19 administration and specifying the powers, duties, manner of  
20 selection and removal, and compensation, if any, of officers  
21 and boards. In the absence of such a provision or  
22 determination by the board or membership, the board of  
23 administration shall be composed of five members who are unit  
24 owners, except in the case of a condominium which has five or  
25 fewer units, in which case in a not-for-profit corporation the  
26 board shall consist of not fewer than three members who are  
27 unit owners. In the absence of provisions to the contrary in  
28 the bylaws, the board of administration shall have a  
29 president, a secretary, and a treasurer, who shall perform the  
30 duties of such officers customarily performed by officers of  
31 corporations. Unless prohibited in the bylaws, the board of

1 administration may appoint other officers and grant them the  
2 duties it deems appropriate. Unless otherwise provided in the  
3 bylaws, the officers shall serve without compensation and at  
4 the pleasure of the board of administration. Unless otherwise  
5 provided in the bylaws, the members of the board shall serve  
6 without compensation.

7           2. When a unit owner files a written inquiry by  
8 certified mail with the board of administration, the board  
9 shall respond in writing by certified mail, return receipt  
10 requested, to the unit owner within 30 days after ~~of~~ receipt  
11 of the inquiry. The board's response shall either give a  
12 substantive response to the inquirer, notify the inquirer that  
13 a legal opinion has been requested, or notify the inquirer  
14 that advice has been requested from the division. If the board  
15 requests advice from the division, the board shall, within 10  
16 days after ~~of~~ its receipt of the advice, provide in writing by  
17 certified mail a substantive response to the inquirer. If a  
18 legal opinion is requested, the board shall, within 60 days  
19 after the receipt of the inquiry, provide in writing by  
20 certified mail a substantive response to the inquiry. The  
21 failure to provide a substantive response to the inquiry as  
22 provided herein precludes the board from recovering attorney's  
23 fees and costs in any subsequent litigation, administrative  
24 proceeding, or arbitration arising out of the inquiry. ~~The~~  
25 ~~association may through its board of administration adopt~~  
26 ~~reasonable rules and regulations regarding the frequency and~~  
27 ~~manner of responding to unit owner inquiries, one of which may~~  
28 ~~be that the association is only obligated to respond to one~~  
29 ~~written inquiry per unit in any given 30 day period. In such a~~  
30 ~~case, any additional inquiry or inquiries must be responded to~~  
31 ~~in the subsequent 30 day period, or periods, as applicable.~~

1 (b) Quorum; voting requirements; proxies.--

2 1. Unless a lower number is provided in the bylaws,  
3 the percentage of voting interests required to constitute a  
4 quorum at a meeting of the members shall be a majority of the  
5 voting interests. Unless otherwise provided in this chapter or  
6 in the declaration, articles of incorporation, or bylaws, and  
7 except as provided in subparagraph (d)3., decisions shall be  
8 made by owners of a majority of the voting interests  
9 represented at a meeting at which a quorum is present.

10 2. Except as specifically otherwise provided herein,  
11 after January 1, 1992, unit owners may not vote by general  
12 proxy, but may vote by limited proxies substantially  
13 conforming to a limited proxy form adopted by the division.  
14 Limited proxies and general proxies may be used to establish a  
15 quorum. Limited proxies shall be used for votes taken to waive  
16 or reduce reserves in accordance with subparagraph (f)2.; for  
17 votes taken to waive the financial reporting requirements of  
18 s. 718.111(13); for votes taken to amend the declaration  
19 pursuant to s. 718.110; for votes taken to amend the articles  
20 of incorporation or bylaws pursuant to this section; and for  
21 any other matter for which this chapter requires or permits a  
22 vote of the unit owners. ~~Except as provided in paragraph (d),~~  
23 ~~after January 1, 1992,~~ No proxy, limited or general, shall be  
24 used in the election of board members. General proxies may be  
25 used for other matters for which limited proxies are not  
26 required, and may also be used in voting for nonsubstantive  
27 changes to items for which a limited proxy is required and  
28 given. Notwithstanding the provisions of this subparagraph,  
29 unit owners may vote in person at unit owner meetings. Nothing  
30 contained herein shall limit the use of general proxies or  
31 require the use of limited proxies for any agenda item or

1 | election at any meeting of a timeshare condominium  
2 | association.

3 |         3. Any proxy given shall be effective only for the  
4 | specific meeting for which originally given and any lawfully  
5 | adjourned meetings thereof. In no event shall any proxy be  
6 | valid for a period longer than 90 days after the date of the  
7 | first meeting for which it was given. Every proxy is revocable  
8 | at any time at the pleasure of the unit owner executing it.

9 |         4. A member of the board of administration or a  
10 | committee may submit in writing his or her agreement or  
11 | disagreement with any action taken at a meeting that the  
12 | member did not attend. This agreement or disagreement may not  
13 | be used as a vote for or against the action taken and may not  
14 | be used for the purposes of creating a quorum.

15 |         5. When any of the board or committee members meet by  
16 | telephone conference, those board or committee members  
17 | attending by telephone conference may be counted toward  
18 | obtaining a quorum and may vote by telephone. A telephone  
19 | speaker must be used so that the conversation of those board  
20 | or committee members attending by telephone may be heard by  
21 | the board or committee members attending in person as well as  
22 | by any unit owners present at a meeting.

23 |         (c) Board of administration meetings.--Meetings of the  
24 | board of administration at which a quorum of the members is  
25 | present shall be open to all unit owners. No action shall be  
26 | taken or resolution made without an open meeting of the board  
27 | of administration. The board of administration shall address  
28 | agenda items proposed by a petition of 20 percent of the unit  
29 | owners. Unless otherwise provided in the bylaws, boards of  
30 | administration shall use rules of parliamentary procedure in  
31 | conducting all association meetings and business. A unit

1 owner's facsimile signature shall constitute the unit owner's  
2 original signature in any matter under this chapter that  
3 requires the unit owner's signature. Correspondence from the  
4 board of administration to unit owners shall be accomplished  
5 by the same delivery method used by the unit owner except as  
6 otherwise provided in this paragraph. Any unit owner may tape  
7 record or videotape meetings of the board of administration.  
8 The right to attend such meetings includes the right to speak  
9 at such meetings with reference to all designated agenda  
10 items. The division shall adopt reasonable rules governing the  
11 tape recording and videotaping of the meeting. The association  
12 may adopt written reasonable rules governing the frequency,  
13 duration, and manner of unit owner statements. Adequate notice  
14 of all meetings, which notice shall specifically incorporate  
15 an identification of agenda items, shall be posted  
16 conspicuously on the condominium property at least 48  
17 continuous hours preceding the meeting except in an emergency.  
18 Any item not included on the notice may be taken up on an  
19 emergency basis by at least a majority plus one of the members  
20 of the board or by a petition of 20 percent of the unit  
21 owners. Such emergency action shall be noticed and ratified at  
22 the next regular meeting of the board. However, written notice  
23 of any meeting at which nonemergency special assessments, or  
24 at which amendment to rules regarding unit use, will be  
25 considered shall be mailed, delivered, or electronically  
26 transmitted to the unit owners and posted conspicuously on the  
27 condominium property not less than 14 days prior to the  
28 meeting. Evidence of compliance with this 14-day notice shall  
29 be made by an affidavit executed by the person providing the  
30 notice and filed among the official records of the  
31 association. Upon notice to the unit owners, the board shall

1 | by duly adopted rule designate a specific location on the  
2 | condominium property or association property upon which all  
3 | notices of board meetings shall be posted. If there is no  
4 | condominium property or association property upon which  
5 | notices can be posted, notices of board meetings shall be  
6 | mailed, delivered, or electronically transmitted at least 14  
7 | days before the meeting to the owner of each unit. In lieu of  
8 | or in addition to the physical posting of notice of any  
9 | meeting of the board of administration on the condominium  
10 | property, the association may, by reasonable rule, adopt a  
11 | procedure for conspicuously posting and repeatedly  
12 | broadcasting the notice and the agenda on a closed-circuit  
13 | cable television system serving the condominium association.  
14 | However, if broadcast notice is used in lieu of a notice  
15 | posted physically on the condominium property, the notice and  
16 | agenda must be broadcast at least four times every broadcast  
17 | hour of each day that a posted notice is otherwise required  
18 | under this section. When broadcast notice is provided, the  
19 | notice and agenda must be broadcast in a manner and for a  
20 | sufficient continuous length of time so as to allow an average  
21 | reader to observe the notice and read and comprehend the  
22 | entire content of the notice and the agenda. Notice of any  
23 | meeting in which regular or special assessments against unit  
24 | owners are to be considered for any reason shall specifically  
25 | state ~~contain a statement~~ that assessments will be considered  
26 | and the nature, cost, and breakdown of any such assessments.  
27 | Meetings of a committee to take final action on behalf of the  
28 | board or make recommendations to the board regarding the  
29 | association budget are subject to the provisions of this  
30 | paragraph. Meetings of a committee that does not take final  
31 | action on behalf of the board or make recommendations to the

1 board regarding the association budget are subject to the  
2 provisions of this section, unless those meetings are exempted  
3 from this section by the bylaws of the association.  
4 Notwithstanding any other law, the requirement that board  
5 meetings and committee meetings be open to the unit owners is  
6 inapplicable to meetings between the board or a committee and  
7 the association's attorney, with respect to proposed or  
8 pending litigation, when the meeting is held for the purpose  
9 of seeking or rendering legal advice.

10 (d) Unit owner meetings.--

11 1. There shall be an annual meeting of the unit  
12 owners. Unless the bylaws provide otherwise, a vacancy on the  
13 board caused by the expiration of a director's term shall be  
14 filled by electing a new board member, and the election shall  
15 be by secret ballot; however, if the number of vacancies  
16 equals or exceeds the number of candidates, no election is  
17 required. If there is no provision in the bylaws for terms of  
18 the members of the board, the terms of all members of the  
19 board shall expire upon the election of their successors at  
20 the annual meeting. Any unit owner desiring to be a candidate  
21 for board membership shall comply with subparagraph 3. The  
22 only prohibition against eligibility for board membership  
23 shall be for a person who has been convicted of any felony by  
24 any court of record in the United States and who has not had  
25 his or her right to vote restored pursuant to law in the  
26 jurisdiction of his or her residence ~~is not eligible for board~~  
27 ~~membership~~. The validity of an action by the board is not  
28 affected if it is later determined that a member of the board  
29 is ineligible for board membership due to having been  
30 convicted of a felony.

31

1           2. The bylaws shall provide the method of calling  
2 meetings of unit owners, including annual meetings. Written  
3 notice, which notice must include an agenda, shall be mailed,  
4 hand delivered, or electronically transmitted to each unit  
5 owner at least 14 days prior to the annual meeting and shall  
6 be posted in a conspicuous place on the condominium property  
7 at least 14 continuous days preceding the annual meeting. Upon  
8 notice to the unit owners, the board shall by duly adopted  
9 rule designate a specific location on the condominium property  
10 or association property upon which all notices of unit owner  
11 meetings shall be posted; however, if there is no condominium  
12 property or association property upon which notices can be  
13 posted, this requirement does not apply. In lieu of or in  
14 addition to the physical posting of notice of any meeting of  
15 the unit owners on the condominium property, the association  
16 may, by reasonable rule, adopt a procedure for conspicuously  
17 posting and repeatedly broadcasting the notice and the agenda  
18 on a closed-circuit cable television system serving the  
19 condominium association. However, if broadcast notice is used  
20 in lieu of a notice posted physically on the condominium  
21 property, the notice and agenda must be broadcast at least  
22 four times every broadcast hour of each day that a posted  
23 notice is otherwise required under this section. When  
24 broadcast notice is provided, the notice and agenda must be  
25 broadcast in a manner and for a sufficient continuous length  
26 of time so as to allow an average reader to observe the notice  
27 and read and comprehend the entire content of the notice and  
28 the agenda. Unless a unit owner waives in writing the right to  
29 receive notice of the annual meeting, such notice shall be  
30 hand delivered, mailed, or electronically transmitted to each  
31 unit owner. Notice for meetings and notice for all other

1 | purposes shall be mailed to each unit owner at the address  
2 | last furnished to the association by the unit owner, or hand  
3 | delivered to each unit owner. However, if a unit is owned by  
4 | more than one person, the association shall provide notice,  
5 | for meetings and all other purposes, to that one address which  
6 | the developer initially identifies for that purpose and  
7 | thereafter as one or more of the owners of the unit shall so  
8 | advise the association in writing, or if no address is given  
9 | or the owners of the unit do not agree, to the address  
10 | provided on the deed of record. An officer of the association,  
11 | or the manager or other person providing the first notice of  
12 | the association meeting, and the second notice as provided for  
13 | in subparagraph 3., shall provide an affidavit or United  
14 | States Postal Service certificate of mailing, to be included  
15 | in the official records of the association affirming that the  
16 | notices were ~~notice was~~ mailed or hand delivered, in  
17 | accordance with this provision.

18 |           3. The members of the board shall be elected by  
19 | written ballot or voting machine. Proxies shall in no event be  
20 | used in electing the board, either in general elections or  
21 | elections to fill vacancies caused by recall, resignation, or  
22 | otherwise, unless otherwise provided in this chapter. Not less  
23 | than 60 days before a scheduled election, the association or  
24 | its representative shall mail, deliver, or electronically  
25 | transmit, whether by separate association mailing or included  
26 | in another association mailing, delivery, or transmission,  
27 | including regularly published newsletters, to each unit owner  
28 | entitled to a vote, a first notice of the date of the  
29 | election. Any unit owner or other eligible person desiring to  
30 | be a candidate for the board must give written notice to the  
31 | association or its representative not less than 40 days before

1 a scheduled election. Together with the written notice and  
2 agenda as set forth in subparagraph 2., the association or its  
3 representative shall mail, deliver, or electronically transmit  
4 a second notice of the election to all unit owners entitled to  
5 vote therein, together with a ballot which shall list all  
6 candidates. Upon request of a candidate, the association or  
7 its representative shall include an information sheet, no  
8 larger than 8 1/2 inches by 11 inches, which must be furnished  
9 by the candidate not less than 35 days before the election, to  
10 be included with the mailing, delivery, or transmission of the  
11 ballot, with the costs of mailing, delivery, or electronic  
12 transmission and copying to be borne by the association. The  
13 association or its representative is not liable for the  
14 contents of the information sheets prepared by the candidates.  
15 ~~In order to reduce costs, the association may print or~~  
16 ~~duplicate the information sheets on both sides of the paper.~~  
17 The division shall by rule establish voting procedures  
18 consistent with the provisions contained herein, including  
19 rules establishing procedures for giving notice by electronic  
20 transmission and rules providing for the secrecy of ballots.  
21 All ballot envelopes must be placed in a locked or sealed  
22 ballot drop box immediately upon receipt, and the box shall  
23 not be opened in advance of the election meeting. Elections  
24 shall be decided by a plurality of those ballots cast. There  
25 shall be no quorum requirement; however, at least 20 percent  
26 of the eligible voters must cast a ballot in order to have a  
27 valid election of members of the board. No unit owner shall  
28 permit any other person to vote his or her ballot, and any  
29 such ballots improperly cast shall be deemed invalid, provided  
30 any unit owner who violates this provision may be fined by the  
31 association in accordance with s. 718.303. A unit owner who

1 needs assistance in casting the ballot for the reasons stated  
2 in s. 101.051 may obtain assistance in casting the ballot. The  
3 regular election shall occur on the date of the annual  
4 meeting. The provisions of this subparagraph shall not apply  
5 to timeshare condominium associations. Notwithstanding the  
6 provisions of this subparagraph, an election is not required  
7 unless more candidates file notices of intent to run or are  
8 nominated than board vacancies exist.

9           4. Any approval by unit owners called for by this  
10 chapter or the applicable declaration or bylaws, including,  
11 but not limited to, the approval requirement in s. 718.111(8),  
12 shall be made at a duly noticed meeting of unit owners and  
13 shall be subject to all requirements of this chapter or the  
14 applicable condominium documents relating to unit owner  
15 decisionmaking, except that unit owners may take action by  
16 written agreement, without meetings, on matters for which  
17 action by written agreement without meetings is expressly  
18 allowed by the applicable bylaws or declaration or any statute  
19 that provides for such action.

20           5. Unit owners may waive notice of specific meetings  
21 if allowed by the applicable bylaws or declaration or any  
22 statute. If authorized by the bylaws, notice of meetings of  
23 the board of administration, unit owner meetings, except unit  
24 owner meetings called to recall board members under paragraph  
25 (j), and committee meetings may be given by electronic  
26 transmission to unit owners who consent to receive notice by  
27 electronic transmission.

28           6. Unit owners shall have the right to participate in  
29 meetings of unit owners with reference to all designated  
30 agenda items. However, the association may adopt reasonable  
31

1 rules governing the frequency, duration, and manner of unit  
2 owner participation.

3 7. Any unit owner may tape record or videotape a  
4 meeting of the unit owners subject to reasonable rules adopted  
5 by the division.

6 8. Unless otherwise provided in the bylaws, any  
7 vacancy occurring on the board before the expiration of a term  
8 may be filled by the affirmative vote of the majority of the  
9 remaining directors, even if the remaining directors  
10 constitute less than a quorum, or by the sole remaining  
11 director. In the alternative, a board may hold an election to  
12 fill the vacancy, in which case the election procedures must  
13 conform to the requirements of subparagraph 3. ~~unless the~~  
14 ~~association has opted out of the statutory election process,~~  
15 ~~in which case the bylaws of the association control.~~ Unless  
16 otherwise provided in the bylaws, a board member appointed or  
17 elected under this section shall fill the vacancy for the  
18 unexpired term of the seat being filled. Filling vacancies  
19 created by recall is governed by paragraph (j) and rules  
20 adopted by the division.

21 9. Unit owners shall have the right to have items  
22 placed on the agenda of the annual meeting and voted upon if a  
23 written request is made to the board of administration by 20  
24 percent or more of all voting interests at least 90 days  
25 before the date of the annual meeting.

26  
27 ~~Notwithstanding subparagraphs (b)2. and (d)3., an association~~  
28 ~~may, by the affirmative vote of a majority of the total voting~~  
29 ~~interests, provide for different voting and election~~  
30 ~~procedures in its bylaws, which vote may be by a proxy~~  
31 ~~specifically delineating the different voting and election~~

1 ~~procedures. The different voting and election procedures may~~  
2 ~~provide for elections to be conducted by limited or general~~  
3 ~~proxy.~~

4 (e) Budget meeting.--

5 1. Any meeting at which a proposed annual budget of an  
6 association will be considered by the board or unit owners  
7 shall be open to all unit owners. At least 14 days prior to  
8 such a meeting, the board shall hand deliver to each unit  
9 owner, mail to each unit owner at the address last furnished  
10 to the association by the unit owner, or electronically  
11 transmit to the location furnished by the unit owner for that  
12 purpose a notice of such meeting and a copy of the proposed  
13 annual budget. An officer or manager of the association, or  
14 other person providing notice of such meeting, shall execute  
15 an affidavit evidencing compliance with such notice  
16 requirement, and such affidavit shall be filed among the  
17 official records of the association.

18 2.a. If a board adopts in any fiscal year an annual  
19 budget which requires assessments against unit owners which  
20 exceed 115 percent of assessments for the preceding fiscal  
21 year, the board shall conduct a special meeting of the unit  
22 owners to consider a substitute budget if the board receives,  
23 within 21 days after adoption of the annual budget, a written  
24 request for a special meeting from at least 10 percent of all  
25 voting interests. The special meeting shall be conducted  
26 within 60 days after adoption of the annual budget. At least  
27 14 days prior to such special meeting, the board shall hand  
28 deliver to each unit owner, or mail to each unit owner at the  
29 address last furnished to the association, a notice of the  
30 meeting. An officer or manager of the association, or other  
31 person providing notice of such meeting shall execute an

1 affidavit evidencing compliance with this notice requirement,  
2 and such affidavit shall be filed among the official records  
3 of the association. Unit owners may consider and adopt a  
4 substitute budget at the special meeting. A substitute budget  
5 is adopted if approved by a majority of all voting interests  
6 unless the bylaws require adoption by a greater percentage of  
7 voting interests. If there is not a quorum at the special  
8 meeting or a substitute budget is not adopted, the annual  
9 budget previously adopted by the board shall take effect as  
10 scheduled.

11           b. Any determination of whether assessments exceed 115  
12 percent of assessments for the prior fiscal year shall exclude  
13 any authorized provision for reasonable reserves for repair or  
14 replacement of the condominium property, anticipated expenses  
15 of the association which the board does not expect to be  
16 incurred on a regular or annual basis, or assessments for  
17 betterments to the condominium property.

18           c. If the developer controls the board, assessments  
19 shall not exceed 115 percent of assessments for the prior  
20 fiscal year unless approved by a majority of all voting  
21 interests.

22           (f) Annual budget.--

23           1. The association shall prepare an annual budget of  
24 estimated revenues and expenses. The adopted budget of the  
25 prior fiscal year shall remain in effect until the association  
26 has adopted a new budget for the current fiscal year. The  
27 proposed annual budget of estimated revenues and ~~common~~  
28 expenses shall be detailed and shall show the amounts budgeted  
29 by accounts and expense classifications, including, if  
30 applicable, but not limited to, those expenses listed in s.  
31 718.504(21). A multicondominium association shall adopt a

1 separate budget of common expenses for each condominium the  
2 association operates and shall adopt a separate budget of  
3 common expenses for the association. In addition, if the  
4 association maintains limited common elements with the cost to  
5 be shared only by those entitled to use the limited common  
6 elements as provided for in s. 718.113(1), the budget or a  
7 schedule attached thereto shall show amounts budgeted  
8 therefor. If, after turnover of control of the association to  
9 the unit owners, any of the expenses listed in s. 718.504(21)  
10 are not applicable, they need not be listed.

11         2. In addition to annual operating expenses, the  
12 budget shall include reserve accounts for capital expenditures  
13 and deferred maintenance. These accounts shall include, but  
14 are not limited to, structural repairs, roof replacement,  
15 building painting, and pavement resurfacing, regardless of the  
16 amount of deferred maintenance expense or replacement cost,  
17 and for any other item for which the deferred maintenance  
18 expense or replacement cost exceeds \$10,000. The amount to be  
19 reserved shall be computed by means of a formula which is  
20 based upon estimated remaining useful life and estimated  
21 replacement cost or deferred maintenance expense of each  
22 reserve item. The association may adjust replacement reserve  
23 assessments annually to take into account any changes in  
24 estimates or extension of the useful life of a reserve item  
25 caused by deferred maintenance. This subsection does not apply  
26 to an adopted budget in which the members of an association  
27 have determined, by a majority vote at a duly called meeting  
28 of the association, to provide no reserves or less reserves  
29 than required by this subsection. However, prior to turnover  
30 of control of an association by a developer to unit owners  
31 other than a developer pursuant to s. 718.301, the developer

1 may vote to waive the reserves or reduce the funding of  
2 reserves for the first 2 fiscal years of the association's  
3 operation, beginning with the fiscal year in which the initial  
4 declaration is recorded, after which time reserves may be  
5 waived or reduced only upon the vote of a majority of all  
6 nondeveloper voting interests voting in person or by limited  
7 proxy at a duly called meeting of the association. If a  
8 meeting of the unit owners has been called to determine  
9 whether to waive or reduce the funding of reserves, and no  
10 such result is achieved or a quorum is not attained, the  
11 reserves as included in the budget shall go into effect. After  
12 the turnover, the developer may vote its voting interest to  
13 waive or reduce the funding of reserves.

14         3. Reserve funds and any interest accruing thereon  
15 shall remain in the reserve account or accounts, and shall be  
16 used only for authorized reserve expenditures unless their use  
17 for other purposes is approved in advance by a majority vote  
18 at a duly called meeting of the association. Prior to turnover  
19 of control of an association by a developer to unit owners  
20 other than the developer pursuant to s. 718.301, the  
21 developer-controlled association shall not vote to use  
22 reserves for purposes other than that for which they were  
23 intended without the approval of a majority of all  
24 nondeveloper voting interests, voting in person or by limited  
25 proxy at a duly called meeting of the association.

26         4. The only voting interests which are eligible to  
27 vote on questions that involve waiving or reducing the funding  
28 of reserves, or using existing reserve funds for purposes  
29 other than purposes for which the reserves were intended, are  
30 the voting interests of the units subject to assessment to  
31 fund the reserves in question. The face of all ballots that

1 involve questions relating to waiving or reducing the funding  
2 of reserves, or using existing reserve funds for purposes  
3 other than purposes for which the reserves were intended,  
4 shall contain the following statement in capitalized, bold  
5 letters in a font size larger than any other used on the face  
6 of the ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR  
7 ALLOWING ALTERNATE USES OF EXISTING RESERVES, MAY RESULT IN  
8 UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL  
9 ASSESSMENTS REGARDING THOSE RESERVE ITEMS.

10 5. A vote to provide for no reserves or a percentage  
11 of reserves shall be made at the annual meeting of the unit  
12 owners called under paragraph (d). The division shall adopt  
13 the form for the ballot for no reserves and a percentage of  
14 reserves.

15 6. Notwithstanding subparagraph 3., the association  
16 after turnover of control of the association may, in case of a  
17 catastrophic event, use reserve funds for nonscheduled  
18 purposes to mitigate further damage to units or common  
19 elements or to make the condominium accessible for repairs.

20 7. Except in cases of emergency, or unless otherwise  
21 provided for in the bylaws or approved by a vote of a majority  
22 of the unit owners in advance, the board of administration may  
23 not apply for or accept a loan or line of credit in an amount  
24 that exceeds 10 percent of the association's annual budget for  
25 the current year.

26 (g) Assessments.--After the declaration has been  
27 recorded, and until such time as the association has been  
28 created, all common expenses shall be paid by the developer.  
29 Assessments shall be levied in an amount determined by the  
30 adopted budget or an authorized special assessment. The manner  
31 of collecting from the unit owners their shares of the common

1 expenses shall be stated in the bylaws. Assessments shall be  
2 made against units on a quarter-annual, or more frequent,  
3 basis not less frequently than quarterly in an amount which is  
4 not less than that required to provide funds in advance for  
5 payment of all of the anticipated current operating expenses  
6 and for all of the unpaid operating expenses previously  
7 incurred. Nothing in this paragraph shall preclude the right  
8 of an association to accelerate assessments of an owner  
9 delinquent in payment of common expenses against whom a lien  
10 has been filed. Accelerated assessments shall be due and  
11 payable after ~~on the date~~ the claim of lien is filed. Such  
12 accelerated assessments shall include the amounts due for the  
13 remainder of the budget year in which the claim of lien was  
14 filed.

15 (h) Amendment of bylaws.--

16 1. The method by which the bylaws may be amended  
17 consistent with the provisions of this chapter shall be  
18 stated. If the bylaws fail to provide a method of amendment,  
19 the bylaws may be amended if the amendment is approved by the  
20 owners of not less than two-thirds of the voting interests.

21 2. No bylaw shall be revised or amended by reference  
22 to its title or number only. Proposals to amend existing  
23 bylaws shall contain the full text of the bylaws to be  
24 amended; new words shall be inserted in the text underlined,  
25 and words to be deleted shall be lined through with hyphens.  
26 However, if the proposed change is so extensive that this  
27 procedure would hinder, rather than assist, the understanding  
28 of the proposed amendment, it is not necessary to use  
29 underlining and hyphens as indicators of words added or  
30 deleted, but, instead, a notation must be inserted immediately  
31 preceding the proposed amendment in substantially the

1 following language: "Substantial rewording of bylaw. See bylaw  
2 \_\_\_\_\_ for present text."

3 3. Nonmaterial errors or omissions in the bylaw  
4 process will not invalidate an otherwise properly promulgated  
5 amendment.

6 (i) Transfer fees.--No charge shall be made by the  
7 association or any body thereof in connection with the sale,  
8 mortgage, lease, sublease, or other transfer of a unit unless  
9 the association is required to approve such transfer and a fee  
10 for such approval is provided for in the declaration,  
11 articles, or bylaws. Any such fee may be preset, but in no  
12 event may such fee exceed \$100 per applicant other than  
13 husband/wife or parent/dependent child, which are considered  
14 one applicant. However, if the lease or sublease is a renewal  
15 of a lease or sublease with the same lessee or sublessee, no  
16 charge shall be made. The foregoing notwithstanding, an  
17 association may, if the authority to do so appears in the  
18 declaration or bylaws, require that a prospective lessee place  
19 a security deposit, in an amount not to exceed the equivalent  
20 of 1 month's rent, into an escrow account maintained by the  
21 association. The security deposit shall protect against  
22 damages to the common elements or association property.  
23 Payment of interest, claims against the deposit, refunds, and  
24 disputes under this paragraph shall be handled in the same  
25 fashion as provided in part II of chapter 83.

26 (j) Recall of board members.--Subject to the  
27 provisions of s. 718.301, any member of the board of  
28 administration may be recalled and removed from office with or  
29 without cause by the vote or agreement in writing by a  
30 majority of all the voting interests. A special meeting of the  
31 unit owners to recall a member or members of the board of

1 administration may be called by 10 percent of the voting  
2 interests giving notice of the meeting as required for a  
3 meeting of unit owners, and the notice shall state the purpose  
4 of the meeting. Electronic transmission may not be used as a  
5 method of giving notice of a meeting called in whole or in  
6 part for this purpose.

7 1. If the recall is approved by a majority of all  
8 voting interests by a vote at a meeting, the recall will be  
9 effective ~~as provided herein. The board shall duly notice and~~  
10 ~~hold a board meeting within 5 full business days of the~~  
11 ~~adjournment of the unit owner meeting to recall one or more~~  
12 ~~board members. At the meeting, the board shall either certify~~  
13 ~~the recall, in which case such member or members shall be~~  
14 ~~recalled effective immediately, and the member or members~~  
15 recalled shall turn over to the board within 5 full business  
16 days any and all records and property of the association in  
17 their possession, ~~or shall proceed as set forth in~~  
18 ~~subparagraph 3.~~

19 2. Beginning January 1, 2008, if the proposed recall  
20 is by an agreement in writing by a majority of all voting  
21 interests, the agreement in writing or a copy thereof shall be  
22 served on the association and the ombudsman appointed pursuant  
23 to s. 718.5011, together with a current copy of the unit owner  
24 roster, by certified mail or by personal service, Monday  
25 through Friday, excluding legal holidays, between the hours of  
26 8:00 a.m. and 5:00 p.m., in the manner authorized by chapter  
27 48 and the Florida Rules of Civil Procedure. The board of  
28 administration or any board member named in the agreement may  
29 submit rebuttal argument and supporting evidence to the  
30 ombudsman within 5 business days from the date of service of  
31 the agreement. The ombudsman shall certify or not certify the

1 recall within 10 business days after receipt of the written  
2 agreement and the current unit owner roster. If the ombudsman  
3 determines to ~~The board of administration shall duly notice~~  
4 ~~and hold a meeting of the board within 5 full business days~~  
5 ~~after receipt of the agreement in writing. At the meeting, the~~  
6 ~~board shall either~~ certify the written agreement to recall a  
7 member or members of the board, ~~the in which case such~~ member  
8 or members shall be recalled effective immediately and shall  
9 turn over to the board within 5 full business days any and all  
10 records and property of the association in their possession,  
11 ~~or proceed as described in subparagraph 3.~~

12         3. If the ombudsman board ~~board~~ determines not to certify  
13 the written agreement to recall a member or members of the  
14 board, ~~or does not certify the recall by a vote at a meeting,~~  
15 the ombudsman board ~~board~~ shall, within 5 full business days after  
16 the decision, notify the member or members of the board and  
17 the board president of the reasons for not certifying the  
18 agreement, and the unit owners shall be afforded an additional  
19 period of 5 business days to correct the defect or deficiency.  
20 The board or members named in the agreement shall have 5  
21 business days to submit rebuttal argument and supporting  
22 evidence, and the ombudsman shall have 5 business days  
23 thereafter to render a decision. If the ombudsman certifies  
24 the corrected or amended written recall agreement to recall a  
25 member or members of the board, such member or members shall  
26 be recalled effective immediately and shall turn over to the  
27 board within 5 full business days any and all records and  
28 property of the association in their possession. If the  
29 ombudsman does not certify the recall as to any or all board  
30 members, the board member or members not certified by the  
31 corrected or amended written recall agreement shall remain in

1 office for the remainder of their unexpired terms or until  
2 properly recalled or resignation otherwise occurs meeting,  
3 ~~file with the division a petition for arbitration pursuant to~~  
4 ~~the procedures in s. 718.1255. For the purposes of this~~  
5 ~~section, the unit owners who voted at the meeting or who~~  
6 ~~executed the agreement in writing shall constitute one party~~  
7 ~~under the petition for arbitration. If the arbitrator~~  
8 ~~certifies the recall as to any member or members of the board,~~  
9 ~~the recall will be effective upon mailing of the final order~~  
10 ~~of arbitration to the association. If the association fails to~~  
11 ~~comply with the order of the arbitrator, the division may take~~  
12 ~~action pursuant to s. 718.501. Any member or members so~~  
13 ~~recalled shall deliver to the board any and all records of the~~  
14 ~~association in their possession within 5 full business days of~~  
15 ~~the effective date of the recall.~~

16 ~~4. If the board fails to duly notice and hold a board~~  
17 ~~meeting within 5 full business days of service of an agreement~~  
18 ~~in writing or within 5 full business days of the adjournment~~  
19 ~~of the unit owner recall meeting, the recall shall be deemed~~  
20 ~~effective and the board members so recalled shall immediately~~  
21 ~~turn over to the board any and all records and property of the~~  
22 ~~association.~~

23 ~~4.5.~~ If a vacancy occurs on the board as a result of a  
24 recall and less than a majority of the board members are  
25 removed, the vacancy may be filled by the affirmative vote of  
26 a majority of the remaining directors, notwithstanding any  
27 provision to the contrary contained in this subsection. If  
28 vacancies occur on the board as a result of a recall and a  
29 majority or more of the board members are removed, the  
30 vacancies shall be filled in accordance with procedural rules  
31 to be adopted by the division, which rules need not be

1 consistent with this subsection. The rules must provide  
2 procedures governing the conduct of the recall election as  
3 well as the operation of the association during the period  
4 after a recall but prior to the recall election.

5 ~~(k) Arbitration. There shall be a provision for~~  
6 ~~mandatory nonbinding arbitration as provided for in s.~~  
7 ~~718.1255.~~

8 (k)(1) Certificate of compliance.--There shall be a  
9 provision that a certificate of compliance from a licensed  
10 electrical contractor or electrician may be accepted by the  
11 association's board as evidence of compliance of the  
12 condominium units with the applicable fire and life safety  
13 code. Notwithstanding the provisions of chapter 633 or of any  
14 other code, statute, ordinance, administrative rule, or  
15 regulation, or any interpretation of the foregoing, an  
16 association, condominium, or unit owner is not obligated to  
17 retrofit the common elements or units of a residential  
18 condominium with a fire sprinkler system or other engineered  
19 lifesafety system in a building that has been certified for  
20 occupancy by the applicable governmental entity, if the unit  
21 owners have voted to forego such retrofitting and engineered  
22 lifesafety system by the affirmative vote of two-thirds of all  
23 voting interests in the affected condominium. However, a  
24 condominium association may not vote to forego the  
25 retrofitting with a fire sprinkler system of common areas in a  
26 high-rise building. For purposes of this subsection, the term  
27 "high-rise building" means a building that is greater than 75  
28 feet in height where the building height is measured from the  
29 lowest level of fire department access to the floor of the  
30 highest occupiable story. For purposes of this subsection, the  
31 term "common areas" means any enclosed hallway, corridor,

1 lobby, stairwell, or entryway. In no event shall the local  
2 authority having jurisdiction require completion of  
3 retrofitting of common areas with a sprinkler system before  
4 the end of 2014.

5           1. A vote to forego retrofitting may be obtained by  
6 limited proxy or by a ballot personally cast at a duly called  
7 membership meeting, or by execution of a written consent by  
8 the member, and shall be effective upon the recording of a  
9 certificate attesting to such vote in the public records of  
10 the county where the condominium is located. The association  
11 shall mail, hand deliver, or electronically transmit to each  
12 unit owner written notice at least 14 days prior to such  
13 membership meeting in which the vote to forego retrofitting of  
14 the required fire sprinkler system is to take place. Within 30  
15 days after the association's opt-out vote, notice of the  
16 results of the opt-out vote shall be mailed, hand delivered,  
17 or electronically transmitted to all unit owners. Evidence of  
18 compliance with this 30-day notice shall be made by an  
19 affidavit executed by the person providing the notice and  
20 filed among the official records of the association. After  
21 such notice is provided to each owner, a copy of such notice  
22 shall be provided by the current owner to a new owner prior to  
23 closing and shall be provided by a unit owner to a renter  
24 prior to signing a lease.

25           2. As part of the information collected annually from  
26 condominiums, the division shall require condominium  
27 associations to report the membership vote and recording of a  
28 certificate under this subsection and, if retrofitting has  
29 been undertaken, the per-unit cost of such work. The division  
30 shall annually report to the Division of State Fire Marshal of  
31

1 the Department of Financial Services the number of  
2 condominiums that have elected to forego retrofitting.

3 ~~(1)(m)~~ Common elements; limited power to convey.--

4 1. With respect to condominiums created on or after  
5 October 1, 1994, the bylaws shall include a provision granting  
6 the association a limited power to convey a portion of the  
7 common elements to a condemning authority for the purpose of  
8 providing utility easements, right-of-way expansion, or other  
9 public purposes, whether negotiated or as a result of eminent  
10 domain proceedings.

11 2. In any case where the bylaws are silent as to the  
12 association's power to convey common elements as described in  
13 subparagraph 1., the bylaws shall be deemed to include the  
14 provision described in subparagraph 1.

15 Section 26. Section 718.113, Florida Statutes, is  
16 amended to read:

17 718.113 Maintenance; limitation upon improvement;  
18 display of flag; display of religious decorations; hurricane  
19 shutters.--

20 (1) Maintenance of the common elements is the  
21 responsibility of the association. The declaration may provide  
22 that certain limited common elements shall be maintained by  
23 those entitled to use the limited common elements or that the  
24 association shall provide the maintenance, ~~either as a common~~  
25 ~~expense or~~ with the cost shared only by those entitled to use  
26 the limited common elements. If the maintenance is to be by  
27 the association at the expense of only those entitled to use  
28 the limited common elements, the declaration shall describe in  
29 detail the method of apportioning such costs among those  
30 entitled to use the limited common elements, and the  
31 association may use the provisions of s. 718.116 to enforce

1 | payment of the shares of such costs by the unit owners  
2 | entitled to use the limited common elements.

3 |       (2)(a) Except as otherwise provided in this section,  
4 | there shall be no material alteration or substantial additions  
5 | to the common elements or to real property which is  
6 | association property, except in a manner provided in the  
7 | declaration as originally recorded or as amended under the  
8 | procedures provided therein. If the declaration as originally  
9 | recorded or as amended under the procedures provided therein  
10 | does not specify the procedure for approval of material  
11 | alterations or substantial additions, 75 percent of the total  
12 | voting interests of the association must approve the  
13 | alterations or additions.

14 |       (b) There shall not be any material alteration of, or  
15 | substantial addition to, the common elements of any  
16 | condominium operated by a multicondominium association unless  
17 | approved in the manner provided in the declaration of the  
18 | affected condominium or condominiums as originally recorded or  
19 | as amended under the procedures provided therein. If a  
20 | declaration as originally recorded or as amended under the  
21 | procedures provided therein does not specify a procedure for  
22 | approving such an alteration or addition, the approval of 75  
23 | percent of the total voting interests of each affected  
24 | condominium is required. This subsection does not prohibit a  
25 | provision in any declaration, articles of incorporation, or  
26 | bylaws as originally recorded or as amended under the  
27 | procedures provided therein requiring the approval of unit  
28 | owners in any condominium operated by the same association or  
29 | requiring board approval before a material alteration or  
30 | substantial addition to the common elements is permitted. This  
31 |

1 paragraph is intended to clarify existing law and applies to  
2 associations existing on the effective date of this act.

3 (c) There shall not be any material alteration or  
4 substantial addition made to association real property  
5 operated by a multicondominium association, except as provided  
6 in the declaration, articles of incorporation, or bylaws as  
7 originally recorded or as amended under the procedures  
8 provided therein. If the declaration, articles of  
9 incorporation, or bylaws as originally recorded or as amended  
10 under the procedures provided therein do not specify the  
11 procedure for approving an alteration or addition to  
12 association real property, the approval of 75 percent of the  
13 total voting interests of the association is required. This  
14 paragraph is intended to clarify existing law and applies to  
15 associations existing on the effective date of this act.

16 (3) A unit owner shall not do anything within his or  
17 her unit or on the common elements which would adversely  
18 affect the safety or soundness of the common elements or any  
19 portion of the association property or condominium property  
20 which is to be maintained by the association.

21 (4) Any unit owner may display one portable, removable  
22 United States flag in a respectful way and, on Armed Forces  
23 Day, Memorial Day, Flag Day, Independence Day, and Veterans  
24 Day, may display in a respectful way portable, removable  
25 official flags, not larger than 4 1/2 feet by 6 feet, that  
26 represent the United States Army, Navy, Air Force, Marine  
27 Corps, or Coast Guard, regardless of any declaration rules or  
28 requirements dealing with flags or decorations.

29 (5) Each board of administration shall, at each annual  
30 meeting, adopt or restate hurricane shutter specifications for  
31 each building within each condominium operated by the

1 association which shall include color, style, and other  
2 factors deemed relevant by the board. All specifications  
3 adopted or restated by the board shall comply with the  
4 applicable building code. Notwithstanding any provision to the  
5 contrary in the condominium documents, if approval is required  
6 by the documents, a board shall not refuse to approve the  
7 installation or replacement of hurricane shutters conforming  
8 to the specifications adopted by the board. The board may,  
9 subject to the provisions of s. 718.3026, and the approval of  
10 a majority of voting interests of the condominium, install  
11 hurricane shutters and may maintain, repair, or replace such  
12 approved hurricane shutters or hurricane protection that  
13 complies with the applicable building code, whether on or  
14 within common elements, limited common elements, units, or  
15 association property. However, where laminated glass or window  
16 film architecturally designed to function as hurricane  
17 protection which complies with the applicable building code  
18 has been installed, the board may not install hurricane  
19 shutters. The board may operate shutters installed pursuant to  
20 this subsection without permission of the unit owners only  
21 where such operation is necessary to preserve and protect the  
22 condominium property and association property. The  
23 installation, replacement, operation, repair, and maintenance  
24 of such shutters in accordance with the procedures set forth  
25 herein shall not be deemed a material alteration to the common  
26 elements or association property within the meaning of this  
27 section.

28 (6) Every 5 years, the board of administration shall  
29 have the condominium buildings inspected by a professional  
30 engineer or professional architect registered in the state for  
31 the purpose of determining that the building is structurally

1 and electrically safe. The engineer or architect shall provide  
2 a report indicating the manner and type of inspection forming  
3 the basis for the report and description of any matters  
4 identified as requiring remedial action. The report shall  
5 become an official record of the association to be provided to  
6 the members upon request pursuant to s. 718.111(12).

7 (7) The board of administration may not adopt any rule  
8 or regulation impairing any rights guaranteed by the First  
9 Amendment to the Constitution of the United States or s. 3,  
10 Art. I of the Florida Constitution, including, but not limited  
11 to, the free exercise of religion, nor may any rules or  
12 regulations conflict with the provisions of this chapter or  
13 the condominium instruments. A rule or regulation may not  
14 prohibit any reasonable accommodation for religious practices,  
15 including the attachment of religiously mandated objects to  
16 the front-door area of a condominium unit.

17 Section 27. Paragraph (d) of subsection (1) of section  
18 718.115, Florida Statutes, is amended to read:

19 718.115 Common expenses and common surplus.--

20 (1)

21 (d) If so provided in the declaration, the cost of a  
22 master antenna television system or duly franchised cable  
23 television service obtained pursuant to a bulk contract for  
24 basic service shall be deemed a common expense. If the  
25 declaration does not provide for the cost of a master antenna  
26 television system or duly franchised basic cable television  
27 service obtained under a bulk contract as a common expense,  
28 the board may enter into such a contract, and the cost of the  
29 service will be a common expense but allocated on a per-unit  
30 basis rather than a percentage basis if the declaration  
31 provides for other than an equal sharing of common expenses,

1 and any contract entered into before July 1, 1998, in which  
2 the cost of the service is not equally divided among all unit  
3 owners, may be changed by vote of a majority of the voting  
4 interests present at a regular or special meeting of the  
5 association, to allocate the cost equally among all units. The  
6 contract shall be for a term of not less than 2 years.

7 1. Any contract made by the board after the effective  
8 date hereof for a community antenna system or duly franchised  
9 basic cable television service may be canceled by a majority  
10 of the voting interests present at the next regular or special  
11 meeting of the association. Any member may make a motion to  
12 cancel said contract, but if no motion is made or if such  
13 motion fails to obtain the required majority at the next  
14 regular or special meeting, whichever is sooner, following the  
15 making of the contract, then such contract shall be deemed  
16 ratified for the term therein expressed.

17 2. Any such contract shall provide, and shall be  
18 deemed to provide if not expressly set forth, that any  
19 hearing-impaired or legally blind unit owner who does not  
20 occupy the unit with a non-hearing-impaired or sighted person,  
21 or any unit owner receiving supplemental security income under  
22 Title XVI of the Social Security Act or food stamps as  
23 administered by the Department of Children and Family Services  
24 pursuant to s. 414.31, may discontinue the service without  
25 incurring disconnect fees, penalties, or subsequent service  
26 charges, and, as to such units, the owners shall not be  
27 required to pay any common expenses charge related to such  
28 service. If less than all members of an association share the  
29 expenses of cable television, the expense shall be shared  
30 equally by all participating unit owners. The association may  
31 use the provisions of s. 718.116 to enforce payment of the

1 shares of such costs by the unit owners receiving cable  
2 television.

3 Section 28. Section 718.1123, Florida Statutes, is  
4 created to read:

5 718.1123 Protection against abuse.--

6 (1) In order to protect the safety, health, and  
7 welfare of the people of this state, especially the infirm and  
8 elderly, and to ensure the protection of condominium owners,  
9 any complaint of abuse filed with the Division of Florida Land  
10 Sales, Condominiums, Homeowners' Associations, and Mobile  
11 Homes shall immediately be investigated by the division. When  
12 the division has reasonable cause to believe that abuse has  
13 occurred against any unit owner, the division shall institute  
14 enforcement proceedings pursuant to its power and duties as  
15 set forth in s. 718.501.

16 (2) For purposes of this section, the term "abuse"  
17 means any willful act or threat by a member of the board of  
18 directors of a condominium association or any member of a  
19 committee or subcommittee appointed by the board of directors,  
20 or any employee, volunteer, or agent purporting to act on  
21 behalf of the board of directors, or any officer, director,  
22 employee, or agent of any management company acting on behalf  
23 of a condominium association who denies or is likely to deny a  
24 condominium unit owner or dweller any of the rights and  
25 protections afforded to them under applicable state and  
26 federal laws, administrative rules, and the governing  
27 documents of their condominium association.

28 Section 29. Section 718.1224, Florida Statutes, is  
29 created to read:

30 718.1224 Prohibition against SLAPP suits.--  
31

1           (1) It is the intent of the Legislature to protect the  
2 right of condominium unit owners to exercise their rights to  
3 instruct their representatives and petition for redress of  
4 grievances before the various governmental entities of this  
5 state as protected by the First Amendment to the United States  
6 Constitution and s. 5, Art. I of the State Constitution. The  
7 Legislature recognizes that strategic lawsuits against public  
8 participation, or "SLAPP" suits as they are typically referred  
9 to, have occurred when association members are sued by  
10 individuals, business entities, or governmental entities  
11 arising out of a condominium unit owner's appearance and  
12 presentation before a governmental entity on matters related  
13 to the condominium association. However, it is the public  
14 policy of this state that governmental entities, business  
15 organizations, and individuals not to engage in SLAPP suits,  
16 because such actions are inconsistent with the right of  
17 condominium unit owners to participate in the state's  
18 institutions of government. Therefore, the Legislature finds  
19 and declares that prohibiting such lawsuits by governmental  
20 entities, business entities, and individuals against  
21 condominium unit owners who address matters concerning their  
22 condominium association will preserve this fundamental state  
23 policy, preserve the constitutional rights of condominium unit  
24 owners, and ensure the continuation of representative  
25 government in this state. It is the intent of the Legislature  
26 that such lawsuits be expeditiously disposed of by the courts.  
27 As used in this subsection, the term "governmental entity"  
28 means the state, including the executive, legislative, and  
29 judicial branches of government, the independent  
30 establishments of the state, counties, municipalities,  
31

1 districts, authorities, boards, or commissions, or any  
2 agencies of these branches which are subject to chapter 286.

3 (2) A governmental entity, business organization, or  
4 individual in this state may not file or cause to be filed  
5 through its employees or agents any lawsuit, cause of action,  
6 claim, cross-claim, or counterclaim against a condominium unit  
7 owner without merit and solely because such condominium unit  
8 owner has exercised the right to instruct his or her  
9 representatives or the right to petition for redress of  
10 grievances before the various governmental entities of this  
11 state, as protected by the First Amendment to the United  
12 States Constitution and s. 5, Art. I of the State  
13 Constitution.

14 (3) A condominium unit owner sued by a governmental  
15 entity, business organization, or individual in violation of  
16 this section has a right to an expeditious resolution of a  
17 claim that the suit is in violation of this section. A  
18 condominium unit owner may petition the court for an order  
19 dismissing the action or granting final judgment in favor of  
20 that condominium unit owner. The petitioner may file a motion  
21 for summary judgment, together with supplemental affidavits,  
22 seeking a determination that the governmental entity's,  
23 business organization's, or individual's lawsuit has been  
24 brought in violation of this section. The governmental entity,  
25 business organization, or individual shall thereafter file its  
26 response and any supplemental affidavits. As soon as  
27 practicable, the court shall set a hearing on the petitioner's  
28 motion, which shall be held at the earliest possible time  
29 after the filing of the governmental entity's, business  
30 organization's or individual's response. The court may award  
31 the condominium unit owner sued by the governmental entity,

1 business organization, or individual actual damages arising  
2 from the governmental entity's, individual's, or business  
3 organization's violation of this section. A court may treble  
4 the damages awarded to a prevailing condominium unit owner and  
5 shall state the basis for the treble damages award in its  
6 judgment. The court shall award the prevailing party  
7 reasonable attorney's fees and costs incurred in connection  
8 with a claim that an action was filed in violation of this  
9 section.

10 (4) Condominium associations may not expend  
11 association funds in prosecuting a SLAPP suit against a  
12 condominium unit owner.

13 Section 30. Subsection (4) of section 718.1255,  
14 Florida Statutes, is amended to read:

15 718.1255 Alternative dispute resolution; voluntary  
16 mediation; mandatory nonbinding arbitration; legislative  
17 findings.--

18 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
19 DISPUTES.--The Division of Florida Land Sales, Condominiums,  
20 Homeowners' Associations, and Mobile Homes of the Department  
21 of Business and Professional Regulation shall employ full-time  
22 attorneys to act as arbitrators to conduct the arbitration  
23 hearings provided by this chapter. The division may also  
24 certify attorneys who are not employed by the division to act  
25 as arbitrators to conduct the arbitration hearings provided by  
26 this section. No person may be employed by the department as a  
27 full-time arbitrator unless he or she is a member in good  
28 standing of The Florida Bar. The department shall promulgate  
29 rules of procedure to govern such arbitration hearings  
30 including mediation incident thereto. The decision of an  
31 arbitrator shall be final; however, such a decision shall not

1 | be deemed final agency action. Nothing in this provision shall  
2 | be construed to foreclose parties from proceeding in a trial  
3 | de novo unless the parties have agreed that the arbitration is  
4 | binding. If such judicial proceedings are initiated, the final  
5 | decision of the arbitrator shall be admissible in evidence in  
6 | the trial de novo.

7 |         (a) Prior to the institution of court litigation, a  
8 | party to a dispute shall petition the division for nonbinding  
9 | arbitration. The petition must be accompanied by a filing fee  
10 | in the amount of \$50. Filing fees collected under this section  
11 | must be used to defray the expenses of the alternative dispute  
12 | resolution program.

13 |         (b) The petition must recite, and have attached  
14 | thereto, supporting proof that the petitioner gave the  
15 | respondents:

16 |             1. Advance written notice of the specific nature of  
17 | the dispute;

18 |             2. A demand for relief, and a reasonable opportunity  
19 | to comply or to provide the relief; and

20 |             3. Notice of the intention to file an arbitration  
21 | petition or other legal action in the absence of a resolution  
22 | of the dispute.

23 |  
24 | Failure to include the allegations or proof of compliance with  
25 | these prerequisites requires dismissal of the petition without  
26 | prejudice.

27 |         (c) Upon receipt, the petition shall be promptly  
28 | reviewed by the division to determine the existence of a  
29 | dispute and compliance with the requirements of paragraphs (a)  
30 | and (b). If emergency relief is required and is not available  
31 | through arbitration, a motion to stay the arbitration may be

1 filed. The motion must be accompanied by a verified petition  
2 alleging facts that, if proven, would support entry of a  
3 temporary injunction, and if an appropriate motion and  
4 supporting papers are filed, the division may abate the  
5 arbitration pending a court hearing and disposition of a  
6 motion for temporary injunction.

7 (d) Upon determination by the division that a dispute  
8 exists and that the petition substantially meets the  
9 requirements of paragraphs (a) and (b) and any other  
10 applicable rules, a copy of the petition shall forthwith be  
11 served by the division upon all respondents.

12 (e) Either before or after the filing of the  
13 respondents' answer to the petition, any party may request  
14 that the arbitrator refer the case to mediation under this  
15 section and any rules adopted by the division. Upon receipt of  
16 a request for mediation, the division shall promptly refer the  
17 ~~case contact the parties to determine if there is agreement~~  
18 ~~that mediation would be appropriate. If all parties agree, the~~  
19 ~~dispute must be referred to mediation. Notwithstanding a lack~~  
20 ~~of an agreement by all parties,~~ The arbitrator may refer a  
21 dispute to mediation at any time.

22 (f) Upon referral of a case to mediation, the parties  
23 must select a mutually acceptable mediator. To assist in the  
24 selection, the arbitrator shall provide the parties with a  
25 list of both volunteer and paid mediators that have been  
26 certified by the division under s. 718.501. If the parties are  
27 unable to agree on a mediator within the time allowed by the  
28 arbitrator, the arbitrator shall appoint a mediator from the  
29 list of certified mediators. If a case is referred to  
30 mediation, the parties shall attend a mediation conference, as  
31 scheduled by the parties and the mediator. If any party fails

1 | to attend a duly noticed mediation conference, without the  
2 | permission or approval of the arbitrator or mediator, the  
3 | arbitrator must impose sanctions against the party, including  
4 | the striking of any pleadings filed, the entry of an order of  
5 | dismissal or default if appropriate, and the award of costs  
6 | and attorneys' fees incurred by the other parties. Unless  
7 | otherwise agreed to by the parties or as provided by order of  
8 | the arbitrator, a party is deemed to have appeared at a  
9 | mediation conference by the physical presence of the party or  
10 | its representative having full authority to settle without  
11 | further consultation, provided that an association may comply  
12 | by having one or more representatives present with full  
13 | authority to negotiate a settlement and recommend that the  
14 | board of administration ratify and approve such a settlement  
15 | within 5 days from the date of the mediation conference. The  
16 | parties shall share equally the expense of mediation, unless  
17 | they agree otherwise.

18 |         (g) The purpose of mediation as provided for by this  
19 | section is to present the parties with an opportunity to  
20 | resolve the underlying dispute in good faith, and with a  
21 | minimum expenditure of time and resources.

22 |         (h) Mediation proceedings must generally be conducted  
23 | in accordance with the Florida Rules of Civil Procedure, and  
24 | these proceedings are privileged and confidential to the same  
25 | extent as court-ordered mediation. Persons who are not parties  
26 | to the dispute are not allowed to attend the mediation  
27 | conference without the consent of all parties, with the  
28 | exception of counsel for the parties and corporate  
29 | representatives designated to appear for a party. If the  
30 | mediator declares an impasse after a mediation conference has  
31 | been held, the arbitration proceeding terminates, unless all

1 parties agree in writing to continue the arbitration  
2 proceeding, in which case the arbitrator's decision shall be  
3 either binding or nonbinding, as agreed upon by the parties;  
4 in the arbitration proceeding, the arbitrator shall not  
5 consider any evidence relating to the unsuccessful mediation  
6 except in a proceeding to impose sanctions for failure to  
7 appear at the mediation conference. If the parties do not  
8 agree to continue arbitration, the arbitrator shall enter an  
9 order of dismissal, and either party may institute a suit in a  
10 court of competent jurisdiction. The parties may seek to  
11 recover any costs and attorneys' fees incurred in connection  
12 with arbitration ~~and mediation~~ proceedings under this section  
13 as part of the costs and fees that may be recovered by the  
14 prevailing party in any subsequent litigation.

15 (i) Arbitration shall be conducted according to rules  
16 promulgated by the division. The filing of a petition for  
17 arbitration shall toll the applicable statute of limitations.

18 (j) At the request of any party to the arbitration,  
19 such arbitrator shall issue subpoenas for the attendance of  
20 witnesses and the production of books, records, documents, and  
21 other evidence and any party on whose behalf a subpoena is  
22 issued may apply to the court for orders compelling such  
23 attendance and production. Subpoenas shall be served and shall  
24 be enforceable in the manner provided by the Florida Rules of  
25 Civil Procedure. Discovery may, in the discretion of the  
26 arbitrator, be permitted in the manner provided by the Florida  
27 Rules of Civil Procedure. Rules adopted by the division may  
28 authorize any reasonable sanctions except contempt for a  
29 violation of the arbitration procedural rules of the division  
30 or for the failure of a party to comply with a reasonable  
31

1 nonfinal order issued by an arbitrator which is not under  
2 judicial review.

3 (k) The arbitration decision shall be presented to the  
4 parties in writing. An arbitration decision is final in those  
5 disputes in which the parties have agreed to be bound. An  
6 arbitration decision is also final if a complaint for a trial  
7 de novo is not filed in a court of competent jurisdiction in  
8 which the condominium is located within 30 days. The right to  
9 file for a trial de novo entitles the parties to file a  
10 complaint in the appropriate trial court for a judicial  
11 resolution of the dispute. The prevailing party in an  
12 arbitration proceeding shall be awarded the costs of the  
13 arbitration and reasonable attorney's fees in an amount  
14 determined by the arbitrator. Such an award shall include the  
15 costs and reasonable attorney's fees incurred in the  
16 arbitration proceeding as well as the costs and reasonable  
17 attorney's fees incurred in preparing for and attending any  
18 scheduled mediation.

19 (l) The party who files a complaint for a trial de  
20 novo shall be assessed the other party's arbitration costs,  
21 court costs, and other reasonable costs, including attorney's  
22 fees, investigation expenses, and expenses for expert or other  
23 testimony or evidence incurred after the arbitration hearing  
24 if the judgment upon the trial de novo is not more favorable  
25 than the arbitration decision. If the judgment is more  
26 favorable, the party who filed a complaint for trial de novo  
27 shall be awarded reasonable court costs and attorney's fees.

28 (m) Any party to an arbitration proceeding may enforce  
29 an arbitration award by filing a petition in a court of  
30 competent jurisdiction in which the condominium is located. A  
31 petition may not be granted unless the time for appeal by the

1 filing of a complaint for trial de novo has expired. If a  
2 complaint for a trial de novo has been filed, a petition may  
3 not be granted with respect to an arbitration award that has  
4 been stayed. If the petition for enforcement is granted, the  
5 petitioner shall recover reasonable attorney's fees and costs  
6 incurred in enforcing the arbitration award. A mediation  
7 settlement may also be enforced through the county or circuit  
8 court, as applicable, and any costs and fees incurred in the  
9 enforcement of a settlement agreement reached at mediation  
10 must be awarded to the prevailing party in any enforcement  
11 action.

12 Section 31. Subsection (1) of section 718.302, Florida  
13 Statutes, is amended to read:

14 718.302 Agreements entered into by the association.--

15 (1) Any grant or reservation made by a declaration,  
16 lease, or other document, and any contract made by an  
17 association prior to assumption of control of the association  
18 by unit owners other than the developer, that provides for  
19 services, products, operation, maintenance, or management of a  
20 condominium association or property serving the unit owners of  
21 a condominium shall be fair and reasonable, and such grant,  
22 reservation, or contract may be canceled by unit owners other  
23 than the developer:

24 (a) If the association operates only one condominium  
25 and the unit owners other than the developer have assumed  
26 control of the association, or if unit owners other than the  
27 developer own not less than 75 percent of the voting interests  
28 in the condominium, the cancellation shall be by concurrence  
29 of the owners of not less than 75 percent of the voting  
30 interests other than the voting interests owned by the  
31 developer. If a grant, reservation, or contract is so canceled

1 and the unit owners other than the developer have not assumed  
2 control of the association, the association shall make a new  
3 contract or otherwise provide for maintenance, management, or  
4 operation in lieu of the canceled obligation, at the direction  
5 of the owners of not less than a majority of the voting  
6 interests in the condominium other than the voting interests  
7 owned by the developer.

8 (b) If the association operates more than one  
9 condominium and the unit owners other than the developer have  
10 not assumed control of the association, and if unit owners  
11 other than the developer own at least 75 percent of the voting  
12 interests in a condominium operated by the association, any  
13 grant, reservation, or contract for maintenance, management,  
14 or operation of buildings containing the units in that  
15 condominium or of improvements used only by unit owners of  
16 that condominium may be canceled by concurrence of the owners  
17 of at least 75 percent of the voting interests in the  
18 condominium other than the voting interests owned by the  
19 developer. No grant, reservation, or contract for maintenance,  
20 management, or operation of recreational areas or any other  
21 property serving more than one condominium, and operated by  
22 more than one association, may be canceled except pursuant to  
23 paragraph (d).

24 (c) If the association operates more than one  
25 condominium and the unit owners other than the developer have  
26 assumed control of the association, the cancellation shall be  
27 by concurrence of the owners of not less than 75 percent of  
28 the total number of voting interests in all condominiums  
29 operated by the association other than the voting interests  
30 owned by the developer.

31

1 (d) If the owners of units in a condominium have the  
2 right to use property in common with owners of units in other  
3 condominiums and those condominiums are operated by more than  
4 one association, no grant, reservation, or contract for  
5 maintenance, management, or operation of the property serving  
6 more than one condominium may be canceled until unit owners  
7 other than the developer have assumed control of all of the  
8 associations operating the condominiums that are to be served  
9 by the recreational area or other property, after which  
10 cancellation may be effected by concurrence of the owners of  
11 not less than 75 percent of the total number of voting  
12 interests in those condominiums other than voting interests  
13 owned by the developer.

14 Section 32. Paragraphs (f) and (g) are added to  
15 subsection (1) of section 718.3025, Florida Statutes, to read:

16 718.3025 Agreements for operation, maintenance, or  
17 management of condominiums; specific requirements.--

18 (1) No written contract between a party contracting to  
19 provide maintenance or management services and an association  
20 which contract provides for operation, maintenance, or  
21 management of a condominium association or property serving  
22 the unit owners of a condominium shall be valid or enforceable  
23 unless the contract:

24 (f) Requires that all obligations under the contract  
25 be completed within a 1-year period.

26 (g) Contains a provision expressly prohibiting  
27 automatic renewal of the contract.

28 Section 33. Paragraph (a) of subsection (2) of section  
29 718.3026, Florida Statutes, is amended to read:

30 718.3026 Contracts for products and services; in  
31 writing; bids; exceptions.--Associations with less than 100

1 units may opt out of the provisions of this section if  
2 two-thirds of the unit owners vote to do so, which opt-out may  
3 be accomplished by a proxy specifically setting forth the  
4 exception from this section.

5 (2)(a)1. Notwithstanding the foregoing, contracts with  
6 employees of the association, and contracts for attorney,  
7 accountant, architect, community association manager,  
8 timeshare management firm, engineering, and landscape  
9 architect services are not subject to the provisions of this  
10 section.

11 2. A contract executed before January 1, 1992, and any  
12 renewal thereof, is not subject to the competitive bid  
13 requirements of this section. If a contract was awarded under  
14 the competitive bid procedures of this section, any renewal of  
15 that contract is not subject to such competitive bid  
16 requirements if the contract contains a provision that allows  
17 the board to cancel the contract on 30 days' notice.

18 Materials, equipment, or services provided to a condominium  
19 under a local government franchise agreement by a franchise  
20 holder are not subject to the competitive bid requirements of  
21 this section. A contract with a manager, if made by a  
22 competitive bid, may be made for up to 3 years. A condominium  
23 whose declaration or bylaws provides for competitive bidding  
24 for services may operate under the provisions of that  
25 declaration or bylaws in lieu of this section if those  
26 provisions are not less stringent than the requirements of  
27 this section.

28 3. A contract by and between a service provider and an  
29 association shall not be for a term in excess of 3 years and  
30 shall not contain an automatic renewal clause.  
31

1           4. A contract for construction or repair of the  
2 property that exceeds 10 percent of the total annual budget of  
3 the association, including reserves, should have the approval  
4 of an attorney hired by the association.

5           Section 34. Subsection (3) of section 718.303, Florida  
6 Statutes, is amended and subsection (4) is added to that  
7 section, to read:

8           718.303 Obligations of owners; waiver; levy of fine  
9 against unit by association.--

10           (3) If the declaration or bylaws so provide, the  
11 association may levy reasonable fines against a unit for the  
12 failure of the owner of the unit, or its occupant, licensee,  
13 or invitee, to comply with any provision of the declaration,  
14 the association bylaws, or reasonable rules of the  
15 association. No fine will become a lien against a unit. No  
16 fine may exceed \$100 per violation. However, a fine may be  
17 levied on the basis of each day of a continuing violation,  
18 with a single notice and opportunity for hearing, provided  
19 that no such fine shall in the aggregate exceed \$1,000. No  
20 fine may be levied except after giving reasonable notice and  
21 opportunity for a hearing to the unit owner and, if  
22 applicable, its licensee or invitee. The hearing must be held  
23 before a committee of ~~other~~ unit owners who are not members of  
24 the board of administration of the association. If the  
25 committee does not agree with the fine, the fine may not be  
26 levied. The provisions of this subsection do not apply to  
27 unoccupied units.

28           (4) Anyone subject to an action under this section  
29 shall be notified of the violation by certified mail, return  
30 receipt requested, and, except in the case of eminent danger  
31 to person or property, have 30 days in which to respond in

1 writing. If no response is provided and the violation  
2 continues or is repeated, the association may proceed under  
3 subsections (1) and (2) without further notice except as  
4 provided in subsection (3).

5 Section 35. Section 718.501, Florida Statutes, is  
6 amended to read:

7 718.501 Powers and duties of Division of Florida Land  
8 Sales, Condominiums, Homeowners' Associations, and Mobile  
9 Homes.--

10 (1) The Division of Florida Land Sales, Condominiums,  
11 Homeowners' Associations, and Mobile Homes of the Department  
12 of Business and Professional Regulation, referred to as the  
13 "division" in this part, in addition to other powers and  
14 duties prescribed by chapter 498, has the power to enforce and  
15 ensure compliance with the provisions of this chapter and  
16 rules promulgated pursuant hereto relating to the development,  
17 construction, sale, lease, ownership, operation, and  
18 management of residential condominium units. In performing its  
19 duties, the division has the following powers and duties:

20 (a) The division may make necessary public or private  
21 investigations within or outside this state to determine  
22 whether any person has violated this chapter or any rule or  
23 order hereunder, to aid in the enforcement of this chapter, or  
24 to aid in the adoption of rules or forms hereunder.

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

29 (c) For the purpose of any investigation under this  
30 chapter, the division director or any officer or employee  
31 designated by the division director may administer oaths or

1 affirmations, subpoena witnesses and compel their attendance,  
2 take evidence, and require the production of any matter which  
3 is relevant to the investigation, including the existence,  
4 description, nature, custody, condition, and location of any  
5 books, documents, or other tangible things and the identity  
6 and location of persons having knowledge of relevant facts or  
7 any other matter reasonably calculated to lead to the  
8 discovery of material evidence. Upon the failure by a person  
9 to obey a subpoena or to answer questions propounded by the  
10 investigating officer and upon reasonable notice to all  
11 persons affected thereby, the division may apply to the  
12 circuit court for an order compelling compliance.

13 (d) Notwithstanding any remedies available to unit  
14 owners and associations, if the division has reasonable cause  
15 to believe that a violation of any provision of this chapter  
16 or rule promulgated pursuant hereto has occurred, the division  
17 may institute enforcement proceedings in its own name against  
18 any developer, association, officer, or member of the board of  
19 administration, or its assignees or agents, as follows:

20 1. The division may permit a person whose conduct or  
21 actions may be under investigation to waive formal proceedings  
22 and enter into a consent proceeding whereby orders, rules, or  
23 letters of censure or warning, whether formal or informal, may  
24 be entered against the person.

25 2. The division may issue an order requiring the  
26 developer, association, officer, or member of the board of  
27 administration, or its assignees or agents, to cease and  
28 desist from the unlawful practice and take such affirmative  
29 action as in the judgment of the division will carry out the  
30 purposes of this chapter. Such affirmative action may include,  
31

1 but is not limited to, an order requiring a developer to pay  
2 moneys determined to be owed to a condominium association.

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

6 4. The division may impose a civil penalty against a  
7 developer or association, or its assignee or agent, for any  
8 violation of this chapter or a rule promulgated pursuant  
9 hereto. The division may impose a civil penalty individually  
10 against any officer or board member who willfully and  
11 knowingly violates a provision of this chapter, a rule adopted  
12 pursuant hereto, or a final order of the division. The term  
13 "willfully and knowingly" means that the division informed the  
14 officer or board member that his or her action or intended  
15 action violates this chapter, a rule adopted under this  
16 chapter, or a final order of the division and that the officer  
17 or board member refused to comply with the requirements of  
18 this chapter, a rule adopted under this chapter, or a final  
19 order of the division. The division, prior to initiating  
20 formal agency action under chapter 120, shall afford the  
21 officer or board member an opportunity to voluntarily comply  
22 with this chapter, a rule adopted under this chapter, or a  
23 final order of the division. An officer or board member who  
24 complies within 10 days is not subject to a civil penalty. A  
25 penalty may be imposed on the basis of each day of continuing  
26 violation, but in no event shall the penalty for any offense  
27 exceed \$5,000. By January 1, 1998, the division shall adopt,  
28 by rule, penalty guidelines applicable to possible violations  
29 or to categories of violations of this chapter or rules  
30 adopted by the division. The guidelines must specify a  
31 meaningful range of civil penalties for each such violation of

1 | the statute and rules and must be based upon the harm caused  
2 | by the violation, the repetition of the violation, and upon  
3 | such other factors deemed relevant by the division. For  
4 | example, the division may consider whether the violations were  
5 | committed by a developer or owner-controlled association, the  
6 | size of the association, and other factors. The guidelines  
7 | must designate the possible mitigating or aggravating  
8 | circumstances that justify a departure from the range of  
9 | penalties provided by the rules. It is the legislative intent  
10 | that minor violations be distinguished from those which  
11 | endanger the health, safety, or welfare of the condominium  
12 | residents or other persons and that such guidelines provide  
13 | reasonable and meaningful notice to the public of likely  
14 | penalties that may be imposed for proscribed conduct. This  
15 | subsection does not limit the ability of the division to  
16 | informally dispose of administrative actions or complaints by  
17 | stipulation, agreed settlement, or consent order. All amounts  
18 | collected shall be deposited with the Chief Financial Officer  
19 | to the credit of the Division of Florida Land Sales,  
20 | Condominiums, Homeowners' Associations, and Mobile Homes Trust  
21 | Fund. If a developer fails to pay the civil penalty, the  
22 | division shall thereupon issue an order directing that such  
23 | developer cease and desist from further operation until such  
24 | time as the civil penalty is paid or may pursue enforcement of  
25 | the penalty in a court of competent jurisdiction. If an  
26 | association fails to pay the civil penalty, the division shall  
27 | thereupon pursue enforcement in a court of competent  
28 | jurisdiction, and the order imposing the civil penalty or the  
29 | cease and desist order will not become effective until 20 days  
30 | after the date of such order. Any action commenced by the  
31 | division shall be brought in the county in which the division

1 | has its executive offices or in the county where the violation  
2 | occurred.

3 |         (e) The division shall ~~is authorized to~~ prepare and  
4 | disseminate a prospectus and other information to assist  
5 | prospective owners, purchasers, lessees, and developers of  
6 | residential condominiums in assessing the rights, privileges,  
7 | and duties pertaining thereto.

8 |         (f) The division has authority to adopt rules pursuant  
9 | to ss. 120.536(1) and 120.54 to implement and enforce the  
10 | provisions of this chapter.

11 |         (g) The division shall establish procedures for  
12 | providing notice to an association when the division is  
13 | considering the issuance of a declaratory statement with  
14 | respect to the declaration of condominium or any related  
15 | document governing in such condominium community.

16 |         (h) The division shall furnish each association which  
17 | pays the fees required by paragraph (2)(a) a copy of this act,  
18 | subsequent changes to this act on an annual basis, an amended  
19 | version of this act as it becomes available from the Secretary  
20 | of State's office on a biennial basis, and the rules  
21 | promulgated pursuant thereto on an annual basis.

22 |         (i) The division shall annually provide each  
23 | association with a summary of declaratory statements and  
24 | formal legal opinions relating to the operations of  
25 | condominiums which were rendered by the division during the  
26 | previous year.

27 |         (j) The division shall provide training programs for  
28 | condominium association board members and unit owners in  
29 | conjunction with the recommendations of the ombudsman, at the  
30 | associations' expense.

31 |

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

3           (l) The division shall develop a program to certify  
4 both volunteer and paid mediators to provide mediation of  
5 condominium disputes. The division shall provide, upon  
6 request, a list of such mediators to any association, unit  
7 owner, or other participant in arbitration proceedings under  
8 s. 718.1255 requesting a copy of the list. The division shall  
9 include on the list of volunteer mediators only the names of  
10 persons who have received at least 20 hours of training in  
11 mediation techniques or who have mediated at least 20  
12 disputes. In order to become initially certified by the  
13 division, paid mediators must be certified by the Supreme  
14 Court to mediate court cases in either county or circuit  
15 courts. However, the division may adopt, by rule, additional  
16 factors for the certification of paid mediators, which factors  
17 must be related to experience, education, or background. Any  
18 person initially certified as a paid mediator by the division  
19 must, in order to continue to be certified, comply with the  
20 factors or requirements imposed by rules adopted by the  
21 division.

22           (m) When a complaint is made, the division shall  
23 conduct its inquiry with due regard to the interests of the  
24 affected parties. Within 30 days after receipt of a complaint,  
25 the division shall acknowledge the complaint in writing and  
26 notify the complainant whether the complaint is within the  
27 jurisdiction of the division and whether additional  
28 information is needed by the division from the complainant.  
29 The division shall conduct its investigation and shall, within  
30 90 days after receipt of the original complaint or of timely  
31 requested additional information, take action upon the

1 | complaint. However, the failure to complete the investigation  
2 | within 90 days does not prevent the division from continuing  
3 | the investigation, accepting or considering evidence obtained  
4 | or received after 90 days, or taking administrative action if  
5 | reasonable cause exists to believe that a violation of this  
6 | chapter or a rule of the division has occurred. If an  
7 | investigation is not completed within the time limits  
8 | established in this paragraph, the division shall, on a  
9 | monthly basis, notify the complainant in writing of the status  
10 | of the investigation. When reporting its action to the  
11 | complainant, the division shall inform the complainant of any  
12 | right to a hearing pursuant to ss. 120.569 and 120.57.

13 |       (n) Upon a finding that any association has committed  
14 | a violation within the jurisdiction of the division, the  
15 | division shall require the association to:

16 |           1. Mail and post a notice to all unit owners setting  
17 | forth the facts and findings relative to any and all  
18 | violations, as well as a description of the corrective action  
19 | required.

20 |           2. Participate in a mandatory educational training  
21 | program that shall be directly related to the violation,  
22 | taught by a division-approved provider, and completed within  
23 | 90 days from the date of notification of the finding to the  
24 | board members.

25 |  
26 | Failure of the association to comply with this paragraph shall  
27 | result in a civil penalty to the association in the amount of  
28 | \$500 for each week the notice is not mailed and posted or the  
29 | educational training is not completed.

30 |       (2)(a) Effective January 1, 1992, each condominium  
31 | association which operates more than two units shall pay to

1 the division an annual fee in the amount of \$4 for each  
2 residential unit in condominiums operated by the association.  
3 If the fee is not paid by March 1, then the association shall  
4 be assessed a penalty of 10 percent of the amount due, and the  
5 association will not have standing to maintain or defend any  
6 action in the courts of this state until the amount due, plus  
7 any penalty, is paid.

8 (b) All fees shall be deposited in the Division of  
9 Florida Land Sales, Condominiums, Homeowners' Associations,  
10 and Mobile Homes Trust Fund as provided by law. One-fifth of  
11 all fees deposited by the division shall be allocated and  
12 transferred to the Office of the Condominium Ombudsman.

13 Section 36. Section 718.5011, Florida Statutes, is  
14 amended to read:

15 718.5011 Ombudsman; appointment; administration.--

16 (1) There is created an Office of the Condominium  
17 Ombudsman, to be located, solely for administrative purposes,  
18 within the Division of Florida Land Sales, Condominiums,  
19 Homeowners' Associations, and Mobile Homes. The ombudsman  
20 shall exercise his or her policymaking and other functions  
21 delegated by this chapter independently of the Department of  
22 Business and Professional Regulation and without approval or  
23 control of the department. The department shall render  
24 administrative support to the Office of the Condominium  
25 Ombudsman in matters pertaining to budget, personnel, office  
26 space, equipment, and supplies. All revenues collected for the  
27 office by the department shall be deposited in a separate fund  
28 or account from which the department may not use or divert the  
29 revenues. The functions of the office shall be funded by the  
30 Division of Florida Land Sales, Condominiums, Homeowners'  
31 Associations, and Mobile Homes Trust Fund. The ombudsman shall

1 | be a bureau chief of the division, and the office shall be set  
2 | within the division in the same manner as any other bureau is  
3 | staffed and funded.

4 |         (2) The Governor shall appoint the ombudsman. The  
5 | ombudsman must be an attorney admitted to practice before the  
6 | Florida Supreme Court and shall serve at the pleasure of the  
7 | Governor. A vacancy in the office shall be filled in the same  
8 | manner as the original appointment. ~~An officer or full time~~  
9 | ~~employee of the ombudsman's office may not actively engage in~~  
10 | ~~any other business or profession; serve as the representative~~  
11 | ~~of any political party, executive committee, or other~~  
12 | ~~governing body of a political party; serve as an executive,~~  
13 | ~~officer, or employee of a political party; receive~~  
14 | ~~remuneration for activities on behalf of any candidate for~~  
15 | ~~public office; or engage in soliciting votes or other~~  
16 | ~~activities on behalf of a candidate for public office. The~~  
17 | ~~ombudsman or any employee of his or her office may not become~~  
18 | ~~a candidate for election to public office unless he or she~~  
19 | ~~first resigns from his or her office or employment.~~

20 |         Section 37. Section 718.5012, Florida Statutes, is  
21 | amended to read:

22 |         718.5012 Ombudsman; powers and duties.--

23 |         (1) The ombudsman shall have the powers that are  
24 | necessary to carry out the duties of his or her office,  
25 | including the following specific powers:

26 |         ~~(a)(1)~~ To have access to and use of all files and  
27 | records of the division.

28 |         ~~(b)(2)~~ To employ professional and clerical staff as  
29 | necessary for the efficient operation of the office.

30 |         ~~(c)(3)~~ To prepare and issue reports and  
31 | recommendations to the Governor, the department, the division,

1 | the Advisory Council on Condominiums, the President of the  
2 | Senate, and the Speaker of the House of Representatives on any  
3 | matter or subject within the jurisdiction of the division. The  
4 | ombudsman shall make recommendations he or she deems  
5 | appropriate for legislation relative to division procedures,  
6 | rules, jurisdiction, personnel, and functions.

7 |       ~~(d)(4)~~ To act as liaison between the division, unit  
8 | owners, boards of directors, board members, community  
9 | association managers, and other affected parties. The  
10 | ombudsman shall ~~develop policies and procedures to~~ assist unit  
11 | owners, boards of directors, board members, community  
12 | association managers, and other affected parties to understand  
13 | their rights and responsibilities as set forth in this chapter  
14 | and the condominium documents governing their respective  
15 | association. The ombudsman shall coordinate and assist in the  
16 | preparation and adoption of educational and reference  
17 | material, and shall endeavor to coordinate with private or  
18 | volunteer providers of these services, so that the  
19 | availability of these resources is made known to the largest  
20 | possible audience.

21 |       ~~(e)(5)~~ To monitor and review procedures and disputes  
22 | concerning condominium elections or meetings, including, but  
23 | not limited to, recommending that the division pursue  
24 | enforcement action in any manner where there is reasonable  
25 | cause to believe that election misconduct has occurred. The  
26 | division shall process the ombudsman's recommendations and  
27 | petitions in an expedited manner and defer to his or her  
28 | findings. For the purpose of fulfilling his or her duties  
29 | under this chapter, the ombudsman may administer oaths or  
30 | affirmations, subpoena witnesses and compel their attendance,  
31 | take evidence, and require the production of any matter that

1 is relevant to the inquiry, including the existence,  
2 description, nature, custody, condition, and location of any  
3 books, documents, or other tangible things and the identity  
4 and location of persons having knowledge of relevant facts or  
5 any other matter reasonably calculated to lead to the  
6 discovery of material evidence. Upon the failure by a person  
7 to obey a subpoena or to answer questions asked by the  
8 ombudsman and upon reasonable notice to all persons affected  
9 thereby, the ombudsman may apply to the circuit court for an  
10 order compelling compliance.

11 ~~(f)(6)~~ To make recommendations to the division for  
12 changes in rules and procedures for the filing, investigation,  
13 and resolution of complaints filed by unit owners,  
14 associations, and managers.

15 ~~(g)(7)~~ To provide resources to assist members of  
16 boards of directors and officers of associations to carry out  
17 their powers and duties consistent with this chapter, division  
18 rules, and the condominium documents governing the  
19 association.

20 ~~(h)(8)~~ To order, encourage, and facilitate ~~voluntary~~  
21 meetings with and between unit owners, boards of directors,  
22 board members, community association managers, and other  
23 affected parties when the meetings may assist in resolving a  
24 dispute within a community association before a person submits  
25 a dispute for a formal or administrative remedy. It is the  
26 intent of the Legislature that the ombudsman act as a neutral  
27 resource for both the rights and responsibilities of unit  
28 owners, associations, and board members.

29 (i) To make recommendations to the division to pursue  
30 enforcement action in circuit court on behalf of a class of  
31 unit owners, lessees, or purchasers for declaratory relief,

1 injunctive relief, or restitution against any developer,  
2 association, officer, or member of the board of  
3 administration, or its assignees or agents, where there is  
4 reasonable cause to believe misconduct has occurred. The  
5 division shall process the ombudsman's recommendations and  
6 petitions in an expedited manner and defer to his or her  
7 findings.

8 (j) To certify recall of board member proceedings  
9 pursuant to s. 718.112(2)(j).

10 (2)(9) Fifteen percent of the total voting interests  
11 in a condominium association, or six unit owners, whichever is  
12 greater, may petition the ombudsman to appoint an election  
13 monitor to attend the annual meeting of the unit owners and  
14 conduct the election of directors. The ombudsman upon petition  
15 may order any aspect of the election process as set forth in  
16 s. 718.112(2)(d)3. to be conducted by the election monitor. No  
17 association or person may reject an election monitor appointed  
18 by the ombudsman or interfere with an election monitor in the  
19 performance of his or her duties. The ombudsman may order an  
20 association to implement a known division remedy for a  
21 procedural violation of s. 718.112(2)(d)3. prior to and during  
22 a monitored election. The ombudsman shall appoint a division  
23 employee, a person or persons specializing in condominium  
24 election monitoring, or an attorney licensed to practice in  
25 this state as the election monitor. All costs associated with  
26 the election monitoring process shall be paid by the  
27 association. The division shall adopt a rule establishing  
28 procedures for the appointment of election monitors and the  
29 scope and extent of the monitor's role in the election  
30 process.

1           (3) Any unit owner or association acting in good faith  
2 on the advice or opinion of the office of the ombudsman shall  
3 be immune from any penalties or actions.

4           (4) If the ombudsman has reasonable cause to believe  
5 that a violation of any provision of this chapter or rule  
6 adopted under this chapter has occurred, the ombudsman may  
7 issue an order requiring any developer, association, officer,  
8 or member of the board of administration, or its assignees or  
9 agents, to cease and desist from the unlawful practice and to  
10 take such affirmative action that will carry out the purposes  
11 of this chapter.

12           Section 38. Paragraph (a) of subsection (2) of section  
13 718.502, Florida Statutes, is amended to read:

14           718.502 Filing prior to sale or lease.--

15           (2)(a) Prior to filing as required by subsection (1),  
16 and prior to acquiring an ownership, leasehold, or contractual  
17 interest in the land upon which the condominium is to be  
18 developed, a developer shall not offer a contract for purchase  
19 of a unit or lease of a unit for more than 5 years. However,  
20 the developer may accept deposits for reservations upon the  
21 approval of a fully executed escrow agreement and reservation  
22 agreement form properly filed with the Division of Florida  
23 Land Sales, Condominiums, Homeowners' Associations, and Mobile  
24 Homes. Each filing of a proposed reservation program shall be  
25 accompanied by a filing fee of \$250. Reservations shall not be  
26 taken on a proposed condominium unless the developer has an  
27 ownership, leasehold, or contractual interest in the land upon  
28 which the condominium is to be developed. The division shall  
29 notify the developer within 20 days of receipt of the  
30 reservation filing of any deficiencies contained therein. Such  
31 notification shall not preclude the determination of

1 reservation filing deficiencies at a later date, nor shall it  
2 relieve the developer of any responsibility under the law. The  
3 escrow agreement and the reservation agreement form shall  
4 include a statement of the right of the prospective purchaser  
5 to an immediate unqualified refund of the reservation deposit  
6 moneys upon written request to the escrow agent by the  
7 prospective purchaser or the developer.

8 Section 39. Section 718.504, Florida Statutes, is  
9 amended to read:

10 718.504 Prospectus or offering circular.--Every  
11 developer of a residential condominium which contains more  
12 than 20 residential units, or which is part of a group of  
13 residential condominiums which will be served by property to  
14 be used in common by unit owners of more than 20 residential  
15 units, shall prepare a prospectus or offering circular and  
16 file it with the Division of Florida Land Sales, Condominiums,  
17 Homeowners' Associations, and Mobile Homes prior to entering  
18 into an enforceable contract of purchase and sale of any unit  
19 or lease of a unit for more than 5 years and shall furnish a  
20 copy of the prospectus or offering circular to each buyer. In  
21 addition to the prospectus or offering circular, each buyer  
22 shall be furnished a separate page entitled "Frequently Asked  
23 Questions and Answers," which shall be in accordance with a  
24 format approved by the division and a copy of the financial  
25 information required by s. 718.111. This page shall, in  
26 readable language, inform prospective purchasers regarding  
27 their voting rights and unit use restrictions, including  
28 restrictions on the leasing of a unit; shall indicate whether  
29 and in what amount the unit owners or the association is  
30 obligated to pay rent or land use fees for recreational or  
31 other commonly used facilities; shall contain a statement

1 identifying that amount of assessment which, pursuant to the  
2 budget, would be levied upon each unit type, exclusive of any  
3 special assessments, and which shall further identify the  
4 basis upon which assessments are levied, whether monthly,  
5 quarterly, or otherwise; shall state and identify any court  
6 cases in which the association is currently a party of record  
7 in which the association may face liability in excess of  
8 \$100,000; and which shall further state whether membership in  
9 a recreational facilities association is mandatory, and if so,  
10 shall identify the fees currently charged per unit type. The  
11 division shall by rule require such other disclosure as in its  
12 judgment will assist prospective purchasers. The prospectus or  
13 offering circular may include more than one condominium,  
14 although not all such units are being offered for sale as of  
15 the date of the prospectus or offering circular. The  
16 prospectus or offering circular must contain the following  
17 information:

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

20 (a) The name of the condominium.

21 (b) The following statements in conspicuous type:

22 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS  
23 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM  
24 UNIT.

25 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
26 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL  
27 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND  
28 SALES MATERIALS.

29 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS  
30 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER  
31

1 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR  
2 CORRECT REPRESENTATIONS.

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

6 (3) A separate index of the contents and exhibits of  
7 the prospectus.

8 (4) Beginning on the first page of the text (not  
9 including the summary and index), a description of the  
10 condominium, including, but not limited to, the following  
11 information:

12 (a) Its name and location.

13 (b) A description of the condominium property,  
14 including, without limitation:

15 1. The number of buildings, the number of units in  
16 each building, the number of bathrooms and bedrooms in each  
17 unit, and the total number of units, if the condominium is not  
18 a phase condominium, or the maximum number of buildings that  
19 may be contained within the condominium, the minimum and  
20 maximum numbers of units in each building, the minimum and  
21 maximum numbers of bathrooms and bedrooms that may be  
22 contained in each unit, and the maximum number of units that  
23 may be contained within the condominium, if the condominium is  
24 a phase condominium.

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

27 3. The estimated latest date of completion of  
28 constructing, finishing, and equipping. In lieu of a date, the  
29 description shall include a statement that the estimated date  
30 of completion of the condominium is in the purchase agreement  
31

1 and a reference to the article or paragraph containing that  
2 information.

3 (c) The maximum number of units that will use  
4 facilities in common with the condominium. If the maximum  
5 number of units will vary, a description of the basis for  
6 variation and the minimum amount of dollars per unit to be  
7 spent for additional recreational facilities or enlargement of  
8 such facilities. If the addition or enlargement of facilities  
9 will result in a material increase of a unit owner's  
10 maintenance expense or rental expense, if any, the maximum  
11 increase and limitations thereon shall be stated.

12 (5)(a) A statement in conspicuous type describing  
13 whether the condominium is created and being sold as fee  
14 simple interests or as leasehold interests. If the condominium  
15 is created or being sold on a leasehold, the location of the  
16 lease in the disclosure materials shall be stated.

17 (b) If timeshare estates are or may be created with  
18 respect to any unit in the condominium, a statement in  
19 conspicuous type stating that timeshare estates are created  
20 and being sold in units in the condominium.

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

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

27 (b) Each swimming pool, as to its general location,  
28 approximate size and depths, approximate deck size and  
29 capacity, and whether heated.

30  
31

1 (c) Additional facilities, as to the number of each  
2 facility, its approximate location, approximate size, and  
3 approximate capacity.

4 (d) A general description of the items of personal  
5 property and the approximate number of each item of personal  
6 property that the developer is committing to furnish for each  
7 room or other facility or, in the alternative, a  
8 representation as to the minimum amount of expenditure that  
9 will be made to purchase the personal property for the  
10 facility.

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

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

16 2. A reference to the location in the disclosure  
17 materials of the lease or other agreements providing for the  
18 use of those facilities; and

19 3. A description of the terms of the lease or other  
20 agreements, including the length of the term; the rent  
21 payable, directly or indirectly, by each unit owner, and the  
22 total rent payable to the lessor, stated in monthly and annual  
23 amounts for the entire term of the lease; and a description of  
24 any option to purchase the property leased under any such  
25 lease, including the time the option may be exercised, the  
26 purchase price or how it is to be determined, the manner of  
27 payment, and whether the option may be exercised for a unit  
28 owner's share or only as to the entire leased property.

29 (g) A statement as to whether the developer may  
30 provide additional facilities not described above; their  
31 general locations and types; improvements or changes that may

1 | be made; the approximate dollar amount to be expended; and the  
2 | maximum additional common expense or cost to the individual  
3 | unit owners that may be charged during the first annual period  
4 | of operation of the modified or added facilities.

5 |  
6 | Descriptions as to locations, areas, capacities, numbers,  
7 | volumes, or sizes may be stated as approximations or minimums.

8 |         (7) A description of the recreational and other  
9 | facilities that will be used in common with other  
10 | condominiums, community associations, or planned developments  
11 | which require the payment of the maintenance and expenses of  
12 | such facilities, either directly or indirectly, by the unit  
13 | owners. The description shall include, but not be limited to,  
14 | the following:

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

16 |             (b) Facilities not committed to be built except under  
17 | certain conditions, and a statement of those conditions or  
18 | contingencies.

19 |             (c) As to each facility committed to be built, or  
20 | which will be committed to be built upon the happening of one  
21 | of the conditions in paragraph (b), a statement of whether it  
22 | will be owned by the unit owners having the use thereof or by  
23 | an association or other entity which will be controlled by  
24 | them, or others, and the location in the exhibits of the lease  
25 | or other document providing for use of those facilities.

26 |             (d) The year in which each facility will be available  
27 | for use by the unit owners or, in the alternative, the maximum  
28 | number of unit owners in the project at the time each of all  
29 | of the facilities is committed to be completed.

30 |             (e) A general description of the items of personal  
31 | property, and the approximate number of each item of personal

1 | property, that the developer is committing to furnish for each  
2 | room or other facility or, in the alternative, a  
3 | representation as to the minimum amount of expenditure that  
4 | will be made to purchase the personal property for the  
5 | facility.

6 |         (f) If there are leases, a description thereof,  
7 | including the length of the term, the rent payable, and a  
8 | description of any option to purchase.

9 |  
10 | Descriptions shall include location, areas, capacities,  
11 | numbers, volumes, or sizes and may be stated as approximations  
12 | or minimums.

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

14 |         (a) If any recreational facilities or other facilities  
15 | offered by the developer and available to, or to be used by,  
16 | unit owners are to be leased or have club membership  
17 | associated, the following statement in conspicuous type shall  
18 | be included: THERE IS A RECREATIONAL FACILITIES LEASE  
19 | ASSOCIATED WITH THIS CONDOMINIUM; or, THERE IS A CLUB  
20 | MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. There shall be a  
21 | reference to the location in the disclosure materials where  
22 | the recreation lease or club membership is described in  
23 | detail.

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

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

30 |  
31 |

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

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

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

11  
12 Immediately following the applicable statement, the location  
13 in the disclosure materials where the development is described  
14 in detail shall be stated.

15           (c) If the developer, or any other person other than  
16 the unit owners and other persons having use rights in the  
17 facilities, reserves, or is entitled to receive, any rent,  
18 fee, or other payment for the use of the facilities, then  
19 there shall be the following statement in conspicuous type:  
20 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND  
21 USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES.

22 Immediately following this statement, the location in the  
23 disclosure materials where the rent or land use fees are  
24 described in detail shall be stated.

25           (d) If, in any recreation format, whether leasehold,  
26 club, or other, any person other than the association has the  
27 right to a lien on the units to secure the payment of  
28 assessments, rent, or other exactions, there shall appear a  
29 statement in conspicuous type in substantially the following  
30 form:

31

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

5           2.   THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
6 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING  
7 DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE  
8 RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S  
9 FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF  
10 THE LIEN.

11  
12 Immediately following the applicable statement, the location  
13 in the disclosure materials where the lien or lien right is  
14 described in detail shall be stated.

15           (9) If the developer or any other person has the right  
16 to increase or add to the recreational facilities at any time  
17 after the establishment of the condominium whose unit owners  
18 have use rights therein, without the consent of the unit  
19 owners or associations being required, there shall appear a  
20 statement in conspicuous type in substantially the following  
21 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT  
22 CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately  
23 following this statement, the location in the disclosure  
24 materials where such reserved rights are described shall be  
25 stated.

26           (10) A statement of whether the developer's plan  
27 includes a program of leasing units rather than selling them,  
28 or leasing units and selling them subject to such leases. If  
29 so, there shall be a description of the plan, including the  
30 number and identification of the units and the provisions and  
31

1 term of the proposed leases, and a statement in boldfaced type  
2 that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

3 (11) The arrangements for management of the  
4 association and maintenance and operation of the condominium  
5 property and of other property that will serve the unit owners  
6 of the condominium property, and a description of the  
7 management contract and all other contracts for these purposes  
8 having a term in excess of 1 year, including the following:

- 9 (a) The names of contracting parties.  
10 (b) The term of the contract.  
11 (c) The nature of the services included.  
12 (d) The compensation, stated on a monthly and annual  
13 basis, and provisions for increases in the compensation.  
14 (e) A reference to the volumes and pages of the  
15 condominium documents and of the exhibits containing copies of  
16 such contracts.

17  
18 Copies of all described contracts shall be attached as  
19 exhibits. If there is a contract for the management of the  
20 condominium property, then a statement in conspicuous type in  
21 substantially the following form shall appear, identifying the  
22 proposed or existing contract manager: THERE IS (IS TO BE) A  
23 CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH  
24 (NAME OF THE CONTRACT MANAGER). Immediately following this  
25 statement, the location in the disclosure materials of the  
26 contract for management of the condominium property shall be  
27 stated.

28 (12) If the developer or any other person or persons  
29 other than the unit owners has the right to retain control of  
30 the board of administration of the association for a period of  
31 time which can exceed 1 year after the closing of the sale of

1 a majority of the units in that condominium to persons other  
2 than successors or alternate developers, then a statement in  
3 conspicuous type in substantially the following form shall be  
4 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
5 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE  
6 UNITS HAVE BEEN SOLD. Immediately following this statement,  
7 the location in the disclosure materials where this right to  
8 control is described in detail shall be stated.

9 (13) If there are any restrictions upon the sale,  
10 transfer, conveyance, or leasing of a unit, then a statement  
11 in conspicuous type in substantially the following form shall  
12 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS  
13 RESTRICTED OR CONTROLLED. Immediately following this  
14 statement, the location in the disclosure materials where the  
15 restriction, limitation, or control on the sale, lease, or  
16 transfer of units is described in detail shall be stated.

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

19 (a) A statement in conspicuous type in substantially  
20 the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL  
21 LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately  
22 following this statement, the location in the disclosure  
23 materials where the phasing is described shall be stated.

24 (b) A summary of the provisions of the declaration  
25 which provide for the phasing.

26 (c) A statement as to whether or not residential  
27 buildings and units which are added to the condominium may be  
28 substantially different from the residential buildings and  
29 units originally in the condominium. If the added residential  
30 buildings and units may be substantially different, there  
31 shall be a general description of the extent to which such

1 added residential buildings and units may differ, and a  
2 statement in conspicuous type in substantially the following  
3 form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO  
4 THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER  
5 BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following  
6 this statement, the location in the disclosure materials where  
7 the extent to which added residential buildings and units may  
8 substantially differ is described shall be stated.

9 (d) A statement of the maximum number of buildings  
10 containing units, the maximum and minimum numbers of units in  
11 each building, the maximum number of units, and the minimum  
12 and maximum square footage of the units that may be contained  
13 within each parcel of land which may be added to the  
14 condominium.

15 (15) If a condominium created on or after July 1,  
16 2000, is or may become part of a multicondominium, the  
17 following information must be provided:

18 (a) A statement in conspicuous type in substantially  
19 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
20 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
21 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately  
22 following this statement, the location in the prospectus or  
23 offering circular and its exhibits where the multicondominium  
24 aspects of the offering are described must be stated.

25 (b) A summary of the provisions in the declaration,  
26 articles of incorporation, and bylaws which establish and  
27 provide for the operation of the multicondominium, including a  
28 statement as to whether unit owners in the condominium will  
29 have the right to use recreational or other facilities located  
30 or planned to be located in other condominiums operated by the  
31

1 same association, and the manner of sharing the common  
2 expenses related to such facilities.

3 (c) A statement of the minimum and maximum number of  
4 condominiums, and the minimum and maximum number of units in  
5 each of those condominiums, which will or may be operated by  
6 the association, and the latest date by which the exact number  
7 will be finally determined.

8 (d) A statement as to whether any of the condominiums  
9 in the multicondominium may include units intended to be used  
10 for nonresidential purposes and the purpose or purposes  
11 permitted for such use.

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

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

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

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

21 (17) A summary of the restrictions, if any, to be  
22 imposed on units concerning the use of any of the condominium  
23 property, including statements as to whether there are  
24 restrictions upon children and pets, and reference to the  
25 volumes and pages of the condominium documents where such  
26 restrictions are found, or if such restrictions are contained  
27 elsewhere, then a copy of the documents containing the  
28 restrictions shall be attached as an exhibit.

29 (18) If there is any land that is offered by the  
30 developer for use by the unit owners and that is neither owned  
31 by them nor leased to them, the association, or any entity

1 controlled by unit owners and other persons having the use  
2 rights to such land, a statement shall be made as to how such  
3 land will serve the condominium. If any part of such land will  
4 serve the condominium, the statement shall describe the land  
5 and the nature and term of service, and the declaration or  
6 other instrument creating such servitude shall be included as  
7 an exhibit.

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

12 (20) An explanation of the manner in which the  
13 apportionment of common expenses and ownership of the common  
14 elements has been determined.

15 (21) An estimated operating budget for the condominium  
16 and the association, prepared in good faith, and a schedule of  
17 the unit owner's expenses shall be attached as an exhibit and  
18 shall contain the following information:

19 (a) The estimated monthly and annual revenues and  
20 expenses of the condominium and the association that are  
21 earned by the association or collected from unit owners by  
22 assessments.

23 (b) The estimated monthly and annual expenses of each  
24 unit owner for a unit, other than common expenses paid by all  
25 unit owners, payable by the unit owner to persons or entities  
26 other than the association, as well as to the association,  
27 including fees assessed pursuant to s. 718.113(1) for  
28 maintenance of limited common elements where such costs are  
29 shared only by those entitled to use the limited common  
30 element, and the total estimated monthly and annual expense.  
31 There may be excluded from this estimate expenses which are

1 not provided for or contemplated by the condominium documents,  
2 including, but not limited to, the costs of private telephone;  
3 maintenance of the interior of condominium units, which is not  
4 the obligation of the association; maid or janitorial services  
5 privately contracted for by the unit owners; utility bills  
6 billed directly to each unit owner for utility services to his  
7 or her unit; insurance premiums other than those incurred for  
8 policies obtained by the condominium; and similar personal  
9 expenses of the unit owner. A unit owner's estimated payments  
10 for assessments shall also be stated in the estimated amounts  
11 for the times when they will be due.

12 (c) The estimated items of expenses of the condominium  
13 and the association, except as excluded under paragraph (b),  
14 including, but not limited to, the following items, which  
15 shall be stated either as an association expense collectible  
16 by assessments or as unit owners' expenses payable to persons  
17 other than the association:

- 18 1. Expenses for the association and condominium:  
19 a. Administration of the association.  
20 b. Management fees.  
21 c. Maintenance.  
22 d. Rent for recreational and other commonly used  
23 facilities.  
24 e. Taxes upon association property.  
25 f. Taxes upon leased areas.  
26 g. Insurance.  
27 h. Security provisions.  
28 i. Other expenses.  
29 j. Operating capital.  
30 k. Reserves.  
31 l. Fees payable to the division.

- 1           2. Expenses for a unit owner:
- 2           a. Rent for the unit, if subject to a lease.
- 3           b. Rent payable by the unit owner directly to the
- 4 lessor or agent under any recreational lease or lease for the
- 5 use of commonly used facilities, which use and payment is a
- 6 mandatory condition of ownership and is not included in the
- 7 common expense or assessments for common maintenance paid by
- 8 the unit owners to the association.
- 9           ~~(d) The estimated amounts shall be stated for a period~~
- 10 ~~of at least 12 months and may distinguish between the period~~
- 11 ~~prior to the time unit owners other than the developer elect a~~
- 12 ~~majority of the board of administration and the period after~~
- 13 ~~that date.~~
- 14           (22) A schedule of estimated closing expenses to be
- 15 paid by a buyer or lessee of a unit and a statement of whether
- 16 title opinion or title insurance policy is available to the
- 17 buyer and, if so, at whose expense.
- 18           (23) The identity of the developer and the chief
- 19 operating officer or principal directing the creation and sale
- 20 of the condominium and a statement of its and his or her
- 21 experience in this field.
- 22           (24) Copies of the following, to the extent they are
- 23 applicable, shall be included as exhibits:
- 24           (a) The declaration of condominium, or the proposed
- 25 declaration if the declaration has not been recorded.
- 26           (b) The articles of incorporation creating the
- 27 association.
- 28           (c) The bylaws of the association.
- 29           (d) The ground lease or other underlying lease of the
- 30 condominium.
- 31

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

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

7 (g) A copy of the floor plan of the unit and the plot  
8 plan showing the location of the residential buildings and the  
9 recreation and other common areas.

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

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

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

16 (k) A declaration of servitude of properties serving  
17 the condominium but not owned by unit owners or leased to them  
18 or the association.

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

22 (m) The statement of inspection for termite damage and  
23 treatment of the existing improvements, if the condominium is  
24 a conversion.

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

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

28 (p) A copy of the documents containing any  
29 restrictions on use of the property required by subsection  
30 (17).

31

1           (25) Any prospectus or offering circular complying,  
2 prior to the effective date of this act, with the provisions  
3 of former ss. 711.69 and 711.802 may continue to be used  
4 without amendment or may be amended to comply with the  
5 provisions of this chapter.

6           (26) A brief narrative description of the location and  
7 effect of all existing and intended easements located or to be  
8 located on the condominium property other than those described  
9 in the declaration.

10           (27) If the developer is required by state or local  
11 authorities to obtain acceptance or approval of any dock or  
12 marina facilities intended to serve the condominium, a copy of  
13 any such acceptance or approval acquired by the time of filing  
14 with the division under s. 718.502(1) or a statement that such  
15 acceptance or approval has not been acquired or received.

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

19           Section 40. Section 718.508, Florida Statutes, is  
20 amended to read:

21           718.508 Regulation by Division of Hotels and  
22 Restaurants.--In addition to the authority, regulation, or  
23 control exercised by the Division of Florida Land Sales,  
24 Condominiums, Homeowners' Associations, and Mobile Homes  
25 pursuant to this act with respect to condominiums, buildings  
26 included in a condominium property shall be subject to the  
27 authority, regulation, or control of the Division of Hotels  
28 and Restaurants of the Department of Business and Professional  
29 Regulation, to the extent provided for in chapter 399.

30           Section 41. Section 718.509, Florida Statutes, is  
31 amended to read:



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

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

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

12           a. If your rental agreement began or was extended or  
13 renewed after May 1, 1980, and your rental agreement,  
14 including extensions and renewals, has an unexpired term of  
15 180 days or less, you may cancel your rental agreement upon 30  
16 days' written notice and move. Also, upon 30 days' written  
17 notice, you may cancel any extension of the rental agreement.

18           b. If your rental agreement was not begun or was not  
19 extended or renewed after May 1, 1980, you may not cancel the  
20 rental agreement without the consent of the developer. If your  
21 rental agreement, including extensions and renewals, has an  
22 unexpired term of 180 days or less, you may, however, upon 30  
23 days' written notice cancel any extension of the rental  
24 agreement.

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

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

30           a. You have the right to purchase your apartment and  
31 will have 45 days to decide whether to purchase. If you do not

1 buy the unit at that price and the unit is later offered at a  
2 lower price, you will have the opportunity to buy the unit at  
3 the lower price. However, in all events your right to purchase  
4 the unit ends when the rental agreement or any extension of  
5 the rental agreement ends or when you waive this right in  
6 writing.

7           b. Within 90 days you will be provided purchase  
8 information relating to your apartment, including the price of  
9 your unit and the condition of the building. If you do not  
10 receive this information within 90 days, your rental agreement  
11 and any extension will be extended 1 day for each day over 90  
12 days until you are given the purchase information. If you do  
13 not want this rental agreement extension, you must notify the  
14 developer in writing.

15           7. If you have any questions regarding this conversion  
16 or the Condominium Act, you may contact the developer or the  
17 state agency which regulates condominiums: The Division of  
18 Florida Land Sales, Condominiums, Homeowners' Associations,  
19 and Mobile Homes,       (Tallahassee address and telephone number  
20 of division) .

21           Section 43. Subsection (17) of section 719.103,  
22 Florida Statutes, is amended to read:

23           719.103 Definitions.--As used in this chapter:

24           (17) "Division" means the Division of Florida Land  
25 Sales, Condominiums, Homeowners' Associations, and Mobile  
26 Homes of the Department of Business and Professional  
27 Regulation.

28           Section 44. Subsection (7) is added to section  
29 719.1055, Florida Statutes, to read:

30           719.1055 Amendment of cooperative documents;  
31 alteration and acquisition of property.--

1           (7) Any amendment restricting cooperative owners'  
2 rights relating to the rental of units applies only to unit  
3 owners who consent to the amendment and unit owners who  
4 purchase their units after the effective date of that  
5 amendment.

6           Section 45. Section 719.1255, Florida Statutes, is  
7 amended to read:

8           719.1255 Alternative resolution of disputes.--The  
9 Division of Florida Land Sales, Condominiums, Homeowners'  
10 Associations, and Mobile Homes of the Department of Business  
11 and Professional Regulation shall provide for alternative  
12 dispute resolution in accordance with s. 718.1255.

13           Section 46. Section 719.501, Florida Statutes, is  
14 amended to read:

15           719.501 Powers and duties of Division of Florida Land  
16 Sales, Condominiums, Homeowners' Associations, and Mobile  
17 Homes.--

18           (1) The Division of Florida Land Sales, Condominiums,  
19 Homeowners' Associations, and Mobile Homes of the Department  
20 of Business and Professional Regulation, referred to as the  
21 "division" in this part, in addition to other powers and  
22 duties prescribed by chapter 498, has the power to enforce and  
23 ensure compliance with the provisions of this chapter and  
24 rules promulgated pursuant hereto relating to the development,  
25 construction, sale, lease, ownership, operation, and  
26 management of residential cooperative units. In performing its  
27 duties, the division shall have the following powers and  
28 duties:

29           (a) The division may make necessary public or private  
30 investigations within or outside this state to determine  
31 whether any person has violated this chapter or any rule or

1 order hereunder, to aid in the enforcement of this chapter, or  
2 to aid in the adoption of rules or forms hereunder.

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

7 (c) For the purpose of any investigation under this  
8 chapter, the division director or any officer or employee  
9 designated by the division director may administer oaths or  
10 affirmations, subpoena witnesses and compel their attendance,  
11 take evidence, and require the production of any matter which  
12 is relevant to the investigation, including the existence,  
13 description, nature, custody, condition, and location of any  
14 books, documents, or other tangible things and the identity  
15 and location of persons having knowledge of relevant facts or  
16 any other matter reasonably calculated to lead to the  
17 discovery of material evidence. Upon failure by a person to  
18 obey a subpoena or to answer questions propounded by the  
19 investigating officer and upon reasonable notice to all  
20 persons affected thereby, the division may apply to the  
21 circuit court for an order compelling compliance.

22 (d) Notwithstanding any remedies available to unit  
23 owners and associations, if the division has reasonable cause  
24 to believe that a violation of any provision of this chapter  
25 or rule promulgated pursuant hereto has occurred, the division  
26 may institute enforcement proceedings in its own name against  
27 a developer, association, officer, or member of the board, or  
28 its assignees or agents, as follows:

29 1. The division may permit a person whose conduct or  
30 actions may be under investigation to waive formal proceedings  
31 and enter into a consent proceeding whereby orders, rules, or

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

3           2. The division may issue an order requiring the  
4 developer, association, officer, or member of the board, or  
5 its assignees or agents, to cease and desist from the unlawful  
6 practice and take such affirmative action as in the judgment  
7 of the division will carry out the purposes of this chapter.  
8 Such affirmative action may include, but is not limited to, an  
9 order requiring a developer to pay moneys determined to be  
10 owed to a condominium association.

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

14           4. The division may impose a civil penalty against a  
15 developer or association, or its assignees or agents, for any  
16 violation of this chapter or a rule promulgated pursuant  
17 hereto. The division may impose a civil penalty individually  
18 against any officer or board member who willfully and  
19 knowingly violates a provision of this chapter, a rule adopted  
20 pursuant to this chapter, or a final order of the division.  
21 The term "willfully and knowingly" means that the division  
22 informed the officer or board member that his or her action or  
23 intended action violates this chapter, a rule adopted under  
24 this chapter, or a final order of the division, and that the  
25 officer or board member refused to comply with the  
26 requirements of this chapter, a rule adopted under this  
27 chapter, or a final order of the division. The division, prior  
28 to initiating formal agency action under chapter 120, shall  
29 afford the officer or board member an opportunity to  
30 voluntarily comply with this chapter, a rule adopted under  
31 this chapter, or a final order of the division. An officer or

1 board member who complies within 10 days is not subject to a  
2 civil penalty. A penalty may be imposed on the basis of each  
3 day of continuing violation, but in no event shall the penalty  
4 for any offense exceed \$5,000. By January 1, 1998, the  
5 division shall adopt, by rule, penalty guidelines applicable  
6 to possible violations or to categories of violations of this  
7 chapter or rules adopted by the division. The guidelines must  
8 specify a meaningful range of civil penalties for each such  
9 violation of the statute and rules and must be based upon the  
10 harm caused by the violation, the repetition of the violation,  
11 and upon such other factors deemed relevant by the division.  
12 For example, the division may consider whether the violations  
13 were committed by a developer or owner-controlled association,  
14 the size of the association, and other factors. The guidelines  
15 must designate the possible mitigating or aggravating  
16 circumstances that justify a departure from the range of  
17 penalties provided by the rules. It is the legislative intent  
18 that minor violations be distinguished from those which  
19 endanger the health, safety, or welfare of the cooperative  
20 residents or other persons and that such guidelines provide  
21 reasonable and meaningful notice to the public of likely  
22 penalties that may be imposed for proscribed conduct. This  
23 subsection does not limit the ability of the division to  
24 informally dispose of administrative actions or complaints by  
25 stipulation, agreed settlement, or consent order. All amounts  
26 collected shall be deposited with the Chief Financial Officer  
27 to the credit of the Division of Florida Land Sales,  
28 Condominiums, Homeowners' Associations, and Mobile Homes Trust  
29 Fund. If a developer fails to pay the civil penalty, the  
30 division shall thereupon issue an order directing that such  
31 developer cease and desist from further operation until such

1 | time as the civil penalty is paid or may pursue enforcement of  
2 | the penalty in a court of competent jurisdiction. If an  
3 | association fails to pay the civil penalty, the division shall  
4 | thereupon pursue enforcement in a court of competent  
5 | jurisdiction, and the order imposing the civil penalty or the  
6 | cease and desist order shall not become effective until 20  
7 | days after the date of such order. Any action commenced by the  
8 | division shall be brought in the county in which the division  
9 | has its executive offices or in the county where the violation  
10 | occurred.

11 |         (e) The division is authorized to prepare and  
12 | disseminate a prospectus and other information to assist  
13 | prospective owners, purchasers, lessees, and developers of  
14 | residential cooperatives in assessing the rights, privileges,  
15 | and duties pertaining thereto.

16 |         (f) The division has authority to adopt rules pursuant  
17 | to ss. 120.536(1) and 120.54 to implement and enforce the  
18 | provisions of this chapter.

19 |         (g) The division shall establish procedures for  
20 | providing notice to an association when the division is  
21 | considering the issuance of a declaratory statement with  
22 | respect to the cooperative documents governing such  
23 | cooperative community.

24 |         (h) The division shall furnish each association which  
25 | pays the fees required by paragraph (2)(a) a copy of this act,  
26 | subsequent changes to this act on an annual basis, an amended  
27 | version of this act as it becomes available from the Secretary  
28 | of State's office on a biennial basis, and the rules  
29 | promulgated pursuant thereto on an annual basis.

30 |         (i) The division shall annually provide each  
31 | association with a summary of declaratory statements and

1 formal legal opinions relating to the operations of  
2 cooperatives which were rendered by the division during the  
3 previous year.

4 (j) The division shall adopt uniform accounting  
5 principles, policies, and standards to be used by all  
6 associations in the preparation and presentation of all  
7 financial statements required by this chapter. The principles,  
8 policies, and standards shall take into consideration the size  
9 of the association and the total revenue collected by the  
10 association.

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

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

15 (m) When a complaint is made to the division, the  
16 division shall conduct its inquiry with reasonable dispatch  
17 and with due regard to the interests of the affected parties.  
18 Within 30 days after receipt of a complaint, the division  
19 shall acknowledge the complaint in writing and notify the  
20 complainant whether the complaint is within the jurisdiction  
21 of the division and whether additional information is needed  
22 by the division from the complainant. The division shall  
23 conduct its investigation and shall, within 90 days after  
24 receipt of the original complaint or timely requested  
25 additional information, take action upon the complaint.  
26 However, the failure to complete the investigation within 90  
27 days does not prevent the division from continuing the  
28 investigation, accepting or considering evidence obtained or  
29 received after 90 days, or taking administrative action if  
30 reasonable cause exists to believe that a violation of this  
31 chapter or a rule of the division has occurred. If an

1 investigation is not completed within the time limits  
2 established in this paragraph, the division shall, on a  
3 monthly basis, notify the complainant in writing of the status  
4 of the investigation. When reporting its action to the  
5 complainant, the division shall inform the complainant of any  
6 right to a hearing pursuant to ss. 120.569 and 120.57.

7 (n) The division shall develop a program to certify  
8 both volunteer and paid mediators to provide mediation of  
9 cooperative disputes. The division shall provide, upon  
10 request, a list of such mediators to any association, unit  
11 owner, or other participant in arbitration proceedings under  
12 s. 718.1255 requesting a copy of the list. The division shall  
13 include on the list of voluntary mediators only persons who  
14 have received at least 20 hours of training in mediation  
15 techniques or have mediated at least 20 disputes. In order to  
16 become initially certified by the division, paid mediators  
17 must be certified by the Supreme Court to mediate court cases  
18 in either county or circuit courts. However, the division may  
19 adopt, by rule, additional factors for the certification of  
20 paid mediators, which factors must be related to experience,  
21 education, or background. Any person initially certified as a  
22 paid mediator by the division must, in order to continue to be  
23 certified, comply with the factors or requirements imposed by  
24 rules adopted by the division.

25 (2)(a) Each cooperative association shall pay to the  
26 division, on or before January 1 of each year, an annual fee  
27 in the amount of \$4 for each residential unit in cooperatives  
28 operated by the association. If the fee is not paid by March  
29 1, then the association shall be assessed a penalty of 10  
30 percent of the amount due, and the association shall not have  
31

1 the standing to maintain or defend any action in the courts of  
2 this state until the amount due is paid.

3 (b) All fees shall be deposited in the Division of  
4 Florida Land Sales, Condominiums, Homeowners' Associations,  
5 and Mobile Homes Trust Fund as provided by law.

6 Section 47. Paragraph (a) of subsection (2) of section  
7 719.502, Florida Statutes, is amended to read:

8 719.502 Filing prior to sale or lease.--

9 (2)(a) Prior to filing as required by subsection (1),  
10 and prior to acquiring an ownership, leasehold, or contractual  
11 interest in the land upon which the cooperative is to be  
12 developed, a developer shall not offer a contract for purchase  
13 or lease of a unit for more than 5 years. However, the  
14 developer may accept deposits for reservations upon the  
15 approval of a fully executed escrow agreement and reservation  
16 agreement form properly filed with the Division of Florida  
17 Land Sales, Condominiums, Homeowners' Associations, and Mobile  
18 Homes. Each filing of a proposed reservation program shall be  
19 accompanied by a filing fee of \$250. Reservations shall not be  
20 taken on a proposed cooperative unless the developer has an  
21 ownership, leasehold, or contractual interest in the land upon  
22 which the cooperative is to be developed. The division shall  
23 notify the developer within 20 days of receipt of the  
24 reservation filing of any deficiencies contained therein. Such  
25 notification shall not preclude the determination of  
26 reservation filing deficiencies at a later date, nor shall it  
27 relieve the developer of any responsibility under the law. The  
28 escrow agreement and the reservation agreement form shall  
29 include a statement of the right of the prospective purchaser  
30 to an immediate unqualified refund of the reservation deposit  
31

1 moneys upon written request to the escrow agent by the  
2 prospective purchaser or the developer.

3 Section 48. Section 719.504, Florida Statutes, is  
4 amended to read:

5 719.504 Prospectus or offering circular.--Every  
6 developer of a residential cooperative which contains more  
7 than 20 residential units, or which is part of a group of  
8 residential cooperatives which will be served by property to  
9 be used in common by unit owners of more than 20 residential  
10 units, shall prepare a prospectus or offering circular and  
11 file it with the Division of Florida Land Sales, Condominiums,  
12 Homeowners' Associations, and Mobile Homes prior to entering  
13 into an enforceable contract of purchase and sale of any unit  
14 or lease of a unit for more than 5 years and shall furnish a  
15 copy of the prospectus or offering circular to each buyer. In  
16 addition to the prospectus or offering circular, each buyer  
17 shall be furnished a separate page entitled "Frequently Asked  
18 Questions and Answers," which must be in accordance with a  
19 format approved by the division. This page must, in readable  
20 language: inform prospective purchasers regarding their voting  
21 rights and unit use restrictions, including restrictions on  
22 the leasing of a unit; indicate whether and in what amount the  
23 unit owners or the association is obligated to pay rent or  
24 land use fees for recreational or other commonly used  
25 facilities; contain a statement identifying that amount of  
26 assessment which, pursuant to the budget, would be levied upon  
27 each unit type, exclusive of any special assessments, and  
28 which identifies the basis upon which assessments are levied,  
29 whether monthly, quarterly, or otherwise; state and identify  
30 any court cases in which the association is currently a party  
31 of record in which the association may face liability in

1 excess of \$100,000; and state whether membership in a  
2 recreational facilities association is mandatory and, if so,  
3 identify the fees currently charged per unit type. The  
4 division shall by rule require such other disclosure as in its  
5 judgment will assist prospective purchasers. The prospectus or  
6 offering circular may include more than one cooperative,  
7 although not all such units are being offered for sale as of  
8 the date of the prospectus or offering circular. The  
9 prospectus or offering circular must contain the following  
10 information:

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

13 (a) The name of the cooperative.

14 (b) The following statements in conspicuous type:

15 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS  
16 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE  
17 UNIT.

18 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
19 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL  
20 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND  
21 SALES MATERIALS.

22 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS  
23 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER  
24 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR  
25 CORRECT REPRESENTATIONS.

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

29 (3) A separate index of the contents and exhibits of  
30 the prospectus.

31

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

5           (a) Its name and location.

6           (b) A description of the cooperative property,  
7 including, without limitation:

8           1. The number of buildings, the number of units in  
9 each building, the number of bathrooms and bedrooms in each  
10 unit, and the total number of units, if the cooperative is not  
11 a phase cooperative; or, if the cooperative is a phase  
12 cooperative, the maximum number of buildings that may be  
13 contained within the cooperative, the minimum and maximum  
14 number of units in each building, the minimum and maximum  
15 number of bathrooms and bedrooms that may be contained in each  
16 unit, and the maximum number of units that may be contained  
17 within the cooperative.

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

20           3. The estimated latest date of completion of  
21 constructing, finishing, and equipping. In lieu of a date, a  
22 statement that the estimated date of completion of the  
23 cooperative is in the purchase agreement and a reference to  
24 the article or paragraph containing that information.

25           (c) The maximum number of units that will use  
26 facilities in common with the cooperative. If the maximum  
27 number of units will vary, a description of the basis for  
28 variation and the minimum amount of dollars per unit to be  
29 spent for additional recreational facilities or enlargement of  
30 such facilities. If the addition or enlargement of facilities  
31 will result in a material increase of a unit owner's

1 maintenance expense or rental expense, if any, the maximum  
2 increase and limitations thereon shall be stated.

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

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

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

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

17 (b) Each swimming pool, as to its general location,  
18 approximate size and depths, approximate deck size and  
19 capacity, and whether heated.

20 (c) Additional facilities, as to the number of each  
21 facility, its approximate location, approximate size, and  
22 approximate capacity.

23 (d) A general description of the items of personal  
24 property and the approximate number of each item of personal  
25 property that the developer is committing to furnish for each  
26 room or other facility or, in the alternative, a  
27 representation as to the minimum amount of expenditure that  
28 will be made to purchase the personal property for the  
29 facility.

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

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

4 2. A reference to the location in the disclosure  
5 materials of the lease or other agreements providing for the  
6 use of those facilities; and

7 3. A description of the terms of the lease or other  
8 agreements, including the length of the term; the rent  
9 payable, directly or indirectly, by each unit owner, and the  
10 total rent payable to the lessor, stated in monthly and annual  
11 amounts for the entire term of the lease; and a description of  
12 any option to purchase the property leased under any such  
13 lease, including the time the option may be exercised, the  
14 purchase price or how it is to be determined, the manner of  
15 payment, and whether the option may be exercised for a unit  
16 owner's share or only as to the entire leased property.

17 (g) A statement as to whether the developer may  
18 provide additional facilities not described above, their  
19 general locations and types, improvements or changes that may  
20 be made, the approximate dollar amount to be expended, and the  
21 maximum additional common expense or cost to the individual  
22 unit owners that may be charged during the first annual period  
23 of operation of the modified or added facilities.

24  
25 Descriptions as to locations, areas, capacities, numbers,  
26 volumes, or sizes may be stated as approximations or minimums.

27 (7) A description of the recreational and other  
28 facilities that will be used in common with other  
29 cooperatives, community associations, or planned developments  
30 which require the payment of the maintenance and expenses of  
31 such facilities, either directly or indirectly, by the unit

1 owners. The description shall include, but not be limited to,  
2 the following:

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

4 (b) Facilities not committed to be built except under  
5 certain conditions, and a statement of those conditions or  
6 contingencies.

7 (c) As to each facility committed to be built, or  
8 which will be committed to be built upon the happening of one  
9 of the conditions in paragraph (b), a statement of whether it  
10 will be owned by the unit owners having the use thereof or by  
11 an association or other entity which will be controlled by  
12 them, or others, and the location in the exhibits of the lease  
13 or other document providing for use of those facilities.

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

18 (e) A general description of the items of personal  
19 property, and the approximate number of each item of personal  
20 property, that the developer is committing to furnish for each  
21 room or other facility or, in the alternative, a  
22 representation as to the minimum amount of expenditure that  
23 will be made to purchase the personal property for the  
24 facility.

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

28  
29 Descriptions shall include location, areas, capacities,  
30 numbers, volumes, or sizes and may be stated as approximations  
31 or minimums.

1           (8) Recreation lease or associated club membership:  
2           (a) If any recreational facilities or other common  
3 areas offered by the developer and available to, or to be used  
4 by, unit owners are to be leased or have club membership  
5 associated, the following statement in conspicuous type shall  
6 be included: THERE IS A RECREATIONAL FACILITIES LEASE  
7 ASSOCIATED WITH THIS COOPERATIVE; or, THERE IS A CLUB  
8 MEMBERSHIP ASSOCIATED WITH THIS COOPERATIVE. There shall be a  
9 reference to the location in the disclosure materials where  
10 the recreation lease or club membership is described in  
11 detail.  
12           (b) If it is mandatory that unit owners pay a fee,  
13 rent, dues, or other charges under a recreational facilities  
14 lease or club membership for the use of facilities, there  
15 shall be in conspicuous type the applicable statement:  
16           1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
17 MANDATORY FOR UNIT OWNERS; or  
18           2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF  
19 OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES  
20 LEASE; or  
21           3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
22 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
23 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
24 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or  
25           4. A similar statement of the nature of the  
26 organization or manner in which the use rights are created,  
27 and that unit owners are required to pay.  
28  
29 Immediately following the applicable statement, the location  
30 in the disclosure materials where the development is described  
31 in detail shall be stated.

1 (c) If the developer, or any other person other than  
2 the unit owners and other persons having use rights in the  
3 facilities, reserves, or is entitled to receive, any rent,  
4 fee, or other payment for the use of the facilities, then  
5 there shall be the following statement in conspicuous type:  
6 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND  
7 USE FEES FOR RECREATIONAL OR OTHER COMMON AREAS. Immediately  
8 following this statement, the location in the disclosure  
9 materials where the rent or land use fees are described in  
10 detail shall be stated.

11 (d) If, in any recreation format, whether leasehold,  
12 club, or other, any person other than the association has the  
13 right to a lien on the units to secure the payment of  
14 assessments, rent, or other exactions, there shall appear a  
15 statement in conspicuous type in substantially the following  
16 form:

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

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

26  
27 Immediately following the applicable statement, the location  
28 in the disclosure materials where the lien or lien right is  
29 described in detail shall be stated.

30 (9) If the developer or any other person has the right  
31 to increase or add to the recreational facilities at any time

1 after the establishment of the cooperative whose unit owners  
2 have use rights therein, without the consent of the unit  
3 owners or associations being required, there shall appear a  
4 statement in conspicuous type in substantially the following  
5 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT  
6 CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately  
7 following this statement, the location in the disclosure  
8 materials where such reserved rights are described shall be  
9 stated.

10 (10) A statement of whether the developer's plan  
11 includes a program of leasing units rather than selling them,  
12 or leasing units and selling them subject to such leases. If  
13 so, there shall be a description of the plan, including the  
14 number and identification of the units and the provisions and  
15 term of the proposed leases, and a statement in boldfaced type  
16 that: **THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

17 (11) The arrangements for management of the  
18 association and maintenance and operation of the cooperative  
19 property and of other property that will serve the unit owners  
20 of the cooperative property, and a description of the  
21 management contract and all other contracts for these purposes  
22 having a term in excess of 1 year, including the following:

- 23 (a) The names of contracting parties.  
24 (b) The term of the contract.  
25 (c) The nature of the services included.  
26 (d) The compensation, stated on a monthly and annual  
27 basis, and provisions for increases in the compensation.  
28 (e) A reference to the volumes and pages of the  
29 cooperative documents and of the exhibits containing copies of  
30 such contracts.  
31

1 Copies of all described contracts shall be attached as  
2 exhibits. If there is a contract for the management of the  
3 cooperative property, then a statement in conspicuous type in  
4 substantially the following form shall appear, identifying the  
5 proposed or existing contract manager: THERE IS (IS TO BE) A  
6 CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH  
7 (NAME OF THE CONTRACT MANAGER). Immediately following this  
8 statement, the location in the disclosure materials of the  
9 contract for management of the cooperative property shall be  
10 stated.

11 (12) If the developer or any other person or persons  
12 other than the unit owners has the right to retain control of  
13 the board of administration of the association for a period of  
14 time which can exceed 1 year after the closing of the sale of  
15 a majority of the units in that cooperative to persons other  
16 than successors or alternate developers, then a statement in  
17 conspicuous type in substantially the following form shall be  
18 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
19 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE  
20 UNITS HAVE BEEN SOLD. Immediately following this statement,  
21 the location in the disclosure materials where this right to  
22 control is described in detail shall be stated.

23 (13) If there are any restrictions upon the sale,  
24 transfer, conveyance, or leasing of a unit, then a statement  
25 in conspicuous type in substantially the following form shall  
26 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS  
27 RESTRICTED OR CONTROLLED. Immediately following this  
28 statement, the location in the disclosure materials where the  
29 restriction, limitation, or control on the sale, lease, or  
30 transfer of units is described in detail shall be stated.

31

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

3           (a) A statement in conspicuous type in substantially  
4 the following form shall be included: THIS IS A PHASE  
5 COOPERATIVE. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS  
6 COOPERATIVE. Immediately following this statement, the  
7 location in the disclosure materials where the phasing is  
8 described shall be stated.

9           (b) A summary of the provisions of the declaration  
10 providing for the phasing.

11           (c) A statement as to whether or not residential  
12 buildings and units which are added to the cooperative may be  
13 substantially different from the residential buildings and  
14 units originally in the cooperative, and, if the added  
15 residential buildings and units may be substantially  
16 different, there shall be a general description of the extent  
17 to which such added residential buildings and units may  
18 differ, and a statement in conspicuous type in substantially  
19 the following form shall be included: BUILDINGS AND UNITS  
20 WHICH ARE ADDED TO THE COOPERATIVE MAY BE SUBSTANTIALLY  
21 DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE  
22 COOPERATIVE. Immediately following this statement, the  
23 location in the disclosure materials where the extent to which  
24 added residential buildings and units may substantially differ  
25 is described shall be stated.

26           (d) A statement of the maximum number of buildings  
27 containing units, the maximum and minimum number of units in  
28 each building, the maximum number of units, and the minimum  
29 and maximum square footage of the units that may be contained  
30 within each parcel of land which may be added to the  
31 cooperative.

1           (15) If the cooperative is created by conversion of  
2 existing improvements, the following information shall be  
3 stated:

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

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

7           (16) A summary of the restrictions, if any, to be  
8 imposed on units concerning the use of any of the cooperative  
9 property, including statements as to whether there are  
10 restrictions upon children and pets, and reference to the  
11 volumes and pages of the cooperative documents where such  
12 restrictions are found, or if such restrictions are contained  
13 elsewhere, then a copy of the documents containing the  
14 restrictions shall be attached as an exhibit.

15           (17) If there is any land that is offered by the  
16 developer for use by the unit owners and that is neither owned  
17 by them nor leased to them, the association, or any entity  
18 controlled by unit owners and other persons having the use  
19 rights to such land, a statement shall be made as to how such  
20 land will serve the cooperative. If any part of such land will  
21 serve the cooperative, the statement shall describe the land  
22 and the nature and term of service, and the cooperative  
23 documents or other instrument creating such servitude shall be  
24 included as an exhibit.

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

29           (19) An explanation of the manner in which the  
30 apportionment of common expenses and ownership of the common  
31 areas have been determined.

1           (20) An estimated operating budget for the cooperative  
2 and the association, and a schedule of the unit owner's  
3 expenses shall be attached as an exhibit and shall contain the  
4 following information:

5           (a) The estimated monthly and annual expenses of the  
6 cooperative and the association that are collected from unit  
7 owners by assessments.

8           (b) The estimated monthly and annual expenses of each  
9 unit owner for a unit, other than assessments payable to the  
10 association, payable by the unit owner to persons or entities  
11 other than the association, and the total estimated monthly  
12 and annual expense. There may be excluded from this estimate  
13 expenses that are personal to unit owners, which are not  
14 uniformly incurred by all unit owners, or which are not  
15 provided for or contemplated by the cooperative documents,  
16 including, but not limited to, the costs of private telephone;  
17 maintenance of the interior of cooperative units, which is not  
18 the obligation of the association; maid or janitorial services  
19 privately contracted for by the unit owners; utility bills  
20 billed directly to each unit owner for utility services to his  
21 or her unit; insurance premiums other than those incurred for  
22 policies obtained by the cooperative; and similar personal  
23 expenses of the unit owner. A unit owner's estimated payments  
24 for assessments shall also be stated in the estimated amounts  
25 for the times when they will be due.

26           (c) The estimated items of expenses of the cooperative  
27 and the association, except as excluded under paragraph (b),  
28 including, but not limited to, the following items, which  
29 shall be stated either as an association expense collectible  
30 by assessments or as unit owners' expenses payable to persons  
31 other than the association:

- 1           1. Expenses for the association and cooperative:  
2           a. Administration of the association.  
3           b. Management fees.  
4           c. Maintenance.  
5           d. Rent for recreational and other commonly used  
6 areas.  
7           e. Taxes upon association property.  
8           f. Taxes upon leased areas.  
9           g. Insurance.  
10          h. Security provisions.  
11          i. Other expenses.  
12          j. Operating capital.  
13          k. Reserves.  
14          l. Fee payable to the division.  
15          2. Expenses for a unit owner:  
16          a. Rent for the unit, if subject to a lease.  
17          b. Rent payable by the unit owner directly to the  
18 lessor or agent under any recreational lease or lease for the  
19 use of commonly used areas, which use and payment are a  
20 mandatory condition of ownership and are not included in the  
21 common expense or assessments for common maintenance paid by  
22 the unit owners to the association.  
23           (d) The estimated amounts shall be stated for a period  
24 of at least 12 months and may distinguish between the period  
25 prior to the time unit owners other than the developer elect a  
26 majority of the board of administration and the period after  
27 that date.  
28           (21) A schedule of estimated closing expenses to be  
29 paid by a buyer or lessee of a unit and a statement of whether  
30 title opinion or title insurance policy is available to the  
31 buyer and, if so, at whose expense.

1           (22) The identity of the developer and the chief  
2 operating officer or principal directing the creation and sale  
3 of the cooperative and a statement of its and his or her  
4 experience in this field.

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

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

9           (b) The articles of incorporation creating the  
10 association.

11           (c) The bylaws of the association.

12           (d) The ground lease or other underlying lease of the  
13 cooperative.

14           (e) The management agreement and all maintenance and  
15 other contracts for management of the association and  
16 operation of the cooperative and facilities used by the unit  
17 owners having a service term in excess of 1 year.

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

20           (g) A copy of the floor plan of the unit and the plot  
21 plan showing the location of the residential buildings and the  
22 recreation and other common areas.

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

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

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

29           (k) A declaration of servitude of properties serving  
30 the cooperative but not owned by unit owners or leased to them  
31 or the association.

1           (1) The statement of condition of the existing  
2 building or buildings, if the offering is of units in an  
3 operation being converted to cooperative ownership.

4           (m) The statement of inspection for termite damage and  
5 treatment of the existing improvements, if the cooperative is  
6 a conversion.

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

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

10          (p) A copy of the documents containing any  
11 restrictions on use of the property required by subsection  
12 (16).

13          (24) Any prospectus or offering circular complying  
14 with the provisions of former ss. 711.69 and 711.802 may  
15 continue to be used without amendment, or may be amended to  
16 comply with the provisions of this chapter.

17          (25) A brief narrative description of the location and  
18 effect of all existing and intended easements located or to be  
19 located on the cooperative property other than those in the  
20 declaration.

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

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

30          Section 49. Section 719.508, Florida Statutes, is  
31 amended to read:



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

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

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

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

15           a. If your rental agreement began or was extended or  
16 renewed after May 1, 1980, and your rental agreement,  
17 including extensions and renewals, has an unexpired term of  
18 180 days or less, you may cancel your rental agreement upon 30  
19 days' written notice and move. Also, upon 30 days' written  
20 notice, you may cancel any extension of the rental agreement.

21           b. If your rental agreement was not begun or was not  
22 extended or renewed after May 1, 1980, you may not cancel the  
23 rental agreement without the consent of the developer. If your  
24 rental agreement, including extensions and renewals, has an  
25 unexpired term of 180 days or less, you may, however, upon 30  
26 days' written notice cancel any extension of the rental  
27 agreement.

28           5. All notices must be given in writing and sent by  
29 mail, return receipt requested, or delivered in person to the  
30 developer at this address: (name and address of developer) .  
31

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

3           a. You have the right to purchase your apartment and  
4 will have 45 days to decide whether to purchase. If you do not  
5 buy the unit at that price and the unit is later offered at a  
6 lower price, you will have the opportunity to buy the unit at  
7 the lower price. However, in all events your right to purchase  
8 the unit ends when the rental agreement or any extension of  
9 the rental agreement ends or when you waive this right in  
10 writing.

11           b. Within 90 days you will be provided purchase  
12 information relating to your apartment, including the price of  
13 your unit and the condition of the building. If you do not  
14 receive this information within 90 days, your rental agreement  
15 and any extension will be extended 1 day for each day over 90  
16 days until you are given the purchase information. If you do  
17 not want this rental agreement extension, you must notify the  
18 developer in writing.

19           7. If you have any questions regarding this conversion  
20 or the Cooperative Act, you may contact the developer or the  
21 state agency which regulates cooperatives: The Division of  
22 Florida Land Sales, Condominiums, Homeowners' Associations,  
23 and Mobile Homes,       (Tallahassee address and telephone number  
24 of division) .

25           Section 51. Subsections (2), (4), (7), (8), (9), and  
26 (10) of section 720.301, Florida Statutes, are amended, and  
27 subsection (14) is added to that section, to read:

28           720.301 Definitions.--As used in this chapter, the  
29 term:

30           (2) "Common area" means all real property within a  
31 community which is owned or leased by an association ~~or~~

1 ~~dedicated for use or maintenance by the association~~ or its  
2 members, including, regardless of whether title has been  
3 conveyed to the association:

4 (a) Real property the use of which is dedicated to the  
5 association or its members by a recorded plat; or

6 (b) Real property committed by a declaration of  
7 covenants to be leased or conveyed to the association.

8 (4) "Declaration of covenants," or "declaration,"  
9 means a recorded written instrument in the nature of covenants  
10 running with the land, according to the recorded plat, which  
11 subjects the land comprising the community to the jurisdiction  
12 and control of an association or associations in which the  
13 owners of the parcels, ~~or their association representatives,~~  
14 must be members. Upon the execution of the sale of the first  
15 lot, a declaration may not be amended without the vote of  
16 approval of two-thirds majority of the owners of residential  
17 parcels that have been purchased, with a tie vote resulting in  
18 a negative vote. Exceptions shall be amendments identifying  
19 additional phases of the community as they are constructed.  
20 These amendments may not contain any other changes to the  
21 existing declaration.

22 (7) "Division" means the Division of Florida Land  
23 Sales, Condominiums, Homeowners' Associations, and Mobile  
24 Homes in the Department of Business and Professional  
25 Regulation.

26 (8) "Governing documents" means:

27 (a) Each set of ~~The~~ recorded declaration of covenants  
28 for a community, and all duly adopted and recorded amendments,  
29 supplements, and recorded exhibits thereto; and  
30  
31

1           (b) The articles of incorporation and bylaws of the  
2 homeowners' association, and any duly adopted amendments  
3 thereto.

4           When different sets of covenants exist for each  
5 recorded plat, those covenants shall only apply to the plat  
6 for which they are recorded and specified. The different sets  
7 of covenants may not be commingled.

8           (9) "Homeowners' association" or "association" means a  
9 Florida corporation, as authorized by chapter 720 or an  
10 authorized not-for-profit corporation pursuant to chapter 617,  
11 responsible for the administration ~~operation~~ of a community or  
12 a mobile home subdivision in compliance with applicable  
13 federal, state, and local laws and the governing documents of  
14 the association. In addition, a homeowners' association means  
15 a Florida corporation in which the voting membership is made  
16 up of parcel owners ~~or their agents, or a combination thereof,~~  
17 and in which membership is a mandatory condition of parcel  
18 ownership, and which is authorized to impose assessments that,  
19 if unpaid, may become a lien on the parcel. Any homeowners'  
20 association or other named association that administers a  
21 residential community where membership is mandatory shall be  
22 required to comply with this chapter, except if exempted. The  
23 term "homeowners' association" does not include a community  
24 development district or other similar special taxing district  
25 created pursuant to statute.

26           (10) "Member" means a member of an association, and  
27 may include, but is not limited to, a parcel owner ~~or an~~  
28 ~~association representing parcel owners~~ or a combination  
29 thereof, and includes any person or entity obligated by the  
30 governing documents to pay an assessment or amenity fee.

31

1           (14) "Homeowners' Association Advisory Council" means  
2 a group of persons appointed to recommend changes in laws that  
3 affect the administration of mandatory homeowners'  
4 associations.

5           Section 52. Subsections (1) and (2) of section  
6 720.302, Florida Statutes, are amended to read:

7           720.302 Purposes, scope, and application.--

8           (1) The purposes of this chapter are to give statutory  
9 recognition to corporations not for profit that administer or  
10 operate residential communities in this state, to provide  
11 regulations ~~procedures~~ for operating homeowners' associations,  
12 and to protect the rights of association members without  
13 unduly impairing the ability of such associations to perform  
14 their functions as authorized by federal, state, and local  
15 laws and the governing documents of the association.

16           (2) Having provided certain powers and authority to  
17 homeowners' associations and deed restrictions created by  
18 developers of mandated properties in residential communities,  
19 the Legislature recognizes that it is necessary to provide  
20 regulatory oversight to ensure compliance with federal, state,  
21 and local laws. It is the intent of the Legislature to protect  
22 the rights of parcel owners by ensuring that the powers and  
23 authority granted to homeowners' associations and deed  
24 restrictions created by developers of mandated properties in  
25 residential communities conform to a system of checks and  
26 balances to prevent abuses of governmental authority. The  
27 Department of Business and Professional Regulation shall  
28 create a Division of Mandated Properties. No later than July  
29 1, 2008, the division shall establish a process for collecting  
30 an annual fee which shall not exceed \$4 for each association  
31 member in communities administered by the association during

1 each of the following 2 years and, thereafter, shall not  
2 exceed the Cost of Living Index. Funds collected shall be  
3 deposited in the Division of Florida Land Sales, Condominiums,  
4 Homeowners' Associations, and Mobile Homes Trust Fund Trust  
5 Fund. Funds shall be utilized by the division for, but not  
6 limited to, the review and approval of deed restrictions  
7 before releasing for recording at the county level by the  
8 developer or owner of the initial lots to be developed;  
9 education; enforcement; investigation; and prosecution of  
10 policies and procedures related to mandated properties. Upon  
11 transition of authorities, duties, responsibilities, and  
12 rights from the developer to the parcel owners, all  
13 amendments, alterations, or modifications to the governing  
14 documents must be approved by at least two-thirds of the  
15 parcel owners or homeowners' association members. The  
16 governing documents may not contain provisions that reduce  
17 this percentage of majority approval for changes to the  
18 governing documents. The ombudsman may not engage the services  
19 of industry partisans with a vested interest in the  
20 administration of deed-restricted communities or in the  
21 mandatory homeowners' association to implement its powers, who  
22 have practiced in this field within the last 3 years.  
23 ~~Furthermore not in the best interest of homeowners'~~  
24 ~~associations or the individual association members thereof to~~  
25 ~~create or impose a bureau or other agency of state government~~  
26 ~~to regulate the affairs of homeowners' associations. However,~~  
27 in accordance with s. 720.311, the Legislature finds that  
28 homeowners' associations and their individual members will  
29 benefit from an expedited alternative process for resolution  
30 of election and recall disputes and presuit mediation of other  
31 disputes involving covenant enforcement, disputes relating to

1 the transition of control of the association from the  
2 developer or owner to members of the association, and  
3 authorizes the department to hear, administer, and determine  
4 these disputes as more fully set forth in this chapter.  
5 Further, the Legislature recognizes that certain contract  
6 rights have been created for the benefit of homeowners'  
7 associations and members thereof before the effective date of  
8 this act and that ss. 720.301-720.407 are not intended to  
9 impair such contract rights, as long as they are accepted by a  
10 two-thirds majority of the homeowners' association members,  
11 including, but not limited to, the rights of the developer to  
12 complete the community as initially contemplated.

13 Section 53. Section 720.303, Florida Statutes, is  
14 amended to read:

15 720.303 Association powers and duties; meetings of  
16 board; official records; budgets; financial reporting;  
17 association funds; recalls.--

18 (1) POWERS AND DUTIES.--

19 (a) An association which operates a community as  
20 defined in s. 720.301, must be incorporated in this state,  
21 ~~operated by an association that is a Florida corporation.~~  
22 ~~After October 1, 1995, the association must be incorporated~~  
23 and the initial governing documents must be recorded in the  
24 official records of the county in which the community is  
25 located. ~~An association may operate more than one community.~~

26 (b) The officers and directors of an association have  
27 a fiduciary relationship of ~~to the members who are served by~~  
28 the association.

29 (c) The powers and duties of an association include  
30 those set forth in this chapter and, ~~except as expressly~~  
31 ~~limited or restricted in this chapter,~~ those specifically set

1 forth in the governing documents. The officers and directors  
2 of the association may not take any action that is  
3 inconsistent with the declaration of covenants.

4 (d) After control of the association is obtained by  
5 members from ~~other than~~ the developer, the association may  
6 institute, maintain, or settle on, ~~or~~ appeal actions ~~or~~  
7 ~~hearings~~ in its name on behalf of the ~~all~~ members concerning  
8 matters of common interest to the members, ~~including, but not~~  
9 ~~limited to, the common areas; roof or structural components of~~  
10 ~~a building, or other improvements for which the association is~~  
11 ~~responsible; mechanical, electrical, or plumbing elements~~  
12 ~~servicing an improvement or building for which the association~~  
13 ~~is responsible; representations of the developer pertaining to~~  
14 ~~any existing or proposed commonly used facility; and~~  
15 ~~protesting ad valorem taxes on commonly used facilities. The~~  
16 ~~association may defend actions in eminent domain or bring~~  
17 ~~inverse condemnation actions.~~ Before commencing any legal  
18 action ~~litigation~~ against any party in the name of the  
19 association involving amounts in controversy in excess of  
20 ~~\$50,000~~\$100,000, the association must obtain the affirmative  
21 approval of a majority of the members of the association  
22 ~~voting interests~~ at a meeting of the association membership at  
23 which a quorum is present ~~has been attained~~.

24 (e) The association may enter into contracts for the  
25 benefit of the members of the association, including, but not  
26 limited to, contracts for maintaining, repairing, or improving  
27 the common areas of the association. This subsection does not  
28 ~~limit any statutory or common law right of any individual~~  
29 ~~member or class of members to bring any action without~~  
30 ~~participation by the association.~~

1           (f) A member does not have the authority to act for  
2 the association by virtue of being a member of the  
3 association. ~~An association may have more than one class of~~  
4 ~~members and may issue membership certificates.~~

5           (g) In any civil or criminal action between a member  
6 and the association, it shall not be a defense by the  
7 association that the association's actions, although  
8 incompatible with the declaration of covenants, have been  
9 uniformly applied.

10           (h) An association may not restrict a member's freedom  
11 of association and may not limit the number of guests a member  
12 may have within a 24-hour period.

13           (i) An association of 15 or fewer parcels ~~parcel~~  
14 ~~owners~~ may enforce only ~~the requirements of~~ those deed  
15 restrictions established prior to the purchase of each parcel  
16 upon an affected parcel owner or owners.

17           (j) The officers and directors of an association may  
18 be personally liable for damages to a member if the actions of  
19 the officers and directors demonstrate a pattern of behavior  
20 intended to harass a member of the association.

21           (k) Any action of the association by and through the  
22 officers and directors that limits the legal use of any  
23 portion of a member's property that is incompatible with the  
24 declaration of covenants shall entitle the member to  
25 compensation for the fair market value of that portion of the  
26 member's property, the use of which is being restricted.

27           (l) In any association with more than 50 but fewer  
28 than 75 parcels, for purposes of establishing setback limits,  
29 any parcel of 1 acre or less shall be deemed to have one front  
30 for purposes of determining the required front setback, if  
31 any. Only those setbacks specifically set forth in the

1 declaration of covenants may be enforced by the association.  
2 Where the covenants are silent, the applicable county or  
3 municipal setbacks shall apply.

4 (2) BOARD MEETINGS.--

5 (a) A meeting of the board of directors of an  
6 association occurs whenever a quorum of the board gathers to  
7 conduct association business. All meetings of the board must  
8 be open to all members except for meetings between the board  
9 and its attorney with respect to proposed or pending  
10 litigation where the contents of the discussion would  
11 otherwise be governed by the attorney-client privilege.

12 (b) Members have the right to attend all meetings of  
13 the board and to speak on any matter placed on the agenda ~~by~~  
14 ~~petition of the voting interests~~ for at least 3 minutes. The  
15 association may adopt written reasonable rules expanding the  
16 right of members to speak and governing the frequency,  
17 duration, and other manner of member statements, which rules  
18 must be consistent with this paragraph ~~and may include a~~  
19 ~~sign up sheet for members wishing to speak~~. Notwithstanding  
20 any other law, the requirement that board meetings and  
21 committee meetings be open to the members is inapplicable to  
22 meetings between the board or a committee and the  
23 association's attorney, with respect to meetings of the board  
24 held for the purpose of discussing personnel matters.

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

28 1. Notices of all board meetings and the agendas must  
29 be posted in a conspicuous place in the community at least 48  
30 hours in advance of a meeting, except in an emergency. In the  
31 alternative, if notice is not posted in a conspicuous place in

1 | the community, notice of each board meeting and agenda must be  
2 | mailed or delivered to each member at least 7 days before the  
3 | meeting, except in an emergency. Notwithstanding this general  
4 | notice requirement, for communities with more than 100  
5 | members, the bylaws may provide for a reasonable alternative  
6 | to posting or mailing of notice for each board meeting,  
7 | including publication of notice, provision of a schedule of  
8 | board meetings, or the conspicuous posting and repeated  
9 | broadcasting of the notice on a closed-circuit cable  
10 | television system serving the homeowners' association.  
11 | However, if broadcast notice is used in lieu of a notice  
12 | posted physically in the community, the notice must be  
13 | broadcast at least four times every broadcast hour of each day  
14 | that a posted notice is otherwise required. When broadcast  
15 | notice is provided, the notice and agenda must be broadcast in  
16 | a manner and for a sufficient continuous length of time so as  
17 | to allow an average reader to observe the notice and read and  
18 | comprehend the entire content of the notice and the agenda.  
19 | The bylaws or amended bylaws may provide for giving notice by  
20 | electronic transmission in a manner authorized by law for  
21 | meetings of the board of directors, committee meetings  
22 | requiring notice under this section, and annual and special  
23 | meetings of the members; however, a member must consent in  
24 | writing to receiving notice by electronic transmission.

25 |         2. An assessment may not be levied at a board meeting  
26 | unless the notice of the meeting includes a statement that  
27 | assessments will be considered and the nature of the  
28 | assessments. Written notice of any meeting at which special  
29 | assessments will be considered or at which amendments to rules  
30 | regarding parcel use will be considered must be mailed,  
31 | delivered, or electronically transmitted to the members and

1 parcel owners and posted conspicuously on the property or  
2 broadcast on closed-circuit cable television not less than 14  
3 days before the meeting.

4 3. Directors may not vote by proxy or by secret ballot  
5 at board meetings, ~~except that secret ballots may be used in~~  
6 ~~the election of officers~~. This subsection also applies to the  
7 meetings of any committee or other similar body, when a final  
8 decision will be made regarding the expenditure of association  
9 funds, and to any body vested with the power to approve or  
10 disapprove architectural decisions with respect to a specific  
11 parcel of residential property owned by a member of the  
12 community.

13 (d) If 10 ~~20~~ percent of the total voting interests  
14 petition the board to address an item of business, the board  
15 shall at its next regular board meeting or at a special  
16 meeting of the board, but not later than 60 days after the  
17 receipt of the petition, take the petitioned item up on an  
18 agenda. The board shall give all members notice of the meeting  
19 at which the petitioned item shall be addressed in accordance  
20 with the 14-day notice requirement pursuant to subparagraph  
21 (c)2. Each member shall have the right to speak for at least 3  
22 minutes on each matter placed on the agenda by petition. The  
23 board shall address all items on the agenda, provided that the  
24 ~~member signs the sign up sheet, if one is provided, or submits~~  
25 ~~a written request to speak prior to the meeting. Other than~~  
26 ~~addressing the petitioned item at the meeting, the board is~~  
27 ~~not obligated to take any other action requested by the~~  
28 ~~petition.~~

29 (e) Detailed agendas for board meetings with specific  
30 items that will be addressed shall be published and made  
31

1 available to all members no less than 7 days prior to the date  
2 of the board meeting.

3 (3) MINUTES.--Minutes of all meetings of the members  
4 of an association and of the board of directors of an  
5 association must be maintained in written form or in another  
6 form that can be converted into written form within a  
7 reasonable time. A vote or abstention from voting on each  
8 matter voted upon by ~~for~~ each director present at a board  
9 meeting shall ~~must~~ be recorded in the minutes.

10 (4) OFFICIAL RECORDS.--The association shall maintain  
11 each of the following items, ~~when applicable~~, which constitute  
12 the official records of the association:

13 (a) Copies of any plans, specifications, permits, and  
14 warranties related to improvements constructed on the common  
15 areas or other property as platted and recorded that the  
16 association is obligated to maintain, repair, or replace. If  
17 such documents do not exist, the association shall obtain the  
18 documents or forfeit the right to assess any fees to maintain  
19 the common areas of property.

20 (b) A copy of the bylaws of the association and of  
21 each amendment to the bylaws.

22 (c) A copy of the articles of incorporation of the  
23 association and of each amendment thereto.

24 (d) A copy of each set of ~~the~~ declaration of covenants  
25 and a copy of each amendment thereto.

26 (e) A copy of the current rules of the homeowners'  
27 association.

28 (f) The minutes of all meetings of the board of  
29 directors and of the members, which minutes must be retained  
30 for at least 7 years.

31

1 (g) A current roster of all members and their mailing  
2 addresses and parcel identifications. The association shall  
3 also maintain the electronic mailing addresses and the numbers  
4 designated by members for receiving notice sent by electronic  
5 transmission of those members consenting to receive notice by  
6 electronic transmission. The electronic mailing addresses and  
7 numbers provided by unit owners to receive notice by  
8 electronic transmission shall be removed from association  
9 records when consent to receive notice by electronic  
10 transmission is revoked. However, the association is not  
11 liable for an erroneous disclosure of the electronic mail  
12 address or the number for receiving electronic transmission of  
13 notices.

14 (h) All of the association's insurance policies or a  
15 copy thereof, which policies must be retained for at least 7  
16 years.

17 (i) A current copy of all contracts to which the  
18 association is a party, including, without limitation, any  
19 management agreement, lease, or other contract under which the  
20 association has any obligation or responsibility. A contract  
21 or written agreement may not be allowed to maintain property  
22 that is not owned by and deeded to the association. Bids  
23 received by the association for work to be performed must also  
24 be considered official records and must be kept for a period  
25 of 1 year.

26 (j) The financial and accounting records of the  
27 association, kept according to good accounting practices. All  
28 financial and accounting records shall ~~must~~ be maintained for  
29 a period of at least 7 years. The financial and accounting  
30 records must include:  
31

1           1. Accurate, itemized, and detailed records of all  
2 receipts and expenditures.

3           2. A current account and a periodic statement of the  
4 account for each member, designating the name and current  
5 address of each member who is obligated to pay assessments,  
6 the due date and amount of each assessment or other charge  
7 against the member, the date and amount of each payment on the  
8 account, and the balance due.

9           3. All tax returns, financial statements, and  
10 financial reports of the association.

11           4. Any other records that identify, measure, record,  
12 or communicate financial information.

13           (k) A copy of the disclosure summary described in s.  
14 720.401(1).

15           (l) All other written records of the association not  
16 specifically included in the foregoing which are related to  
17 the operation of the association.

18           (m) All interpretations of any governing documents, as  
19 provided by any legal source or attorney as long as they are  
20 not part of a pending lawsuit.

21           (n) All architectural requests and approvals or  
22 denials, which shall be maintained as long as the association  
23 exists or is active.

24           (5) INSPECTION AND COPYING OF RECORDS.--The official  
25 records shall be maintained within the county in which the  
26 governing documents are recorded ~~state~~ and must be open to  
27 inspection and available for photocopying by machine, video,  
28 digital cameras, or any other methods available to members or  
29 their authorized agents at reasonable times and places within  
30 10 business days after receipt of a written request for  
31 access. This subsection may be complied with by having a copy

1 of the official records available for inspection or copying in  
2 the community. If the association has a photocopy machine  
3 available where the records are maintained, it must provide  
4 parcel owners with copies on request during the inspection ~~if~~  
5 ~~the entire request is limited to no more than 25 pages.~~

6 (a) The failure of an association to provide access to  
7 the records within 10 business days after receipt of a written  
8 request creates a rebuttable presumption that the association  
9 willfully failed to comply with this subsection.

10 (b) A member who is denied access to official records  
11 is entitled to the actual damages or minimum damages for the  
12 association's willful failure to comply with this subsection.  
13 The minimum damages are to be ~~\$100~~\$50 per calendar day up to  
14 10 days, the calculation to begin on the 11th business day  
15 after receipt of the written request.

16 (c) The association may adopt reasonable written rules  
17 governing the ~~frequency,~~ time, location, notice, records to be  
18 inspected, ~~and manner of inspections,~~ but may not impose a  
19 requirement that a parcel owner demonstrate any proper purpose  
20 for the inspection, state any reason for the inspection, or  
21 limit a parcel owner's right to inspect records to less than  
22 one 8-hour business day per month. The association may only  
23 impose fees to cover the actual costs of providing copies of  
24 the official records, ~~including, without limitation, the costs~~  
25 ~~of copying.~~ The association may charge up to 5 ~~50~~ cents per  
26 page for copies made on the association's photocopier. If the  
27 association does not have a photocopy machine available where  
28 the records are kept, or if the records requested to be copied  
29 exceed 25 pages in length, the association may have copies  
30 made by an outside vendor and may charge the actual cost of  
31 copying only. The association may impose a one-time fee not to

1 exceed 1 cent per page and limited to a total of \$5 if the  
2 parcel owner provides the necessary equipment and materials  
3 for copying and the labor to make the requested copies. The  
4 association shall maintain an adequate number of copies of the  
5 recorded governing documents, to ensure their availability to  
6 members and prospective members. Notwithstanding the  
7 provisions of this paragraph, the following records shall not  
8 be accessible to members or parcel owners:

9         1. Any record protected by the lawyer-client privilege  
10 as described in s. 90.502 and any record protected by the  
11 work-product privilege, including, but not limited to, any  
12 record prepared by an association attorney or prepared at the  
13 attorney's express direction which reflects a mental  
14 impression, conclusion, litigation strategy, or legal theory  
15 of the attorney or the association and was prepared  
16 exclusively for civil or criminal litigation or for  
17 adversarial administrative proceedings or which was prepared  
18 in anticipation of imminent civil or criminal litigation or  
19 imminent adversarial administrative proceedings until the  
20 conclusion of the litigation or adversarial administrative  
21 proceedings.

22         2. Information obtained by an association in  
23 connection with the approval of the lease, sale, or other  
24 transfer of a parcel.

25         3. Disciplinary, health, insurance, and personnel  
26 records of the association's employees.

27         4. Medical records of parcel owners or community  
28 residents.

29         (6) BUDGETS.--

30         (a) The association shall prepare an annual budget  
31 that sets out the annual operating expenses. The budget must

1 reflect the estimated revenues and expenses for that year and  
2 the estimated surplus or deficit as of the end of the current  
3 year. The budget must set out separately all fees or charges  
4 paid for by the association for recreational amenities,  
5 whether owned by the association, the developer, or another  
6 person. The association shall provide each member with a copy  
7 of the annual budget or a written notice that a copy of the  
8 budget is available upon request at no charge to the member.  
9 The copy must be provided to the member within the time limits  
10 set forth in subsection (5).

11 (b) In addition to annual operating expenses, the  
12 budget may include reserve accounts for capital expenditures  
13 and deferred maintenance for which the association is  
14 responsible to the extent that the governing documents do not  
15 limit increases in assessments, including reserves. If the  
16 budget of the association includes reserve accounts, such  
17 reserves shall be determined, maintained, and waived in the  
18 manner provided in this subsection. Once an association  
19 provides for reserve accounts in the budget, the association  
20 shall thereafter determine, maintain, and waive reserves in  
21 compliance with the provisions of this subsection.

22 (c) If the budget of the association does not provide  
23 for reserve accounts governed by this subsection and the  
24 association is responsible for the repair and maintenance of  
25 capital improvements that may result in a special assessment  
26 if reserves are not provided, each financial report for the  
27 preceding fiscal year required by subsection (7) shall contain  
28 the following statement in conspicuous type: THE BUDGET OF THE  
29 ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL  
30 EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN  
31 SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE

1 ACCOUNTS PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),  
2 FLORIDA STATUTES, UPON THE APPROVAL OF NOT LESS THAN A  
3 MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION.

4 (d) An association shall be deemed to have provided  
5 for reserve accounts when reserve accounts have been initially  
6 established by the developer or when the membership of the  
7 association affirmatively elects to provide for reserves. If  
8 reserve accounts are not initially provided for by the  
9 developer, the membership of the association may elect to do  
10 so upon the affirmative approval of not less than a majority  
11 of the total voting interests of the association. Such  
12 approval may be attained by vote of the members at a duly  
13 called meeting of the membership or upon a written consent  
14 executed by not less than a majority of the total voting  
15 interests in the community. The approval action of the  
16 membership shall state that reserve accounts shall be provided  
17 for in the budget and designate the components for which the  
18 reserve accounts are to be established. Upon approval by the  
19 membership, the board of directors shall provide for the  
20 required reserve accounts for inclusion in the budget in the  
21 next fiscal year following the approval and in each year  
22 thereafter. Once established as provided in this subsection,  
23 the reserve accounts shall be funded or maintained or shall  
24 have their funding waived in the manner provided in paragraph  
25 (f).

26 (e) The amount to be reserved in any account  
27 established shall be computed by means of a formula that is  
28 based upon estimated remaining useful life and estimated  
29 replacement cost or deferred maintenance expense of each  
30 reserve item. The association may adjust replacement reserve  
31

1 assessments annually to take into account any changes in  
2 estimates of cost or useful life of a reserve item.

3 (f) Once a reserve account or reserve accounts are  
4 established, the membership of the association, upon a  
5 majority vote at a meeting at which a quorum is present, may  
6 provide for no reserves or less reserves than required by this  
7 section. If a meeting of the unit owners is called to  
8 determine whether to waive or reduce the funding of reserves  
9 and no such result is achieved or a quorum is not present, the  
10 reserves as included in the budget shall go into effect. After  
11 the turnover, the developer may vote its voting interest to  
12 waive or reduce the funding of reserves. Any vote taken  
13 pursuant to this subsection to waive or reduce reserves shall  
14 be applicable only to one budget year.

15 (g) Funding formulas for reserves authorized by this  
16 section shall be based on either a separate analysis of each  
17 of the required assets or a pooled analysis of two or more of  
18 the required assets.

19 1. If the association maintains separate reserve  
20 accounts for each of the required assets, the amount of the  
21 contribution to each reserve account shall be the sum of the  
22 following two calculations:

23 a. The total amount necessary, if any, to bring a  
24 negative component balance to zero.

25 b. The total estimated deferred maintenance expense or  
26 estimated replacement cost of the reserve component less the  
27 estimated balance of the reserve component as of the beginning  
28 of the period for which the budget will be in effect. The  
29 remainder, if greater than zero, shall be divided by the  
30 estimated remaining useful life of the component.

31

1 The formula may be adjusted each year for changes in estimates  
2 and deferred maintenance performed during the year and may  
3 include factors such as inflation and earnings on invested  
4 funds.

5 2. If the association maintains a pooled account of  
6 two or more of the required reserve assets, the amount of the  
7 contribution to the pooled reserve account as disclosed on the  
8 proposed budget shall not be less than that required to ensure  
9 that the balance at the beginning of the period for which the  
10 budget will go into effect plus the projected annual cash  
11 inflows over the remaining estimated useful life of all of the  
12 assets that make up the reserve pool are equal to or greater  
13 than the projected annual cash outflows over the remaining  
14 estimated useful lives of all of the assets that make up the  
15 reserve pool, based on the current reserve analysis. The  
16 projected annual cash inflows may include estimated earnings  
17 from investment of principal. The reserve funding formula  
18 shall not include any type of balloon payments.

19 (h) Reserve funds and any interest accruing thereon  
20 shall remain in the reserve account or accounts and shall be  
21 used only for authorized reserve expenditures unless their use  
22 for other purposes is approved in advance by a majority vote  
23 at a meeting at which a quorum is present. Prior to turnover  
24 of control of an association by a developer to parcel owners,  
25 the developer- controlled association shall not vote to use  
26 reserves for purposes other than those for which they were  
27 intended without the approval of a majority of all  
28 nondeveloper voting interests voting in person or by limited  
29 proxy at a duly called meeting of the association.

30 (7) FINANCIAL REPORTING.--Within 90 days after the end  
31 of the fiscal year, or annually on a date provided in the

1 bylaws, the association shall prepare and complete, or  
2 contract with a third party for the preparation and completion  
3 of, a financial report for the preceding fiscal year. Within  
4 21 days after the final financial report is completed by the  
5 association or received from the third party, but not later  
6 than 120 days after the end of the fiscal year or other date  
7 as provided in the bylaws, the association shall ~~prepare an~~  
8 ~~annual financial report within 60 days after the close of the~~  
9 ~~fiscal year. The association shall,~~ within the time limits set  
10 forth in subsection (5), provide each member with a copy of  
11 the annual financial report or a written notice that a copy of  
12 the financial report is available upon request at no charge to  
13 the member. Financial reports shall be prepared as follows:  
14       (a) An association that meets the criteria of this  
15 paragraph shall prepare or cause to be prepared a complete set  
16 of financial statements in accordance with generally accepted  
17 accounting principles as adopted by the Board of Accountancy.  
18 The financial statements shall be based upon the association's  
19 total annual revenues, as follows:  
20       1. An association with total annual revenues of  
21 \$100,000 or more, but less than \$200,000, shall prepare  
22 compiled financial statements.  
23       2. An association with total annual revenues of at  
24 least \$200,000, but less than \$400,000, shall prepare reviewed  
25 financial statements.  
26       3. An association with total annual revenues of  
27 \$400,000 or more shall prepare audited financial statements.  
28       (b)1. An association with total annual revenues of  
29 less than \$100,000 shall prepare a report of cash receipts and  
30 expenditures.  
31

1           2. An association in a community of fewer than 50  
2 parcels, regardless of the association's annual revenues, may  
3 prepare a report of cash receipts and expenditures in lieu of  
4 financial statements required by paragraph (a) unless the  
5 governing documents provide otherwise.

6           3. A report of cash receipts and disbursement must  
7 disclose the amount of receipts by accounts and receipt  
8 classifications and the amount of expenses by accounts and  
9 expense classifications, including, but not limited to, the  
10 following, as applicable: costs for security, professional,  
11 and management fees and expenses; taxes; costs for recreation  
12 facilities; expenses for refuse collection and utility  
13 services; expenses for lawn care; costs for building  
14 maintenance and repair; insurance costs; administration and  
15 salary expenses; and reserves if maintained by the  
16 association.

17           (c) If 20 percent of the parcel owners petition the  
18 board for a level of financial reporting higher than that  
19 required by this section, the association shall duly notice  
20 and hold a meeting of members within 30 days of receipt of the  
21 petition for the purpose of voting on raising the level of  
22 reporting for that fiscal year. Upon approval of a majority of  
23 the total voting interests of the parcel owners, the  
24 association shall prepare or cause to be prepared, shall amend  
25 the budget or adopt a special assessment to pay for the  
26 financial report regardless of any provision to the contrary  
27 in the governing documents, and shall provide within 90 days  
28 of the meeting or the end of the fiscal year, whichever occurs  
29 later:

30  
31

1           1. Compiled, reviewed, or audited financial  
2 statements, if the association is otherwise required to  
3 prepare a report of cash receipts and expenditures;  
4           2. Reviewed or audited financial statements, if the  
5 association is otherwise required to prepare compiled  
6 financial statements; or  
7           3. Audited financial statements if the association is  
8 otherwise required to prepare reviewed financial statements.  
9           (d) If approved by a majority of the voting interests  
10 present at a properly called meeting of the association, an  
11 association may prepare or cause to be prepared:  
12           1. A report of cash receipts and expenditures in lieu  
13 of a compiled, reviewed, or audited financial statement;  
14           2. A report of cash receipts and expenditures or a  
15 compiled financial statement in lieu of a reviewed or audited  
16 financial statement; or  
17           3. A report of cash receipts and expenditures, a  
18 compiled financial statement, or a reviewed financial  
19 statement in lieu of an audited financial statement.  
20           (8) ASSOCIATION FUNDS; COMMINGLING.--  
21           (a) All association funds held by a developer shall be  
22 maintained separately in the association's name. Reserve and  
23 operating funds of the association shall not be commingled  
24 prior to turnover except the association may jointly invest  
25 reserve funds; however, such jointly invested funds must be  
26 accounted for separately.  
27           (b) No developer in control of a homeowners'  
28 association shall commingle any association funds with his or  
29 her funds or with the funds of any other homeowners'  
30 association, ~~or~~ community association, or corporation for  
31 profit created by the developer.

1 (c) Association funds may not be used by a developer  
2 to defend a civil or criminal action, administrative  
3 proceeding, or arbitration proceeding that has been filed  
4 against the developer or directors appointed to the  
5 association board by the developer, even when the subject of  
6 the action or proceeding concerns the operation of the  
7 developer-controlled association.

8 (9) APPLICABILITY.--Sections 617.1601-617.1604 do not  
9 apply to a homeowners' association in which the members have  
10 the inspection and copying rights set forth in this section.

11 (10) RECALL OF DIRECTORS.--

12 (a)1. Regardless of any provision to the contrary  
13 contained in the governing documents, subject to the  
14 provisions of s. 720.307 regarding transition of association  
15 control, any member of the board of directors shall ~~may~~ be  
16 recalled and removed from office with or without cause by a  
17 majority of the total voting interests who must be the  
18 registered and recorded owners.

19 2. When the governing documents, including the  
20 declaration, articles of incorporation, or bylaws, provide  
21 that only a specific class of members is entitled to elect a  
22 board director or directors, only that class of members may  
23 vote to recall those board directors so elected.

24 (b)1. Board directors may be recalled by an agreement  
25 in writing or by written ballot without a membership meeting.  
26 The agreement in writing or the written ballots, or a copy  
27 thereof, shall be served on the association by certified mail  
28 or by personal service in the manner authorized by chapter 48  
29 and the Florida Rules of Civil Procedure.

30 2. The board shall duly notice and hold a meeting of  
31 the board within 5 full business days after receipt of the

1 | agreement in writing or written ballots. At the meeting, the  
2 | board shall either certify the written ballots or written  
3 | agreement to recall a director or directors of the board, in  
4 | which case such director or directors shall be recalled  
5 | effective immediately and shall turn over to the board within  
6 | 5 full business days any and all records and property of the  
7 | association in their possession, or proceed as described in  
8 | paragraph (d).

9 |         3. When it is determined by the department pursuant to  
10 | binding arbitration proceedings that an initial recall effort  
11 | was defective, written recall agreements or written ballots  
12 | used in the first recall effort and not found to be defective  
13 | may be reused in one subsequent recall effort. However, in no  
14 | event is a written agreement or written ballot valid for more  
15 | than 120 days after it has been signed by the member.

16 |         4. Any rescission or revocation of a member's written  
17 | recall ballot or agreement must be in writing and, in order to  
18 | be effective, must be delivered to the association before the  
19 | association is served with the written recall agreements or  
20 | ballots.

21 |         5. The agreement in writing or ballot shall list at  
22 | least as many possible replacement directors as there are  
23 | directors subject to the recall, when at least a majority of  
24 | the board is sought to be recalled; the person executing the  
25 | recall instrument may vote for as many replacement candidates  
26 | as there are directors subject to the recall.

27 |         (c)1. ~~If the declaration, articles of incorporation,~~  
28 | ~~or bylaws specifically provide, the~~ Members may also recall  
29 | and remove a board director or directors by a vote taken at a  
30 | special meeting of the members. ~~If so provided in the~~  
31 | ~~governing documents,~~ A special meeting of the members to

1 recall a director or directors of the board of administration  
2 may be called by 10 percent of the voting interests giving  
3 notice of the meeting as required for a meeting of members,  
4 and the notice shall state the purpose of the meeting.  
5 Electronic transmission may not be used as a method of giving  
6 notice of a meeting called in whole or in part for this  
7 purpose.

8           2. The board shall duly notice and hold a board  
9 meeting within 5 full business days after the adjournment of  
10 the member meeting to recall one or more directors. At the  
11 meeting, the board shall certify the recall, in which case  
12 such member or members shall be recalled effective immediately  
13 and shall turn over to the board within 5 full business days  
14 any and all records and property of the association in their  
15 possession, or shall proceed as set forth in subparagraph (d).

16           (d) If the board determines not to certify the written  
17 agreement or written ballots to recall a director or directors  
18 of the board or does not certify the recall by a vote at a  
19 meeting, the board shall, within 5 full business days after  
20 the meeting, file with the department a petition for binding  
21 arbitration pursuant to the applicable procedures in ss.  
22 718.112(2)(j) and 718.1255 and the rules adopted thereunder.  
23 For the purposes of this section, the members who voted at the  
24 meeting or who executed the agreement in writing shall  
25 constitute one party under the petition for arbitration. If  
26 the arbitrator certifies the recall as to any director or  
27 directors of the board, the recall will be effective upon  
28 mailing of the final order of arbitration to the association.  
29 The director or directors so recalled shall deliver to the  
30 board any and all records of the association in their  
31

1 possession within 5 full business days after the effective  
2 date of the recall.

3 (e) If a vacancy occurs on the board as a result of a  
4 recall and less than a majority of the board directors are  
5 removed, the vacancy may be filled by the affirmative vote of  
6 a majority of the remaining directors, notwithstanding any  
7 provision to the contrary contained in this subsection or in  
8 the association documents. If vacancies occur on the board as  
9 a result of a recall and a majority or more of the board  
10 directors are removed, the vacancies shall be filled by  
11 members voting in favor of the recall; if removal is at a  
12 meeting, any vacancies shall be filled by the members at the  
13 meeting. If the recall occurred by agreement in writing or by  
14 written ballot, members may vote for replacement directors in  
15 the same instrument in accordance with procedural rules  
16 adopted by the division, which rules need not be consistent  
17 with this subsection.

18 (f) If the board fails to duly notice and hold a board  
19 meeting within 5 full business days after service of an  
20 agreement in writing or within 5 full business days after the  
21 adjournment of the member recall meeting, the recall shall be  
22 deemed effective and the board directors so recalled shall  
23 immediately turn over to the board all records and property of  
24 the association.

25 (g) If a director who is removed fails to relinquish  
26 his or her office or turn over records as required under this  
27 section, the circuit court in the county where the association  
28 maintains its principal office may, upon the petition of the  
29 association, summarily order the director to relinquish his or  
30 her office and turn over all association records upon  
31 application of the association.

1 (h) The minutes of the board meeting at which the  
2 board decides whether to certify the recall are an official  
3 association record. The minutes must record the date and time  
4 of the meeting, the decision of the board, and the vote count  
5 taken on each board member subject to the recall. In addition,  
6 when the board decides not to certify the recall, as to each  
7 vote rejected, the minutes must identify the parcel number and  
8 the specific reason for each such rejection.

9 (i) When the recall of more than one board director is  
10 sought, the written agreement, ballot, or vote at a meeting  
11 shall provide for a separate vote for each board director  
12 sought to be recalled.

13 Section 54. Subsections (2) and (6) of section  
14 720.304, Florida Statutes, are amended, and subsection (7) is  
15 added to that section, to read:

16 720.304 Right of owners to peaceably assemble; display  
17 of flag; SLAPP suits prohibited.--

18 (2) Any homeowner may display one stationary or  
19 portable, removable United States flag or official flag of the  
20 State of Florida in a respectful manner, and on Armed Forces  
21 Day, Memorial Day, Flag Day, Independence Day, and Veterans  
22 Day may display in a respectful manner portable, removable  
23 official flags, not larger than 41/2 feet by 6 feet, which  
24 represent the United States Army, Navy, Air Force, Marine  
25 Corps, or Coast Guard, ~~from a freestanding, portable,~~  
26 removable, or telescoping flagpole not to exceed 20 feet in  
27 the front, rear, or side yard regardless of any declaration  
28 rules or requirements dealing with flags or decorations.

29 (6) Any parcel owner may display a sign of reasonable  
30 size provided by a contractor for security services within 10  
31 feet of any entrance to the home. The sign shall not exceed 18

1 inches high by 18 inches wide, and the bottom of the sign  
2 shall be no higher than 24 inches from the ground elevation  
3 within the permitted area of installation. Other  
4 specifications may be approved by the association, but in no  
5 case shall the specifications be less than authorized by this  
6 section.

7 (7)(a) Rules and regulations pertaining to common  
8 elements shall be protected by the First Amendment to the  
9 United States Constitution and s. 5, Art. I of the State  
10 Constitution, and associations shall not in any way abridge or  
11 deny constitutional rights and freedoms of homeowners with  
12 respect to use of such common elements.

13 (b) All common elements, common areas, and  
14 recreational facilities serving any association shall be  
15 available to unit owners in the association served thereby and  
16 their invited guests for the use intended for such common  
17 elements, common areas, and recreational facilities. The  
18 entity or entities responsible for the operation of the common  
19 elements, common areas, and recreational facilities may adopt  
20 reasonable rules and regulations pertaining to the use of such  
21 common elements, common areas, and recreational facilities as  
22 to the manner and times they are used, but not the purpose for  
23 which they are used. No entity or entities shall unreasonably  
24 restrict any unit owner's right to peaceably assemble or right  
25 to invite public officers or candidates for public office to  
26 appear and speak in common elements, common areas, and  
27 recreational facilities.

28 (c) Any owner prevented from exercising rights  
29 guaranteed by this section may bring an action in the  
30 appropriate court of the county in which the alleged  
31 infringement occurred, and, upon favorable adjudication, the

1 court shall enjoin the enforcement of any provision contained  
2 in any association.

3 Section 55. Section 720.305, Florida Statutes, is  
4 amended to read:

5 720.305 Obligations of members; remedies at law or in  
6 equity; ~~levy of fines and~~ suspension of use rights; failure to  
7 fill sufficient number of vacancies on board of directors to  
8 constitute a quorum; appointment of receiver upon petition of  
9 any member.--

10 (1) Each member and the member's tenants, guests, and  
11 invitees, and each association, are governed by, and must  
12 comply with, this chapter, the governing documents of the  
13 community, and the rules of the association. Actions at law or  
14 in equity, or both, to redress alleged failure or refusal to  
15 comply with these provisions may be brought by the association  
16 or by any member against:

17 (a) The association;

18 (b) A member;

19 (c) Any director or officer of an association who  
20 willfully and knowingly or otherwise fails to comply with  
21 these provisions; and

22 (d) Any tenants, guests, or invitees occupying a  
23 parcel or using the common areas.

24  
25 The prevailing party in any such litigation is entitled to  
26 recover reasonable attorney's fees and costs. This section  
27 does not deprive any person of any other available right or  
28 remedy.

29 ~~(2) If the governing documents so provide, An~~  
30 ~~association may suspend, for a reasonable period of time, the~~  
31 ~~rights of a member or a member's tenants, guests, or invitees,~~

1 | or both, to use common areas and facilities+5 so and may levy  
2 | ~~reasonable fines, not to exceed \$100 per violation, against~~  
3 | ~~any member or any tenant, guest, or invitee. A fine may be~~  
4 | ~~levied on the basis of each day of a continuing violation,~~  
5 | ~~with a single notice and opportunity for hearing, except that~~  
6 | ~~no such fine shall exceed \$1,000 in the aggregate unless~~  
7 | ~~otherwise provided in the governing documents. A fine shall~~  
8 | ~~not become a lien against a parcel. In any action to recover a~~  
9 | ~~fine, the prevailing party is entitled to collect its~~  
10 | ~~reasonable attorney's fees and costs from the nonprevailing~~  
11 | ~~party as determined by the court.~~

12 |         (a) A ~~fine or~~ suspension may not be imposed without  
13 | notice of at least 14 days to the person sought to be ~~fined or~~  
14 | suspended and an opportunity for a hearing before a committee  
15 | of at least three members appointed by the board who are not  
16 | officers, directors, or employees of the association, or the  
17 | spouse, parent, child, brother, or sister of an officer,  
18 | director, or employee. If the committee, by majority vote,  
19 | does not approve a proposed ~~fine or~~ suspension, it may not be  
20 | imposed.

21 |         (b) The requirements of this subsection do not apply  
22 | to the imposition of suspensions ~~or fines~~ upon any member  
23 | because of the failure of the member to pay assessments or  
24 | other charges when due ~~if such action is authorized by the~~  
25 | ~~governing documents.~~

26 |         (c) Suspension of common-area-use rights shall not  
27 | impair the right of an owner or tenant of a parcel to have  
28 | vehicular and pedestrian ingress to and egress from the  
29 | parcel, including, but not limited to, the right to park.

30 |         (3) If the governing documents so provide, an  
31 | association may suspend the voting rights of a member for the

1 nonpayment of regular annual assessments that are delinquent  
2 in excess of 90 days.

3 (4) If an association fails to fill vacancies on the  
4 board of directors sufficient to constitute a quorum in  
5 accordance with the bylaws, any member may apply to the  
6 circuit court that has jurisdiction over the community served  
7 by the association for the appointment of a receiver to manage  
8 the affairs of the association. At least 30 days before  
9 applying to the circuit court, the member shall mail to the  
10 association, by certified or registered mail, and post, in a  
11 conspicuous place on the property of the community served by  
12 the association, a notice describing the intended action,  
13 giving the association 30 days to fill the vacancies. If  
14 during such time the association fails to fill a sufficient  
15 number of vacancies so that a quorum can be assembled, the  
16 member may proceed with the petition. If a receiver is  
17 appointed, the homeowners' association shall be responsible  
18 for the salary of the receiver, court costs, attorney's fees,  
19 and all other expenses of the receivership. The receiver has  
20 all the powers and duties of a duly constituted board of  
21 directors and shall serve until the association fills a  
22 sufficient number of vacancies on the board so that a quorum  
23 can be assembled.

24 Section 56. Section 720.3055, Florida Statutes, is  
25 amended to read:

26 720.3055 Contracts for products and services; in  
27 writing; bids; exceptions.--

28 (1) All contracts as further described in this section  
29 or any contract that is not to be fully performed within 1  
30 year after the making thereof for the purchase, lease, or  
31 renting of materials or equipment to be used by the

1 association in accomplishing its purposes under this chapter  
2 ~~or the governing documents~~, and all contracts for the  
3 provision of services, shall be in writing. If a contract for  
4 the purchase, lease, or renting of materials or equipment, or  
5 for the provision of services, requires payment by the  
6 association that exceeds 10 percent of the total annual budget  
7 of the association, including reserves, the association must  
8 obtain competitive bids for the materials, equipment, or  
9 services. Nothing contained in this section shall be construed  
10 to require the association to accept the lowest bid.

11 (2)(a)1. ~~Notwithstanding the foregoing~~, Contracts with  
12 employees of the association, and contracts for attorney,  
13 accountant, architect, community association manager,  
14 engineering, and landscape architect services are not subject  
15 to the provisions of this section.

16 2. A contract executed before October 1, 2004, and any  
17 renewal thereof, is not subject to the competitive bid  
18 requirements of this section. If a contract was awarded under  
19 the competitive bid procedures of this section, any renewal of  
20 that contract is not subject to such competitive bid  
21 requirements if the contract contains a provision that allows  
22 the board to cancel the contract on 30 days' notice.  
23 Materials, equipment, or services provided to an association  
24 under a local government franchise agreement by a franchise  
25 holder or a manager are ~~not~~ subject to the competitive bid  
26 requirements of this section. A contract with a manager, ~~if~~  
27 ~~made by a competitive bid~~, may be made for up to 3 years and  
28 must contain a 30-day termination clause. An association whose  
29 declaration or bylaws provide for competitive bidding for  
30 services may operate under the provisions of that declaration  
31

1 or bylaws in lieu of this section if those provisions are not  
2 less stringent than the requirements of this section.

3 (b) Nothing contained in this section is intended to  
4 limit the ability of an association to obtain needed products  
5 and services in an emergency.

6 (c) This section does not apply if the business entity  
7 with which the association desires to enter into a contract is  
8 the only source of supply within the county serving the  
9 association.

10 (d) Nothing contained in this section shall excuse a  
11 party contracting to provide maintenance or management  
12 services from compliance with s. 720.309.

13 Section 57. Section 720.306, Florida Statutes, is  
14 amended to read:

15 720.306 Meetings of members; voting and election  
16 procedures; amendments.--

17 (1) ~~QUORUM;~~ AMENDMENTS.--

18 (a) Unless otherwise required by law, and other than  
19 those matters set forth in paragraph (b), any governing  
20 document of an association shall only be amended by the  
21 affirmative vote of two-thirds of the voting interests of the  
22 association subject to the following:

23 1. All amendments offered for official recording must  
24 be submitted as contained within the covenants and  
25 restrictions in their entirety.

26 2. Within 12 months of enactment of this subsection  
27 all duly registered covenants and restrictions must be  
28 complete and set forth in plain, easily understandable  
29 English. ~~Unless a lower number is provided in the bylaws, the~~  
30 ~~percentage of voting interests required to constitute a quorum~~  
31 ~~at a meeting of the members shall be 30 percent of the total~~

1 ~~voting interests. Unless otherwise provided in this chapter or~~  
2 ~~in the articles of incorporation or bylaws, decisions that~~  
3 ~~require a vote of the members must be made by the concurrence~~  
4 ~~of at least a majority of the voting interests present, in~~  
5 ~~person or by proxy, at a meeting at which a quorum has been~~  
6 ~~attained.~~

7 ~~(b) Unless otherwise provided in the governing~~  
8 ~~documents or required by law, and other than those matters set~~  
9 ~~forth in paragraph (c), any governing document of an~~  
10 ~~association may be amended by the affirmative vote of~~  
11 ~~two thirds of the voting interests of the association.~~

12 ~~(b)(c) Unless otherwise provided in the governing~~  
13 ~~documents as originally recorded or permitted by this chapter~~  
14 ~~or chapter 617, An amendment may not materially and adversely~~  
15 ~~alter the proportionate voting interest appurtenant to a~~  
16 ~~parcel or increase the proportion or percentage by which a~~  
17 ~~parcel shares in the common expenses of the association unless~~  
18 ~~the record parcel owner and all record owners of liens on the~~  
19 ~~parcels join in the execution of the amendment. For purposes~~  
20 ~~of this section, a change in quorum requirements is not an~~  
21 ~~alteration of voting interests.~~

22 (c) An amendment restricting owners' rights relating  
23 to the rental of homes applies only to parcel owners who  
24 consent to the amendment and to parcel owners who purchase  
25 their parcels after the effective date of that amendment.

26 (2) ANNUAL MEETING.--The association shall hold a  
27 meeting of its members annually for the transaction of any and  
28 all proper business at a time, date, and place stated in, or  
29 fixed in accordance with, the bylaws. The election of  
30 directors, if one is required to be held, must be held at, or  
31

1 in conjunction with, the annual meeting ~~or as provided in the~~  
2 ~~governing documents.~~

3 (3) SPECIAL MEETINGS.--Special meetings must be held  
4 when called by the board of directors or, ~~unless a different~~  
5 ~~percentage is stated in the governing documents,~~ by at least  
6 10 percent of the total voting interests of the association.  
7 Business conducted at a special meeting is limited to the  
8 purposes described in the notice and the agenda of the  
9 meeting.

10 (4) CONTENT OF NOTICE.--~~Unless law or the governing~~  
11 ~~documents require otherwise,~~ Notice of an annual meeting need  
12 not include a description of the purpose or purposes for which  
13 the meeting is called. Notice of a special meeting must  
14 include an agenda and a description of the purpose or purposes  
15 for which the meeting is called.

16 (5) NOTICE OF MEETINGS.--The bylaws shall provide for  
17 giving notice to members of all member meetings, and if they  
18 do not do so shall be deemed to provide the following: The  
19 association shall give all parcel owners and members actual  
20 notice of all membership meetings, which shall be mailed,  
21 delivered, or electronically transmitted to the members not  
22 less than 14 days prior to the meeting. Evidence of compliance  
23 with this 14-day notice shall be made by an affidavit executed  
24 by the person providing the notice and filed upon execution  
25 among the official records of the association. In addition to  
26 mailing, delivering, or electronically transmitting the notice  
27 of any meeting, the association may, by reasonable rule, adopt  
28 a procedure for conspicuously posting and repeatedly  
29 broadcasting the notice and the agenda on a closed-circuit  
30 cable television system serving the association. When  
31 broadcast notice is provided, the notice and agenda must be

1 broadcast in a manner and for a sufficient continuous length  
2 of time so as to allow an average reader to observe the notice  
3 and read and comprehend the entire content of the notice and  
4 the agenda.

5 (6) RIGHT TO SPEAK.--Members and parcel owners have  
6 the right to attend all membership meetings and to speak at  
7 any meeting with reference to any ~~all~~ items ~~opened for~~  
8 ~~discussion or included~~ on the agenda. ~~Notwithstanding any~~  
9 ~~provision to the contrary in the governing documents or any~~  
10 ~~rules adopted by the board or by the membership,~~ A member and  
11 a parcel owner have the right to speak at least once for at  
12 least 3 minutes on each agenda ~~any~~ item, ~~provided that the~~  
13 ~~member or parcel owner submits a written request to speak~~  
14 ~~prior to the meeting.~~ The association may adopt written  
15 reasonable rules governing the frequency and, ~~duration,~~ ~~and~~  
16 ~~other manner~~ of member and parcel owner statements, which  
17 rules must be consistent with this subsection.

18 (7) ADJOURNMENT.--~~Unless the bylaws require otherwise,~~  
19 Adjournment of an annual or special meeting to a different  
20 date, time, or place must be announced at that meeting before  
21 an adjournment is taken, or notice must be given of the new  
22 date, time, or place pursuant to s. 720.303(2). Any business  
23 that might have been transacted on the original date of the  
24 meeting may be transacted at the adjourned meeting. If a new  
25 record date for the adjourned meeting is or must be fixed  
26 under s. 617.0707, notice of the adjourned meeting must be  
27 given to persons who are entitled to vote and are members as  
28 of the new record date but were not members as of the previous  
29 record date.

30 (8) PROXY VOTING.--The members have the right, unless  
31 otherwise provided in this subsection ~~or in the governing~~

1 ~~documents,~~ to vote in person or by limited proxy. To be valid,  
2 a limited proxy must be dated, must state the date, time, and  
3 place of the meeting for which it was given, and must be  
4 signed by the authorized person who executed the proxy. A  
5 limited proxy is effective only for the specific meeting for  
6 which it was originally given, as the meeting may lawfully be  
7 adjourned and reconvened from time to time, and automatically  
8 expires 60 ~~90~~ days after the date of the meeting for which it  
9 was originally given. A proxy is revocable at any time at the  
10 pleasure of the person who executes it. If the proxy form  
11 expressly so provides, any proxy holder may appoint, in  
12 writing, a substitute to act in his or her place.

13 (9) ELECTIONS.--

14 (a) Election procedures.--

15 1. The members of the board shall be elected by  
16 written ballot or voting machine. Proxies shall in no event be  
17 used in electing the board, either in general elections or  
18 elections to fill vacancies caused by recall, resignation, or  
19 otherwise, unless otherwise provided in this chapter. Not less  
20 than 60 days before a scheduled election, the association  
21 shall mail, deliver, or electronically transmit, whether by  
22 separate association mailing or included in another  
23 association mailing, delivery, or transmission, including  
24 regularly published newsletters, to each parcel owner entitled  
25 to a vote, a first notice of the date of the election. Any  
26 homeowner or other eligible person desiring to be a candidate  
27 for the board must give written notice to the association not  
28 less than 40 days before a scheduled election. Together with  
29 the written notice and agenda as set forth in this section,  
30 the association shall mail, deliver, or electronically  
31 transmit a second notice of the election to all parcel owners

1 entitled to vote therein, with a ballot that shall list all  
2 candidates. Upon request of a candidate, the association shall  
3 include an information sheet, no larger than 8 1/2 inches by  
4 11 inches, which must be furnished by the candidate not less  
5 than 35 days before the election, to be included with the  
6 mailing, delivery, or transmission of the ballot, with the  
7 costs of mailing, delivery, or electronic transmission and  
8 copying to be borne by the association. The association is not  
9 liable for the contents of the information sheets prepared by  
10 the candidates. In order to reduce costs, the association may  
11 print or duplicate the information sheets on both sides of the  
12 paper. The division shall by rule establish voting procedures  
13 consistent with the provisions contained in this chapter,  
14 including rules establishing procedures for giving notice by  
15 electronic transmission and rules providing for the secrecy of  
16 ballots. Elections shall be decided by a plurality of those  
17 ballots cast. There shall be no quorum requirement; however,  
18 at least 20 percent of the eligible voters must cast a ballot  
19 in order to have a valid election of members of the board. No  
20 parcel owner shall permit any other person to vote his or her  
21 ballot, and any such ballots improperly cast shall be deemed  
22 invalid, provided any parcel owner who violates this provision  
23 may be fined by the association in accordance with s.  
24 720.305(2). A parcel owner needing assistance in casting the  
25 ballot for the reasons stated in s. 101.051 may obtain  
26 assistance in casting the ballot. The regular election shall  
27 occur on the date of the annual meeting. Notwithstanding the  
28 provisions of this subparagraph, an election is not required  
29 unless more candidates file notices of intent to run or more  
30 are nominated than board vacancies exist.

31

1           2. Unless otherwise provided in the bylaws, any  
2 vacancy occurring on the board before the expiration of a term  
3 may be filled by the affirmative vote of the majority of the  
4 remaining directors, even if the remaining directors  
5 constitute less than a quorum, or by the sole remaining  
6 director. In the alternative, a board may hold an election to  
7 fill the vacancy, in which case the election procedures must  
8 conform to the requirements of this section unless the  
9 association has opted out of the statutory election process,  
10 in which case the bylaws of the association control. Unless  
11 otherwise provided in the bylaws, a board member appointed or  
12 elected under this section shall fill the vacancy for the  
13 unexpired term of the seat being filled. Filling vacancies  
14 created by recall is governed by s. 720.303(10) and rules  
15 adopted by the division.

16           3. Fifteen percent of the total voting interests in a  
17 homeowners' association, or six parcel owners, whichever is  
18 greater, may petition the division to appoint an election  
19 monitor to attend the annual meeting of the homeowners and  
20 conduct the election of directors. The division shall appoint  
21 a division employee, a person or persons specializing in  
22 homeowners' association election monitoring, or an attorney  
23 licensed to practice in this state as the election monitor.  
24 All costs associated with the election monitoring process  
25 shall be paid by the association. The division shall adopt a  
26 rule establishing procedures for the appointment of election  
27 monitors and the scope and extent of the monitor's role in the  
28 election process.

29           (b) Terms; eligibility of candidates.--

30           1. The terms of all members of the board shall expire  
31 at the annual meeting. Members may stand for reelection.

1           2. Coowners of a parcel may not serve as members of  
2 the board of administration at the same time.

3           3. After transition of control in a community, only  
4 members as defined in s. 720.301(1) shall be eligible as  
5 candidates for the board.

6           4. A person who has been convicted of any felony by  
7 any court of record in the United States and who has not had  
8 his or her right to vote restored pursuant to law in the  
9 jurisdiction of his or her residence is not eligible for board  
10 membership. The validity of an action by the board is not  
11 affected if it is later determined that a member of the board  
12 is ineligible for board membership due to having been  
13 convicted of a felony. Elections of directors must be  
14 conducted in accordance with the procedures set forth in the  
15 governing documents of the association. All members of the  
16 association shall be eligible to serve on the board of  
17 directors, and a member may nominate himself or herself as a  
18 candidate for the board at a meeting where the election is to  
19 be held. Except as otherwise provided in the governing  
20 documents, boards of directors must be elected by a plurality  
21 of the votes cast by eligible voters. Any election dispute  
22 between a member and an association must be submitted to  
23 mandatory binding arbitration with the division. Such  
24 proceedings shall be conducted in the manner provided by s.  
25 718.1255 and the procedural rules adopted by the division.

26           (10) RECORDING.--Any parcel owner may electronically  
27 tape record any or videotape meetings of the board of  
28 directors and meetings of the members. The board of directors  
29 of the association may adopt reasonable rules governing the  
30 taping of meetings of the board and the membership. However,  
31 those rules may not restrict the parcel owners' rights to

1 electronically record the meeting using, but not limited to,  
2 battery-operated or electrical equipment.

3 Section 58. Section 720.307, Florida Statutes, is  
4 amended to read:

5 720.307 Transition of association control in a  
6 community.--With respect to homeowners' associations:

7 (1) Members other than the developer are entitled to  
8 elect at least a majority of the members of the board of  
9 directors of the homeowners' association when the earlier of  
10 the following events occurs:

11 (a) Three months after 75 ~~90~~ percent of the parcels in  
12 all phases of the community that will ultimately be operated  
13 by the homeowners' association have been conveyed to members;  
14 or

15 (b) Such other percentage of the parcels has been  
16 conveyed to members, or such other date or event has occurred,  
17 as is set forth in the governing documents in order to comply  
18 with the requirements of any governmentally chartered entity  
19 with regard to the mortgage financing of parcels.

20  
21 For purposes of this section, the term "members other than the  
22 developer" shall not include builders, contractors, or others  
23 who purchase a parcel for the purpose of constructing  
24 improvements thereon for resale.

25 (2) The developer is entitled to elect at least one  
26 member of the board of directors of the homeowners'  
27 association as long as the developer holds for sale in the  
28 ordinary course of business at least 5 percent of the parcels  
29 in all phases of the community. After the developer  
30 relinquishes control of the homeowners' association, the  
31 developer may exercise the right to vote any developer-owned

1 voting interests in the same manner as any other member,  
2 except for purposes of reacquiring control of the homeowners'  
3 association or selecting the majority of the members of the  
4 board of directors.

5 (3) Prior to turnover, the developer or owner of all  
6 common areas shall convey the title to all common areas to the  
7 association immediately upon incorporation of the association.  
8 If additional common areas are acquired prior to transition of  
9 control and subject to the governing documents, title to those  
10 common areas shall also be immediately transferred to the  
11 association.

12 (4) At the time the members are entitled to elect at  
13 least a majority of the board of directors of the homeowners'  
14 association, the developer shall, at the developer's expense,  
15 within no more than 30 ~~90~~ days deliver the following documents  
16 to the board:

17 (a) All deeds to common property owned by the  
18 association or the developer.

19 (b) The original of the association's declarations of  
20 covenants and restrictions.

21 (c) A certified copy of the articles of incorporation  
22 of the association.

23 (d) A copy of the bylaws.

24 (e) The minute books, including all minutes.

25 (f) The books and records of the association.

26 (g) Policies, rules, and regulations, if any, which  
27 have been adopted.

28 (h) Resignations of directors who are required to  
29 resign because the developer is required to relinquish control  
30 of the association.

31

1 (i) The financial records of the association from the  
2 date of incorporation through the date of turnover.

3 (j) All association funds and control thereof.

4 (k) All tangible property of the association.

5 (l) A copy of all contracts which may be in force with  
6 the association as one of the parties.

7 (m) A list of the names and addresses and telephone  
8 numbers of all contractors, subcontractors, or others in the  
9 current employ of the association.

10 (n) Any and all insurance policies in effect.

11 (o) Any permits issued to the association by  
12 governmental entities.

13 (p) Any and all warranties in effect.

14 (q) A roster of current homeowners and their addresses  
15 and telephone numbers and section and lot numbers.

16 (r) Employment and service contracts in effect.

17 (s) All other contracts and agreements in effect to  
18 which the association is a party.

19 (t) The financial records, including financial  
20 statements of the association, and source documents from the  
21 incorporation of the association through the date of turnover.

22 The records shall be audited by an independent certified  
23 public accountant for the period of the incorporation of the  
24 association or for the period covered by the last audit, if an  
25 audit has been performed for each fiscal year since

26 incorporation. All financial statements shall be prepared in  
27 accordance with generally accepted accounting standards and  
28 shall be audited in accordance with generally accepted  
29 auditing standards as prescribed by the Board of Accountancy.

30 The accountant performing the review shall examine to the  
31 extent necessary supporting documents and records, including

1 the cash disbursements and related paid invoices to determine  
2 whether expenditures were for association purposes and the  
3 billings, cash receipts, and related records to determine  
4 whether the developer was charged and paid the proper amounts  
5 of assessments. This paragraph applies to associations with a  
6 date of incorporation after December 31, 2007.

7 ~~(5)(4) This section applies to any mandatory~~  
8 ~~homeowners' association existing under this chapter does not~~  
9 ~~apply to a homeowners' association in existence on the~~  
10 ~~effective date of this act, or to a homeowners' association,~~  
11 ~~no matter when created, if such association is created in a~~  
12 ~~community that is included in an effective~~  
13 ~~development of regional impact development order as of the~~  
14 ~~effective date of this act, together with any approved~~  
15 ~~modifications thereof.~~

16 Section 59. Section 720.3071, Florida Statutes, is  
17 created to read:

18 720.3071 Board member training.--The division shall  
19 provide training programs for homeowners' association board  
20 members, at the associations' expense. Training shall be  
21 mandatory for newly elected board members and members  
22 currently serving on a board who have not previously  
23 voluntarily attended training.

24 Section 60. Subsection (1) of section 720.3075,  
25 Florida Statutes, is amended, and subsection (5) is added to  
26 that section, to read:

27 720.3075 Prohibited clauses in association  
28 documents.--

29 (1) It is declared that the public policy of this  
30 state prohibits the inclusion or enforcement of certain types  
31 of clauses in homeowners' association documents, including

1 | declaration of covenants, articles of incorporation, bylaws,  
2 | or any other document of the association which binds members  
3 | of the association, which either have the effect of or provide  
4 | that:

5 |         (a) A developer has the unilateral ability and right  
6 | to make changes to the homeowners' association documents after  
7 | the transition of homeowners' association control in a  
8 | community from the developer to the nondeveloper members, as  
9 | set forth in s. 720.307, has occurred.

10 |         (b) A homeowners' association is prohibited or  
11 | restricted from filing a lawsuit against the developer, or the  
12 | homeowners' association is otherwise effectively prohibited or  
13 | restricted from bringing a lawsuit against the developer.

14 |         (c) After the transition of homeowners' association  
15 | control in a community from the developer to the nondeveloper  
16 | members, as set forth in s. 720.307, has occurred, a developer  
17 | is entitled to cast votes in an amount that exceeds one vote  
18 | per residential lot.

19 |         (d) The homeowners' association is restricted or  
20 | prevented from functioning, as provided by federal, state, and  
21 | local laws and specifically by this chapter.

22 |         (e) The homeowners' association is prevented from  
23 | amending any document as allowed according to Florida  
24 | statutes.

25 |  
26 | Such clauses are declared null and void as against the public  
27 | policy of this state.

28 |         (5)(a) An association may not restrict a homeowner  
29 | from mounting or employing shutters or other hurricane  
30 | protection.

31 |

1           (b) Except as provided in paragraph (c), an  
2 association may not restrict a homeowner from mounting or  
3 employing temporary or permanent shutters or other hurricane  
4 protection during any time that a hurricane warning has been  
5 declared, during any time when an evacuation order has been  
6 given, or for the following period after conclusion of such  
7 hurricane watch or evacuation order:

8           1. Seven days; or

9           2. Fourteen days if the hurricane watch concerns a  
10 category 4 storm or greater or if the evacuation order lasts  
11 more than 3 days.

12           (c) If a local government restricts homeowners'  
13 mounting or employing temporary or permanent shutters or other  
14 hurricane protection, the local government may also authorize  
15 associations to adopt and enforce equal or lesser  
16 restrictions.

17           (d) Except as provided in paragraph (c) or paragraph  
18 (e), an association may not restrict a homeowner from mounting  
19 or employing permanent shutters or other hurricane protection

20           (e) If the association otherwise properly adopts  
21 restrictions governing color or form of shutters or other  
22 permanent exterior window coverings, the association may adopt  
23 and enforce equal or lesser restrictions that apply to  
24 permanent exterior hurricane protections.

25           (f) An association may not restrict the time or  
26 duration for shutters or other hurricane protection to be open  
27 or closed during any period and may not restrict homeowners  
28 from mounting or employing temporary shutters or other  
29 hurricane protection, as provided in paragraph (b).

30           Section 61. Section 720.3086, Florida Statutes, is  
31 amended to read:

1           720.3086 Financial report; audit; penalty; exclusivity  
2 of properties.--

3           (1) In a residential subdivision in which the owners  
4 of lots or parcels must pay mandatory maintenance or amenity  
5 fees to the subdivision developer or to the owners of the  
6 common areas, recreational facilities, and other properties  
7 serving the lots or parcels, the developer or owner of such  
8 areas, facilities, or properties shall make public, within 60  
9 days following the end of each fiscal year, a complete  
10 financial report of the actual, total receipts of mandatory  
11 maintenance or amenity fees received by it, and an itemized  
12 listing of the expenditures made by it from such fees, for  
13 that year. Such report shall be made public by mailing it to  
14 each lot or parcel owner in the subdivision, by publishing it  
15 in a publication regularly distributed within the subdivision,  
16 or by posting it in prominent locations in the subdivision.  
17 Thereafter, the developer or the owner of the common areas,  
18 recreational facilities, and other properties serving the lots  
19 or parcels shall mail the annual financial report, upon  
20 written request from a lot or parcel owner.

21           (2) Pursuant to this section, if the developer or the  
22 owner fails to provide the lot or parcel owner with the  
23 requested annual financial report within 30 days of delivery  
24 of such request to the developer or owner, the circuit court  
25 located in the same county as the principal office of the  
26 corporation, or its registered office, if no office exists in  
27 this state, summarily may order the corporation to furnish  
28 such financial report, upon application of the lot or parcel  
29 owner. If the court orders the corporation to furnish the  
30 financial report, it shall also order the corporation to pay  
31 the lot or parcel owner's costs, including reasonable

1 attorney's fees that have been incurred to obtain the order,  
2 and otherwise shall enforce the lot or parcel owner's rights  
3 under this section.

4 (3) Lot or parcel owners shall have exclusive and  
5 vested rights for the use of common areas, recreational  
6 facilities, and other properties serving the lots or parcels  
7 unless they have been dedicated for nonexclusive use by the  
8 lot or parcel owners. Portions of governing documents that  
9 allow guests of the developer or facility owner the right to  
10 use the facility are hereby declared void, as those portions  
11 of governing documents violate the rights to exclusive use of  
12 the facilities by the lot or parcel owners and their guests.

13 (4) This section does not apply to amounts paid to  
14 homeowner associations pursuant to ~~chapter 617~~, chapter 718,  
15 chapter 719, chapter 721, or chapter 723, or to amounts paid  
16 to local governmental entities, including special districts.

17 Section 62. Section 720.401, Florida Statutes, is  
18 amended to read:

19 720.401 Prospective purchasers subject to association  
20 membership requirement; disclosure required; covenants;  
21 assessments; contract cancellation.--

22 (1)(a) A prospective parcel owner in a community must  
23 be presented a disclosure summary before executing the  
24 contract for sale. The disclosure summary must be in a form  
25 substantially similar to the following form:

26  
27 DISCLOSURE SUMMARY

28 FOR

29 (NAME OF COMMUNITY)

30 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU  
31 WILL BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

1           2. THE PURCHASER HAS BEEN PROVIDED A COPY OF THE THERE  
2 ~~HAVE BEEN OR WILL BE~~ RECORDED RESTRICTIVE COVENANTS AND THE  
3 ASSOCIATION GOVERNING DOCUMENTS RELATIVE TO GOVERNING THE USE  
4 AND OCCUPANCY OF PROPERTIES IN THIS COMMUNITY. AFFIRM OR DENY  
5 RECEIPT OR DOCUMENTS BY CHECKING:  
6           YES /box/ or NO /box/  
7           3. YOU ~~WILL~~(OR WILL NOT) BE OBLIGATED TO PAY  
8 ASSESSMENTS TO THE ASSOCIATION. ASSESSMENTS ARE ~~MAY BE~~ SUBJECT  
9 TO PERIODIC CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS  
10 \$\_\_\_\_\_ PER \_\_\_\_\_. IN ADDITION, YOU WILL(OR WILL NOT) ALSO BE  
11 OBLIGATED TO PAY ~~ANY~~ SPECIAL ASSESSMENTS IMPOSED BY THE  
12 ASSOCIATION. SUCH SPECIAL ASSESSMENTS ARE ~~MAY BE~~ SUBJECT TO  
13 CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_.  
14           4. YOU WILL ~~MAY~~ BE OBLIGATED TO PAY SPECIAL  
15 ASSESSMENTS AND AD VALOREM TAXES AND NON-AD VALOREM  
16 ASSESSMENTS TO THE RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL  
17 DISTRICT. ALL ASSESSMENTS AND TAXES ARE SUBJECT TO PERIODIC  
18 CHANGE.  
19           5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR  
20 ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION  
21 COULD RESULT IN A LIEN AND JUDICIAL FORECLOSURE ON YOUR  
22 PROPERTY.  
23           6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE  
24 FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN  
25 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF  
26 APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_.  
27           7. THE DEVELOPER HAS ~~MAY HAVE~~ THE RIGHT TO AMEND THE  
28 RESTRICTIVE COVENANTS WHILE STILL IN CONTROL OF THE  
29 HOMEOWNERS' ASSOCIATION WITHOUT THE APPROVAL OF THE  
30 ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.  
31

1           8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM  
2 ARE ONLY SUMMARY IN NATURE, AND, AS ~~A~~ PROSPECTIVE PURCHASERS  
3 ~~PURCHASER~~, YOU SHOULD REFER TO THE COVENANTS AND THE  
4 ASSOCIATION GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

5           9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD  
6 AND ~~CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE~~  
7 ~~THE PROPERTY IS LOCATED, OR ARE NOT RECORDED~~ IN TALLAHASSEE  
8 AND IN THE COUNTY WHERE THE PROPERTY IS LOCATED. A PENALTY  
9 SHALL BE IMPOSED UPON THE DEVELOPER, SELLER OR AGENT OF THE  
10 SELLER IF A RECORDED COPY OF THE RESTRICTIVE COVENANTS AND THE  
11 ASSOCIATION GOVERNING DOCUMENTS ARE NOT PROVIDED BEFORE  
12 CONTRACT FOR SALE AND CAN BE OBTAINED FROM THE DEVELOPER.

13           10. THE PURCHASERS HAVE BEEN PROVIDED A COPY OF THE  
14 RESTRICTIVE COVENANTS AND THE ASSOCIATION GOVERNING DOCUMENTS  
15 BEFORE CONTRACT FOR SALE. AFFIRM OR DENY BY CHECKING  
16 YES /box/ or NO /box/.

17           DATE:

PURCHASER:

18  
19 Full ~~The~~ disclosure must be supplied by the developer, or by  
20 the parcel owner if the sale is by an owner that is not the  
21 developer or the agent for the owner. Any contract or  
22 agreement for sale shall refer to and incorporate the  
23 disclosure summary and shall include, in prominent language, a  
24 statement that the potential buyer should not execute the  
25 contract or agreement until they have received and read the  
26 disclosure summary, recorded restrictive covenants and  
27 governing documents of the association, required by this  
28 section.

29           (b) Each contract entered into for the sale of  
30 property with recorded restrictive covenants governed by  
31 mandatory homeowners' associations ~~covenants~~ subject to

1 disclosure required by this section must contain in  
2 conspicuous type a clause that states:

3  
4 IF THE DISCLOSURE SUMMARY AND FULL DISCLOSURE OF THE RECORDED  
5 RESTRICTIVE COVENANTS AND GOVERNING DOCUMENTS OF THE  
6 ASSOCIATION, REQUIRED BY SECTION 720.401, FLORIDA STATUTES,  
7 HAVE HAS NOT BEEN PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE  
8 EXECUTING THIS CONTRACT FOR SALE, THIS CONTRACT IS VOIDABLE BY  
9 BUYER BY DELIVERING TO SELLER OR SELLER'S AGENT OR  
10 REPRESENTATIVE WRITTEN NOTICE OF THE BUYER'S INTENTION TO  
11 CANCEL WITHIN 10 ~~3~~ DAYS AFTER RECEIPT OF THE FULL DISCLOSURE  
12 ~~SUMMARY OR PRIOR TO CLOSING, WHICHEVER OCCURS FIRST.~~ ANY  
13 PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS NO EFFECT.  
14 BUYER'S RIGHT TO VOID THIS CONTRACT SHALL TERMINATE AT  
15 CLOSING.

16 (c) A certified copy of the publicly recorded  
17 governing documents must be provided to any prospective  
18 purchaser, any real estate agent, financial institution, title  
19 or closing company upon request.

20 (d) If the developer or the association willfully and  
21 knowingly fails to disclose material facts that negatively  
22 affect the value of the parcel purchased by an association  
23 member, the individual board members or developer shall be  
24 held liable under applicable federal and state civil and  
25 criminal statutes.

26 (e)(e) If the disclosure summary is not provided to a  
27 prospective purchaser before the purchaser executes a contract  
28 for the sale of property governed by covenants that are  
29 subject to disclosure pursuant to this section, the purchaser  
30 may void the contract by delivering to the seller or the  
31 seller's agent or representative written notice canceling the

1 contract within 3 days after receipt of the disclosure summary  
2 or prior to closing, whichever occurs first. This right may  
3 not be waived by the purchaser but terminates at closing.

4 (2) This section does not apply to any association  
5 regulated under chapter 718, chapter 719, chapter 721, or  
6 chapter 723 ~~or to a subdivider registered under chapter 498;~~  
7 and also does not apply if disclosure regarding the  
8 association is otherwise made in connection with the  
9 requirements of chapter 718, chapter 719, chapter 721, or  
10 chapter 723.

11 Section 63. Section 720.501, Florida Statutes, is  
12 created to read:

13 720.501 Powers and Duties of Division of Florida Land  
14 Sales, Condominiums, Homeowners' Associations, and Mobile  
15 Homes.--

16 (1) The Division of Florida Land Sales, Condominiums,  
17 Homeowners' Associations, and Mobile Homes of the Department  
18 of Business and Professional Regulation, referred to as the  
19 "division" in this part, in addition to other powers and  
20 duties prescribed by chapter 498, has the power to enforce and  
21 ensure compliance with the provisions of this chapter and  
22 rules promulgated pursuant hereto relating to the development,  
23 construction, sale, lease, ownership, operation, and  
24 management of residential property. In performing its duties,  
25 the division has the following powers and duties:

26 (a) The division may make necessary public or private  
27 investigations within or outside this state to determine  
28 whether any person has violated this chapter or any rule or  
29 order hereunder, to aid in the enforcement of this chapter, or  
30 to aid in the adoption of rules or forms hereunder.

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

5           (c) For the purpose of any investigation under this  
6 chapter, the division director, or any officer or employee  
7 designated by the division director may administer oaths or  
8 affirmations, subpoena witnesses and compel their attendance,  
9 take evidence, and require the production of any matter which  
10 is relevant to the investigation, including the existence,  
11 description, nature, custody, condition, and location of any  
12 books, documents, or other tangible things and the identity  
13 and location of persons having knowledge of relevant facts or  
14 any other matter reasonably calculated to lead to the  
15 discovery of material evidence. Upon the failure by a person  
16 to obey a subpoena or to answer questions propounded by the  
17 investigating officer and upon reasonable notice to all  
18 persons affected thereby, the division may apply to the  
19 circuit court for an order compelling compliance.

20           (d) Notwithstanding any remedies available to lot  
21 owners and associations, if the division has reasonable cause  
22 to believe that a violation of any provision of this chapter  
23 or rule promulgated pursuant hereto has occurred, the division  
24 may institute enforcement proceedings in its own name against  
25 any developer, association, officer, or member of the board of  
26 administration, or its assignees or agents, as follows:

27           1. The division may permit a person whose conduct or  
28 actions may be under investigation to waive formal proceedings  
29 and enter into a consent proceeding whereby orders, rules, or  
30 letters of censure or warning, whether formal or informal, may  
31 be entered against the person.

1           2. The division may issue an order requiring the  
2 developer, association, officer, or member of the board of  
3 administration, or its assignees or agents, to cease and  
4 desist from the unlawful practice and take such affirmative  
5 action as in the judgment of the division will carry out the  
6 purposes of this chapter. Such affirmative action may include,  
7 but is not limited to, an order requiring a developer to pay  
8 moneys determined to be owed to a homeowners' association.

9           3. The division may bring an action in circuit court  
10 on behalf of a class of lot owners, lessees, or purchasers for  
11 declaratory relief, injunctive relief, or restitution.

12           4. The division may impose a civil penalty against a  
13 developer or association, or its assignee or agent for any  
14 violation of this chapter or a rule promulgated pursuant  
15 hereto. The division may impose a civil penalty individually  
16 against any officer or board member who willfully and  
17 knowingly violates a provision of this chapter, a rule adopted  
18 pursuant hereto, or a final order of the division. The term  
19 "willfully and knowingly" means that the division informed the  
20 officer or board member that his or her action or intended  
21 action violates this chapter, a rule adopted under this  
22 chapter, or a final order of the division and that the officer  
23 or board member refused to comply with the requirements of  
24 this chapter, a rule adopted under this chapter, or a final  
25 order of the division. The division, prior to initiating  
26 formal agency action under chapter 120, shall afford the  
27 officer or board member an opportunity to voluntarily comply  
28 with this chapter, a rule adopted under this chapter, or a  
29 final order of the division. An officer or board member who  
30 complies within 10 days is not subject to a civil penalty. A  
31 penalty may be imposed on the basis of each day of continuing

1 violation, but in no event shall the penalty for any offense  
2 exceed \$5,000. By January 1, 2007, the division shall adopt,  
3 by rule, penalty guidelines applicable to possible violations  
4 or to categories of violations of this chapter or rules  
5 adopted by the division. The guidelines must specify a  
6 meaningful range of civil penalties for each such violation of  
7 the statute and rules and must be based upon the harm caused  
8 by the violation, the repetition of the violation, and upon  
9 such other factors deemed relevant by the division. For  
10 example, the division may consider whether the violations were  
11 committed by a developer-controlled or owner-controlled  
12 association, the size of the association, and other factors.  
13 The guidelines must designate the possible mitigating or  
14 aggravating circumstances that justify a departure from the  
15 range of penalties provided by the rules. It is the  
16 legislative intent that minor violations be distinguished from  
17 those which endanger the health, safety, or welfare of  
18 residents or other persons and that such guidelines provide  
19 reasonable and meaningful notice to the public of likely  
20 penalties that may be imposed for prescribed conduct. This  
21 subsection does not limit the ability of the division to  
22 informally dispose of administrative actions or complaints by  
23 stipulation, agreed settlement, or consent order. All amounts  
24 collected shall be deposited with the Chief Financial Officer  
25 to the credit of the Division of Florida Land Sales,  
26 Condominiums, Homeowners' Association, and Mobile Homes Trust  
27 Fund. If a developer fails to pay the civil penalty, the  
28 division shall thereupon issue an order directing that such  
29 developer cease and desist from further operation until such  
30 time as the civil penalty is paid, or may pursue enforcement  
31 of the penalty in a court of competent jurisdiction. If an

1 association fails to pay the civil penalty, the division shall  
2 thereupon pursue enforcement in a court of competent  
3 jurisdiction, and the order imposing the civil penalty or the  
4 cease and desist order will not become effective until 20 days  
5 after the date of such order. Any action commenced by the  
6 division shall be brought in the county in which the division  
7 has its executive offices or in the county where the violation  
8 occurred.

9 (e) The division may prepare and disseminate a  
10 prospectus and other information to assist prospective owners,  
11 purchasers, lessees, and developers of residential communities  
12 in assessing the rights, privileges, and duties pertaining  
13 thereto.

14 (f) The division may adopt rules pursuant to  
15 ss.120.536(1) and 120.54 to implement and enforce the  
16 provisions of this chapter.

17 (g) The division shall establish procedures for  
18 providing notice to an association when the division considers  
19 the issuance of a declaratory statement with respect to the  
20 declaration of restrictions or any related document governing  
21 in such residential community.

22 (h) The division shall furnish each association which  
23 pays the fees required by paragraph (2)(a) a copy of this act,  
24 subsequent changes to this act on an annual basis, an amended  
25 version of this act as it becomes available from the Secretary  
26 of State's office and the rules promulgated pursuant thereto  
27 on an annual basis.

28 (i) The division shall annually provide each  
29 association with a summary of declaratory statements and  
30 formal legal opinions relating to the operations of  
31

1 residential communities which were rendered by the division  
2 during the previous year.

3 (j) The division shall provide training programs for  
4 residential association board members and lot owners.

5 (k) The division shall maintain a toll-free telephone  
6 number accessible to lot owners.

7 (l) The division shall develop a program to certify  
8 both volunteer and paid mediators to provide mediation of  
9 disputes. The division shall provide, upon request, a list of  
10 such mediators to any association, lot owner, or other  
11 participant in arbitration proceedings under s. 720.311  
12 requesting a copy of the list. The division shall include on  
13 the list of volunteer mediators only the names of persons who  
14 have received at least 20 hours of training in mediation  
15 techniques or who have mediated at least 20 disputes. In order  
16 to become initially certified by the division, paid mediators  
17 must be certified by the Supreme Court to mediate court cases  
18 in either county or circuit courts. However, the division may  
19 adopt, by rule, additional factors for the certification of  
20 paid mediators, which factors must be related to experience,  
21 education, or background. Any person initially certified as a  
22 paid mediator by the division must, in order to continue to be  
23 certified, comply with the factors or requirements imposed by  
24 rules adopted by the division.

25 (m) When a complaint is made, the division shall  
26 conduct its inquiry with due regard to the interests of the  
27 affected parties. Within 30 days after receipt of a complaint,  
28 the division shall acknowledge the complaint in writing and  
29 notify the complainant whether the complaint is within the  
30 jurisdiction of the division and whether the division needs  
31 additional information from the complainant. The division

1 shall conduct its investigation and shall take action upon the  
2 complaint within 90 days after receipt of the original  
3 complaint or of timely requested additional  
4 information. However, failure to complete the investigation  
5 within 90 days does not prevent the division from continuing  
6 the investigation, accepting or considering evidence obtained  
7 or received after 90 days, or taking administrative action if  
8 reasonable cause exists to believe that a violation of this  
9 chapter or a rule of the division has occurred. If an  
10 investigation is not completed within the time limits  
11 established in this paragraph, the division shall, on a  
12 monthly basis, notify the complainant in writing of the status  
13 of the investigation When reporting its action to the  
14 complainant, the division shall inform the complainant of any  
15 right to a hearing pursuant to ss. 120.569 and 120.57.

16 (2) Effective January 1, 2008, each homeowners'  
17 association that administers more than 10 residential homes  
18 shall pay to the division an annual fee in the amount of \$4  
19 for each residence in communities administered by the  
20 association. If the fee is not paid by March 1, then the  
21 association shall be assessed a penalty of 10 percent of the  
22 amount due, and the association will not have standing to  
23 maintain or defend any action in the courts of this state  
24 until the amount due, plus any penalty that is paid. All fees  
25 shall be deposited in the Division of Florida Land Sales,  
26 Condominiums, Homeowners' Association, and Mobile Homes Trust  
27 Fund as provided by law.

28 Section 64. Section 720.505, Florida Statutes, is  
29 created to read:

30 720.505 Advisory council; membership functions.--  
31

1       (1) There is created the Advisory Council On Mandated  
2 Properties. The council shall consist of seven appointed  
3 members. Two members shall be appointed by the President of  
4 the Senate, two members shall be appointed by the Speaker of  
5 the House of Representatives, and three members shall be  
6 appointed by the Governor. At least one member that is  
7 appointed by the Governor, by the Senate President and by the  
8 Speaker of the House shall be a homeowners' rights advocate  
9 and parcel owner. Members shall be appointed to 2-year terms;  
10 however, one of the persons initially appointed by the  
11 Governor, by the President of the Senate, and by the Speaker  
12 of the House of Representatives shall be appointed to a 1-year  
13 term. A member of the division, appointed by the Secretary,  
14 shall serve as an ex-officio nonvoting member. The selection  
15 of council members shall be made in a manner that ensures a  
16 fair and balanced representation from the service-provider  
17 sector and consumer advocates with a substantial public record  
18 of endeavors on behalf of homeowners' rights and consumer  
19 interests. The council shall be located within the division  
20 for administrative purposes. Members of the council shall  
21 serve without compensation but are entitled to receive per  
22 diem and travel expenses pursuant to s. 112.061 while on  
23 official business. A vacancy on the Advisory Council shall be  
24 filled in the same manner as the original appointment.

25       (2) The functions of the advisory council shall be to:

26           (a) Receive, from the public, input regarding issues  
27 of concern with respect to mandated communities and  
28 recommendations for changes in homeowners' association laws.  
29 The issues that the council shall consider include, but are  
30 not limited to, the rights and responsibilities of the parcel  
31

1 owners in relation to the rights and responsibilities of the  
2 association.

3 (b) Review, evaluate, and advise the division  
4 concerning revisions and adoption of rules affecting  
5 homeowners' associations.

6 (c) Recommend improvements, if needed, in the  
7 education programs offered by the division.

8 (3) The council may elect a chair and vice chair and  
9 such other officers as it may deem advisable. The council  
10 shall meet at the call of its chair, at the request of a  
11 majority of its membership, at the request of the division, or  
12 at such times as it may prescribe. A majority of the members  
13 of the council shall constitute a quorum. Council action may  
14 be taken by vote of a majority of the voting members who are  
15 present at a meeting where there is a quorum.

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

18 721.05 Definitions.--As used in this chapter, the  
19 term:

20 (11) "Division" means the Division of Florida Land  
21 Sales, Condominiums, Homeowners' Associations, and Mobile  
22 Homes of the Department of Business and Professional  
23 Regulation.

24 Section 66. Paragraph (d) of subsection (2) of section  
25 721.07, Florida Statutes, is amended to read:

26 721.07 Public offering statement.--Prior to offering  
27 any timeshare plan, the developer must submit a filed public  
28 offering statement to the division for approval as prescribed  
29 by s. 721.03, s. 721.55, or this section. Until the division  
30 approves such filing, any contract regarding the sale of that  
31

1 | timeshare plan is subject to cancellation by the purchaser  
2 | pursuant to s. 721.10.

3 |           (2)

4 |           (d) A developer shall have the authority to deliver to  
5 | purchasers any purchaser public offering statement that is not  
6 | yet approved by the division, provided that the following  
7 | shall apply:

8 |           1. At the time the developer delivers an unapproved  
9 | purchaser public offering statement to a purchaser pursuant to  
10 | this paragraph, the developer shall deliver a fully completed  
11 | and executed copy of the purchase contract required by s.  
12 | 721.06 that contains the following statement in conspicuous  
13 | type in substantially the following form which shall replace  
14 | the statements required by s. 721.06(1)(g):

15 |

16 | The developer is delivering to you a public offering statement  
17 | that has been filed with but not yet approved by the Division  
18 | of Florida Land Sales, Condominiums, Homeowners' Associations,  
19 | and Mobile Homes. Any revisions to the unapproved public  
20 | offering statement you have received must be delivered to you,  
21 | but only if the revisions materially alter or modify the  
22 | offering in a manner adverse to you. After the division  
23 | approves the public offering statement, you will receive  
24 | notice of the approval from the developer and the required  
25 | revisions, if any.

26 |

27 | Your statutory right to cancel this transaction without any  
28 | penalty or obligation expires 10 calendar days after the date  
29 | you signed your purchase contract or the date on which you  
30 | receive the last of all documents required to be given to you  
31 | pursuant to section 721.07(6), Florida Statutes, or 10

1 | calendar days after you receive revisions required to be  
2 | delivered to you, if any, whichever is later. If you decide to  
3 | cancel this contract, you must notify the seller in writing of  
4 | your intent to cancel. Your notice of cancellation shall be  
5 | effective upon the date sent and shall be sent to (Name of  
6 | Seller)  
7 | at  
8 | (Address of Seller) . Any attempt to obtain a waiver of your  
9 | cancellation right is void and of no effect. While you may  
10 | execute all closing documents in advance, the closing, as  
11 | evidenced by delivery of the deed or other document, before  
12 | expiration of your 10-day cancellation period, is prohibited..

13 | 2. After receipt of approval from the division and  
14 | prior to closing, if any revisions made to the documents  
15 | contained in the purchaser public offering statement  
16 | materially alter or modify the offering in a manner adverse to  
17 | a purchaser, the developer shall send the purchaser such  
18 | revisions together with a notice containing a statement in  
19 | conspicuous type in substantially the following form:

20 |  
21 | The unapproved public offering statement previously delivered  
22 | to you, together with the enclosed revisions, has been  
23 | approved by the Division of Florida Land Sales, Condominiums,  
24 | Homeowners' Associations, and Mobile Homes. Accordingly, your  
25 | cancellation right expires 10 calendar days after you sign  
26 | your purchase contract or 10 calendar days after you receive  
27 | these revisions, whichever is later. If you have any questions  
28 | regarding your cancellation rights, you may contact the  
29 | division at [insert division's current address].

30 | 3. After receipt of approval from the division and  
31 | prior to closing, if no revisions have been made to the

1 | documents contained in the unapproved purchaser public  
2 | offering statement, or if such revisions do not materially  
3 | alter or modify the offering in a manner adverse to a  
4 | purchaser, the developer shall send the purchaser a notice  
5 | containing a statement in conspicuous type in substantially  
6 | the following form:

7 |  
8 | The unapproved public offering statement previously delivered  
9 | to you has been approved by the Division of Florida Land  
10 | Sales, Condominiums, Homeowners' Associations, and Mobile  
11 | Homes. Revisions made to the unapproved public offering  
12 | statement, if any, are either not required to be delivered to  
13 | you or are not deemed by the developer, in its opinion, to  
14 | materially alter or modify the offering in a manner that is  
15 | adverse to you. Accordingly, your cancellation right expired  
16 | 10 days after you signed your purchase contract. A complete  
17 | copy of the approved public offering statement is available  
18 | through the managing entity for inspection as part of the  
19 | books and records of the plan. If you have any questions  
20 | regarding your cancellation rights, you may contact the  
21 | division at [insert division's current address].

22 |         Section 67. Subsection (8) of section 721.08, Florida  
23 | Statutes, is amended to read:

24 |             721.08 Escrow accounts; nondisturbance instruments;  
25 | alternate security arrangements; transfer of legal title.--

26 |             (8) An escrow agent holding escrowed funds pursuant to  
27 | this chapter that have not been claimed for a period of 5  
28 | years after the date of deposit shall make at least one  
29 | reasonable attempt to deliver such unclaimed funds to the  
30 | purchaser who submitted such funds to escrow. In making such  
31 | attempt, an escrow agent is entitled to rely on a purchaser's

1 | last known address as set forth in the books and records of  
2 | the escrow agent and is not required to conduct any further  
3 | search for the purchaser. If an escrow agent's attempt to  
4 | deliver unclaimed funds to any purchaser is unsuccessful, the  
5 | escrow agent may deliver such unclaimed funds to the division  
6 | and the division shall deposit such unclaimed funds in the  
7 | Division of Florida Land Sales, Condominiums, Homeowners'  
8 | Associations, and Mobile Homes Trust Fund, 30 days after  
9 | giving notice in a publication of general circulation in the  
10 | county in which the timeshare property containing the  
11 | purchaser's timeshare interest is located. The purchaser may  
12 | claim the same at any time prior to the delivery of such funds  
13 | to the division. After delivery of such funds to the division,  
14 | the purchaser shall have no more rights to the unclaimed  
15 | funds. The escrow agent shall not be liable for any claims  
16 | from any party arising out of the escrow agent's delivery of  
17 | the unclaimed funds to the division pursuant to this section.

18 |       Section 68. Paragraph (e) of subsection (5) of section  
19 | 721.26, Florida Statutes, is amended to read:

20 |       721.26 Regulation by division.--The division has the  
21 | power to enforce and ensure compliance with the provisions of  
22 | this chapter, except for parts III and IV, using the powers  
23 | provided in this chapter, as well as the powers prescribed in  
24 | chapters 498, 718, and 719. In performing its duties, the  
25 | division shall have the following powers and duties:

26 |       (5) Notwithstanding any remedies available to  
27 | purchasers, if the division has reasonable cause to believe  
28 | that a violation of this chapter, or of any division rule or  
29 | order promulgated or issued pursuant to this chapter, has  
30 | occurred, the division may institute enforcement proceedings

31 |

1 in its own name against any regulated party, as such term is  
2 defined in this subsection:

3 (e)1. The division may impose a penalty against any  
4 regulated party for a violation of this chapter or any rule  
5 adopted thereunder. A penalty may be imposed on the basis of  
6 each day of continuing violation, but in no event may the  
7 penalty for any offense exceed \$10,000. All accounts collected  
8 shall be deposited with the Chief Financial Officer to the  
9 credit of the Division of Florida Land Sales, Condominiums,  
10 Homeowners' Associations, and Mobile Homes Trust Fund.

11 2.a. If a regulated party fails to pay a penalty, the  
12 division shall thereupon issue an order directing that such  
13 regulated party cease and desist from further operation until  
14 such time as the penalty is paid; or the division may pursue  
15 enforcement of the penalty in a court of competent  
16 jurisdiction.

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

20 Section 69. Section 721.28, Florida Statutes, is  
21 amended to read:

22 721.28 Division of Florida Land Sales, Condominiums,  
23 Homeowners' Associations, and Mobile Homes Trust Fund.--All  
24 funds collected by the division and any amounts paid as fees  
25 or penalties under this chapter shall be deposited in the  
26 State Treasury to the credit of the Division of Florida Land  
27 Sales, Condominiums, Homeowners' Associations, and Mobile  
28 Homes Trust Fund created by s. 498.019.

29 Section 70. Paragraph (c) of subsection (1) of section  
30 721.301, Florida Statutes, is amended to read:

31

1           721.301 Florida Timesharing, Vacation Club, and  
2 Hospitality Program.--

3           (1)

4           (c) The director may designate funds from the Division  
5 of Florida Land Sales, Condominiums, Homeowners' Associations,  
6 and Mobile Homes Trust Fund, not to exceed \$50,000 annually,  
7 to support the projects and proposals undertaken pursuant to  
8 paragraph (b). All state trust funds to be expended pursuant  
9 to this section must be matched equally with private moneys  
10 and shall comprise no more than half of the total moneys  
11 expended annually.

12           Section 71. Subsection (1) of section 723.003, Florida  
13 Statutes, is amended to read:

14           723.003 Definitions.--As used in this chapter, the  
15 following words and terms have the following meanings unless  
16 clearly indicated otherwise:

17           (1) The term "division" means the Division of Florida  
18 Land Sales, Condominiums, Homeowners' Associations, and Mobile  
19 Homes of the Department of Business and Professional  
20 Regulation.

21           Section 72. Paragraph (e) of subsection (5) of section  
22 723.006, Florida Statutes, is amended to read:

23           723.006 Powers and duties of division.--In performing  
24 its duties, the division has the following powers and duties:

25           (5) Notwithstanding any remedies available to mobile  
26 home owners, mobile home park owners, and homeowners'  
27 associations, if the division has reasonable cause to believe  
28 that a violation of any provision of this chapter or any rule  
29 promulgated pursuant hereto has occurred, the division may  
30 institute enforcement proceedings in its own name against a  
31

1 developer, mobile home park owner, or homeowners' association,  
2 or its assignee or agent, as follows:

3 (e)1. The division may impose a civil penalty against  
4 a mobile home park owner or homeowners' association, or its  
5 assignee or agent, for any violation of this chapter, a  
6 properly promulgated park rule or regulation, or a rule or  
7 regulation promulgated pursuant hereto. A penalty may be  
8 imposed on the basis of each separate violation and, if the  
9 violation is a continuing one, for each day of continuing  
10 violation, but in no event may the penalty for each separate  
11 violation or for each day of continuing violation exceed  
12 \$5,000. All amounts collected shall be deposited with the  
13 Chief Financial Officer to the credit of the Division of  
14 Florida Land Sales, Condominiums, Homeowners' Associations,  
15 and Mobile Homes Trust Fund.

16 2. If a violator fails to pay the civil penalty, the  
17 division shall thereupon issue an order directing that such  
18 violator cease and desist from further violation until such  
19 time as the civil penalty is paid or may pursue enforcement of  
20 the penalty in a court of competent jurisdiction. If a  
21 homeowners' association fails to pay the civil penalty, the  
22 division shall thereupon pursue enforcement in a court of  
23 competent jurisdiction, and the order imposing the civil  
24 penalty or the cease and desist order shall not become  
25 effective until 20 days after the date of such order. Any  
26 action commenced by the division shall be brought in the  
27 county in which the division has its executive offices or in  
28 which the violation occurred.

29 Section 73. Section 723.009, Florida Statutes, is  
30 amended to read:  
31

1           723.009 Division of Florida Land Sales, Condominiums,  
2 Homeowners' Associations, and Mobile Homes Trust Fund.--All  
3 proceeds from the fees, penalties, and fines imposed pursuant  
4 to this chapter shall be deposited into the Division of  
5 Florida Land Sales, Condominiums, Homeowners' Associations,  
6 and Mobile Homes Trust Fund created by s. 498.019. Moneys in  
7 this fund, as appropriated by the Legislature pursuant to  
8 chapter 216, may be used to defray the expenses incurred by  
9 the division in administering the provisions of this chapter.

10           Section 74. Paragraph (c) of subsection (2) of section  
11 723.0611, Florida Statutes, is amended to read:

12           723.0611 Florida Mobile Home Relocation Corporation.--

13           (2)

14           (c) The corporation shall, for purposes of s. 768.28,  
15 be considered an agency of the state. Agents or employees of  
16 the corporation, members of the board of directors of the  
17 corporation, or representatives of the Division of Florida  
18 Land Sales, Condominiums, Homeowners' Associations, and Mobile  
19 Homes shall be considered officers, employees, or agents of  
20 the state, and actions against them and the corporation shall  
21 be governed by s. 768.28.

22           Section 75. Emotional support animals.--

23           (1) Every homeowner or renter in this state shall have  
24 the right to own a companion animal and to have such animal  
25 live with them in their home if such companion animal is  
26 deemed helpful to the person's physical or psychological  
27 well-being as attested to by at least two qualified health  
28 care professionals.

29           (2) Any municipal or county code or ordinance, or any  
30 purported rule, declaration, by-law or other form of  
31 restriction contrary to the right provided in subsection (1)

1 contained in any governing document of any condominium,  
2 cooperative, mobile home park, homeowner, or any other common  
3 interest ownership community association shall be deemed  
4 unconscionable, and thus unenforceable, invalid and of no  
5 legal effect.

6 (3) An animal does not require specialized training or  
7 skill in assisting its owner to be classified as a companion  
8 animal pursuant to this section. The animal can be a cat, dog,  
9 ferret, bird, gerbil, or any other commonly accepted  
10 domesticated animal. However, if such training can be  
11 documented, a letter from only one qualified health care  
12 professional is required, as per pre-existing federal  
13 disability and fair housing laws.

14 (4) Qualified health professionals include any  
15 physician or advanced registered nurse practitioner who is  
16 licensed in this state to prescribe medications for emotional  
17 or mental conditions, or any mental health worker, mental  
18 health counselor, psychologist, or social worker, who is  
19 licensed in this state to practice counseling therapy. The  
20 letter must say that the animal is necessary to ameliorate and  
21 help with life functions for a condition covered under the  
22 Americans with Disabilities Act. The letter does not have to  
23 give details of the nature of the unit owner's disorder, in  
24 order not to invade the patient's privacy per the Health  
25 Insurance Portability and Accountability Act. Where the  
26 primary residence of the owner is in another state, the  
27 qualified health care professional is defined as a qualified  
28 health care professional licensed in their home state.

29 (5) If it becomes necessary for an owner or renter in  
30 any condominium, cooperative, mobile home park, homeowner or  
31 any other common interest ownership association to enforce

1 this section in court against an association which has  
2 threatened to limit his or her right to own and reside with a  
3 companion animal either orally or in writing, the homeowner  
4 shall be entitled to recover his or her reasonable costs and  
5 attorney's fees if the homeowner is the prevailing party. This  
6 attorney's fee provision is not reciprocal.

7           Section 76. Notwithstanding any provision to the  
8 contrary contained in a declaration of condominium,  
9 condominium bylaws, or other documents, a condominium  
10 developer who rents or leases any unsold units in a  
11 condominium must pay all monthly maintenance fees on those  
12 units to the association as if the units were owned by  
13 individual owners.

14           Section 77. This act shall take effect July 1, 2007.  
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