

1 A bill to be entitled

2 An act relating to the Department of Business and  
3 Professional Regulation; amending s. 718.111, F.S.;  
4 requiring that hazard insurance be based upon the  
5 replacement cost of the property to be insured as  
6 determined by an independent insurance appraisal or update  
7 of a prior appraisal; requiring that the full insurable  
8 value be determined at specified intervals; providing a  
9 means by which an association may provide adequate hazard  
10 insurance; authorizing an association to consider certain  
11 information when determining coverage amounts; providing  
12 for coverage by developer-controlled associations;  
13 providing that policies may include deductibles as  
14 determined by the association's board of directors;  
15 providing requirements and guidelines for the  
16 establishment of such deductibles; requiring that the  
17 amounts of deductibles be set at a meeting of the board;  
18 providing requirements for such meeting; requiring that an  
19 association controlled by unit owners operating as a  
20 residential condominium use its best efforts to obtain and  
21 maintain adequate insurance to protect the association and  
22 property under its supervision or control; providing that  
23 a declaration of condominium may provide that condominium  
24 property consisting of freestanding buildings comprised of  
25 no more than one building in or on such unit need not be  
26 insured by the association if the declaration requires the  
27 unit owner to obtain adequate insurance for the  
28 condominium property; authorizing an association to obtain

29 | and maintain liability insurance for directors and  
30 | officers, insurance for the benefit of association  
31 | employees, and flood insurance for common elements,  
32 | association property, and units; requiring that every  
33 | hazard insurance policy issued or renewed on or after a  
34 | specified date for the purpose of protecting the  
35 | condominium provide certain coverage; requiring that such  
36 | policies contain certain provisions; providing that such  
37 | policies issued to individual unit owners do not provide  
38 | rights of subrogation against the condominium association;  
39 | providing for the insurance of improvements or additions  
40 | benefiting fewer than all unit owners; requiring that an  
41 | association require each owner to provide evidence of a  
42 | current policy of hazard and liability insurance upon  
43 | request; limiting the frequency with which an association  
44 | may make such a request; authorizing an association to  
45 | purchase coverage on behalf of an owner under certain  
46 | circumstances; providing for the collection of the costs  
47 | of such a policy; providing responsibilities of the unit  
48 | owner and association with regard to reconstruction work  
49 | and associated costs after a casualty loss; authorizing a  
50 | multicondominium association to operate such condominiums  
51 | as a single condominium for certain purposes by majority  
52 | vote of the members of all applicable condominiums;  
53 | providing that such election constitutes an amendment to  
54 | the declaration of all applicable condominiums; requiring  
55 | that an association maintain insurance or fidelity bonding  
56 | for all persons who control or disburse association funds;

57 | requiring that such insurance policy or fidelity bond  
58 | cover the maximum funds in the custody of the association  
59 | or its management agent at any one time; defining the term  
60 | "persons who control or disburse funds of the  
61 | association"; authorizing an association to amend the  
62 | declaration of condominium without regard to any  
63 | requirement for approval by mortgagees of amendments  
64 | affecting insurance requirements for the purpose of  
65 | conforming the declaration of condominium to certain  
66 | coverage requirements; providing that any portion of the  
67 | condominium property required to be insured by the  
68 | association against casualty loss which is damaged be  
69 | reconstructed, repaired, or replaced as necessary by the  
70 | association as a common expense; providing that all hazard  
71 | insurance deductibles, uninsured losses, and other damages  
72 | in excess of hazard insurance coverage under the hazard  
73 | insurance policies maintained by the association are a  
74 | common expense of the condominium; providing exceptions;  
75 | allocating responsibility for certain costs of repair or  
76 | reconstruction; authorizing an association to opt out of  
77 | certain requirements related to such allocation of  
78 | responsibility by majority vote; providing a procedure by  
79 | which a multicondominium association that has not  
80 | consolidated its financial operations may opt out of such  
81 | allocation of responsibility; requiring that a decision to  
82 | opt out be recorded; providing that such decision takes  
83 | effect on the date on which it is recorded; authorizing  
84 | the reversal of such decision; providing a procedure for

85 reversal; providing that an association is not obligated  
86 to pay for any reconstruction or repair expenses for  
87 improvements made by an owner or the development if an  
88 improvement benefits only the unit for which it was  
89 installed; amending s. 718.115, F.S.; requiring that  
90 certain expenses be designated as common expenses;  
91 amending s. 718.116, F.S.; authorizing the designee of a  
92 unit owner or mortgagee to request a certificate of  
93 assessment; requiring that the fee for preparation of such  
94 certificate be stated on the certificate; providing for  
95 the establishment of such fees; providing for payment of  
96 the fee; requiring that the fee be refunded if a planned  
97 sale or mortgage does not occur; providing that any such  
98 refund is the obligation of the unit owner and is  
99 collectable in the same manner as an assessment; amending  
100 s. 718.117, F.S.; prohibiting the distribution of proceeds  
101 from the sale of a condominium unit to a lienholder from  
102 exceeding a unit owner's share of the proceeds; creating  
103 s. 720.30851, F.S.; requiring that the association provide  
104 a certificate signed by an officer or agent of the  
105 association stating all assessments and other moneys owed  
106 to the association by the parcel owner or mortgagee with  
107 respect to the parcel within a specified period after the  
108 association's receipt of a request for an estoppel  
109 certificate by an owner or mortgagee; providing that any  
110 person other than a parcel owner who relies upon a  
111 certificate receives the benefits and protection thereof;  
112 providing that a summary proceeding may be brought to

113 |       compel the association to comply with the requirement to  
114 |       provide a certificate; providing that the prevailing party  
115 |       is entitled to recover reasonable attorney's fees;  
116 |       requiring that the fee for preparation of such certificate  
117 |       be stated on the certificate; providing for the  
118 |       establishment of such fees; providing for payment of the  
119 |       fee; requiring that the fee be refunded if a planned sale  
120 |       or mortgage does not occur; providing that any such refund  
121 |       is the obligation of the parcel owner and is collectable  
122 |       in the same manner as an assessment; amending s. 20.165,  
123 |       F.S.; changing the name of the Division of Florida Land  
124 |       Sales, Condominiums, and Mobile Homes to the Division of  
125 |       Florida Condominiums, Timeshares, and Mobile Homes and the  
126 |       Division of Technology, Licensure, and Testing to the  
127 |       Division of Technology; amending s. 215.20, F.S.;  
128 |       conforming the name of the division's trust fund to  
129 |       correspond to the name change of the division; amending s.  
130 |       450.33, F.S.; removing the requirement for a farm labor  
131 |       contractor to file a set of fingerprints with the  
132 |       department; amending s. 455.203, F.S.; authorizing the  
133 |       department to close and terminate deficient license  
134 |       applications and to approve professional license  
135 |       applications meeting certain criteria; amending s.  
136 |       455.217, F.S.; conforming terminology to changes made by  
137 |       the act; amending s. 455.2273, F.S.; authorizing the  
138 |       section to apply to disciplinary guidelines adopted by all  
139 |       boards and divisions; amending s. 468.841, F.S.;  
140 |       clarifying exemption provisions for license provisions

141 governing mold-related services; amending s. 475.17, F.S.;  
142 revising requirements for licensure as a real estate  
143 broker; amending s. 475.451, F.S.; deleting requirements  
144 relating to the submission of certain real estate course  
145 rosters to the department; amending s. 477.019, F.S.,  
146 relating to cosmetologists; allowing a student to apply  
147 for licensure examination prior to graduation and to  
148 practice prior to licensure; amending s. 489.105, F.S.;  
149 clarifying that individuals and business entities that  
150 sell manufactured and factory-built buildings can legally  
151 enter into contracts for those sales; amending s. 489.511,  
152 F.S.; revising requirements for taking the electrical or  
153 alarm system contractor certification examination;  
154 providing requirements for certification; amending s.  
155 489.515, F.S.; revising requirements for certification as  
156 a certified contractor by the Electrical Contractors'  
157 Licensing Board to reflect changes made to s. 489.511,  
158 F.S., by this act; renumbering s. 498.009, F.S., relating  
159 to the location of the division's offices; amending and  
160 renumbering s. 498.011, F.S., relating to payment of per  
161 diem, mileage, and other expenses for division employees;  
162 providing for reimbursement of expenses for on-site  
163 review; deleting the expense reimbursement for inspection  
164 of subdivided lands; renumbering s. 498.013, F.S.,  
165 relating to the authentication of records; amending and  
166 renumbering s. 498.057, F.S., relating to service of  
167 process; deleting provision that service may be made by  
168 delivering a copy of the process to the division director;

169 providing that the division can be the petitioner or the  
170 plaintiff; repealing ss. 498.001, 498.003, 498.005,  
171 498.007, 498.017, 498.021, 498.022, 498.023, 498.024,  
172 498.025, 498.027, 498.028, 498.029, 498.031, 498.033,  
173 498.035, 498.037, 498.039, 498.041, 498.047, 498.049,  
174 498.051, 498.053, 498.059, 498.061, and 498.063, F.S.,  
175 relating to regulation of land sales practices; amending  
176 s. 548.0065, F.S.; including amateur mixed martial arts in  
177 a provision relating to the authority of the Florida State  
178 Boxing Commission to suspend amateur matches for violation  
179 of certain health and safety standards; amending s.  
180 548.008, F.S.; removing prohibition against holding  
181 amateur mixed martial arts matches in this state; amending  
182 s. 548.041, F.S.; providing additional licensure  
183 requirements for boxing participants; amending s. 718.501,  
184 F.S.; providing additional powers and duties of the  
185 division; providing for additional enforcement proceedings  
186 for carrying out the purposes of ch. 718, F.S.; deleting  
187 the payment of money by a developer to a condominium  
188 association as a permissible affirmative action; providing  
189 for actions of conservator or receiver; providing for  
190 application to circuit court for an order of restitution;  
191 providing for imposition of civil penalties and award of  
192 court costs, attorney's fees, and costs of investigation  
193 under certain circumstances; providing for contracting for  
194 investigative services; providing for acceptance of  
195 grants-in-aid; requiring the cooperation with similar  
196 agencies on establishment of certain procedures,

197 standards, and forms; providing what constitutes  
 198 completeness of notice; authorizing the division to issue  
 199 a notice to show cause; providing conforming changes;  
 200 amending s. 718.509, F.S., and transferring, renumbering,  
 201 and amending s. 498.019, F.S.; consolidating and revising  
 202 provisions relating to the creation, purposes, and sources  
 203 of funds of the Division of Florida Condominiums,  
 204 Timeshares, and Mobile Homes Trust Fund; revising  
 205 provisions to conform to the change in division name;  
 206 providing for the deposit of moneys resulting from an  
 207 administrative final order; amending s. 721.03, F.S.;  
 208 clarifying that timeshare plan includes a nonspecific  
 209 multisite timeshare plan; amending ss. 73.073, 190.009,  
 210 192.037, 213.053, 326.002, 326.006, 380.05, 380.06,  
 211 380.0651, 381.0065, 455.116, 475.455, 494.008, 509.512,  
 212 517.301, 559.935, 718.103, 718.105, 718.1255, 718.5011,  
 213 718.502, 718.504, 718.508, 718.608, 719.103, 719.1255,  
 214 719.501, 719.502, 719.504, 719.508, 719.608, 720.301,  
 215 720.401, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301,  
 216 721.50, 723.003, 723.006, 723.009, and 723.0611, F.S., to  
 217 conform; providing effective dates.

218  
 219 Be It Enacted by the Legislature of the State of Florida:

220  
 221 Section 1. Subsection (11) of section 718.111, Florida  
 222 Statutes, is amended to read:  
 223 718.111 The association.--



224 (11) INSURANCE.--In order to protect the safety, health,  
 225 and welfare of the people of the State of Florida and to ensure  
 226 consistency in the provision of insurance coverage to  
 227 condominiums and their unit owners, this subsection applies  
 228 ~~paragraphs (a), (b), and (c) are deemed to apply~~ to every  
 229 residential condominium in the state, regardless of the date of  
 230 its declaration of condominium. It is the intent of the  
 231 Legislature to encourage lower or stable insurance premiums for  
 232 associations described in this subsection ~~section~~.

233 (a) Adequate hazard insurance, regardless of any  
 234 requirement in the declaration of condominium for coverage by  
 235 the association for full insurable value, replacement cost, or  
 236 similar coverage, shall be based upon the replacement cost of  
 237 the property to be insured as determined by an independent  
 238 insurance appraisal or update of a prior appraisal. The full  
 239 insurable value shall be determined at least once every 36  
 240 months.

241 1. An association or group of associations may provide  
 242 adequate hazard insurance through a self-insurance fund that  
 243 complies with the requirements of ss. 624.460-624.488.

244 2. The association may also provide adequate hazard  
 245 insurance coverage individually or for a group of no fewer than  
 246 three communities created and operating under this chapter,  
 247 chapter 719, chapter 720, or chapter 721 by obtaining and  
 248 maintaining for such communities insurance coverage sufficient  
 249 to cover an amount equal to the probable maximum loss for the  
 250 communities for a 250-year windstorm event. Such probable  
 251 maximum loss must be determined through the use of a competent

252 model that has been accepted by the Florida Commission on  
253 Hurricane Loss Projection Methodology. No policy or program  
254 providing such coverage shall be issued or renewed after July 1,  
255 2008, unless it has been reviewed and approved by the Office of  
256 Insurance Regulation. The review and approval shall include  
257 approval of the policy and related forms pursuant to ss. 627.410  
258 and 627.411, approval of the rates pursuant to s. 627.062, a  
259 determination that the loss model approved by the Commission was  
260 accurately and appropriately applied to the insured structures  
261 to determine the 250-year probable maximum loss, and a  
262 determination that complete and accurate disclosure of all  
263 material provisions is provided to condominium unit owners prior  
264 to execution of the agreement by a condominium association.

265 3. When determining the adequate amount of hazard  
266 insurance coverage, the association may consider deductibles as  
267 determined by this subsection.

268 (b) If an association is a developer-controlled  
269 association, the association shall exercise its best efforts to  
270 obtain and maintain insurance as described in paragraph (a).  
271 Failure to obtain and maintain adequate hazard insurance during  
272 any period of developer control constitutes a breach of  
273 fiduciary responsibility by the developer-appointed members of  
274 the board of directors of the association, unless the members  
275 can show that despite such failure, they have made their best  
276 efforts to maintain the required coverage.

277 (c) Policies may include deductibles as determined by the  
278 board.

279           1. The deductibles shall be consistent with industry  
 280 standards and prevailing practice for communities of similar  
 281 size and age, and having similar construction and facilities in  
 282 the locale where the condominium property is situated.

283           2. The deductibles may be based upon available funds,  
 284 including reserve accounts, or predetermined assessment  
 285 authority at the time the insurance is obtained.

286           3. The board shall establish the amount of deductibles  
 287 based upon the level of available funds and predetermined  
 288 assessment authority at a meeting of the board. Such meeting  
 289 shall be open to all unit owners in the manner set forth in s.  
 290 718.112(2)(e). The notice of such meeting must state the  
 291 proposed deductible and the available funds and the assessment  
 292 authority relied upon by the board and estimate any potential  
 293 assessment amount against each unit, if any. The meeting  
 294 described in this paragraph may be held in conjunction with a  
 295 meeting to consider the proposed budget or an amendment thereto.

296           (d) An association controlled by unit owners operating as  
 297 a residential condominium shall use its best efforts to obtain  
 298 and maintain adequate insurance to protect the association, the  
 299 association property, the common elements, and the condominium  
 300 property that is required to be insured by the association  
 301 pursuant to this subsection.

302           (e) The declaration of condominium as originally recorded,  
 303 or as amended pursuant to procedures provided therein, may  
 304 provide that condominium property consisting of freestanding  
 305 buildings comprised of no more than one building in or on such  
 306 unit need not be insured by the association if the declaration

307 requires the unit owner to obtain adequate insurance for the  
308 condominium property. An association may also obtain and  
309 maintain liability insurance for directors and officers,  
310 insurance for the benefit of association employees, and flood  
311 insurance for common elements, association property, and units.

312 (f) Every hazard insurance policy issued or renewed on or  
313 after January 1, 2009, for the purpose of protecting the  
314 condominium shall provide primary coverage for:

315 1. All portions of the condominium property as originally  
316 installed or replacement of like kind and quality, in accordance  
317 with the original plans and specifications.

318 2. All alterations or additions made to the condominium  
319 property or association property pursuant to s. 718.113(2).

320 3. The coverage shall exclude all personal property within  
321 the unit or limited common elements, and floor, wall, and  
322 ceiling coverings, electrical fixtures, appliances, water  
323 heaters, water filters, built-in cabinets and countertops, and  
324 window treatments, including curtains, drapes, blinds, hardware,  
325 and similar window treatment components, or replacements of any  
326 of the foregoing.

327 (g) Every hazard insurance policy issued or renewed on or  
328 after January 1, 2009, to an individual unit owner must contain  
329 a provision stating that the coverage afforded by such policy is  
330 excess coverage over the amount recoverable under any other  
331 policy covering the same property. Such policies must include  
332 special assessment coverage of no less than \$2,000 per  
333 occurrence. An insurance policy issued to an individual unit  
334 owner providing such coverage does not provide rights of

335 subrogation against the condominium association operating the  
336 condominium in which such individual's unit is located.

337 1. All improvements or additions to the condominium  
338 property that benefit fewer than all unit owners shall be  
339 insured by the unit owner or owners having the use thereof, or  
340 may be insured by the association at the cost and expense of the  
341 unit owners having the use thereof.

342 2. The association shall require each owner to provide  
343 evidence of a currently effective policy of hazard and liability  
344 insurance upon request, but not more than once per year. Upon  
345 the failure of an owner to provide a certificate of insurance  
346 issued by an insurer approved to write such insurance in this  
347 state within 30 days after the date on which a written request  
348 is delivered, the association may purchase a policy of insurance  
349 on behalf of an owner. The cost of such a policy, together with  
350 reconstruction costs undertaken by the association but which are  
351 the responsibility of the unit owner, may be collected in the  
352 manner provided for the collection of assessments in s. 718.116.

353 3. All reconstruction work after a casualty loss shall be  
354 undertaken by the association except as otherwise authorized in  
355 this section. A unit owner may undertake reconstruction work on  
356 portions of the unit with the prior written consent of the board  
357 of administration. However, such work may be conditioned upon  
358 the approval of the repair methods, the qualifications of the  
359 proposed contractor, or the contract that is used for that  
360 purpose. A unit owner shall obtain all required governmental  
361 permits and approvals prior to commencing reconstruction.

362       4. Unit owners are responsible for the cost of  
363 reconstruction of any portions of the condominium property for  
364 which the unit owner is required to carry casualty insurance,  
365 and any such reconstruction work undertaken by the association  
366 shall be chargeable to the unit owner and enforceable as an  
367 assessment pursuant to s. 718.116. The association must be an  
368 additional named insured and loss payee on all casualty  
369 insurance policies issued to unit owners in the condominium  
370 operated by the association.

371       5. A multicondominium association may elect, by a majority  
372 vote of the collective members of the condominiums operated by  
373 the association, to operate such condominiums as a single  
374 condominium for purposes of insurance matters, including, but  
375 not limited to, the purchase of the hazard insurance required by  
376 this section and the apportionment of deductibles and damages in  
377 excess of coverage. The election to aggregate the treatment of  
378 insurance premiums, deductibles, and excess damages constitutes  
379 an amendment to the declaration of all condominiums operated by  
380 the association, and the costs of insurance shall be stated in  
381 the association budget. The amendments shall be recorded as  
382 required by s. 718.110.

383       (h) The association shall maintain insurance or fidelity  
384 bonding of all persons who control or disburse funds of the  
385 association. The insurance policy or fidelity bond must cover  
386 the maximum funds that will be in the custody of the association  
387 or its management agent at any one time. As used in this  
388 paragraph, the term "persons who control or disburse funds of  
389 the association" includes, but is not limited to, those

390 individuals authorized to sign checks on behalf of the  
 391 association, and the president, secretary, and treasurer of the  
 392 association. The association shall bear the cost of any such  
 393 bonding.

394 (i) The association may amend the declaration of  
 395 condominium without regard to any requirement for approval by  
 396 mortgagees of amendments affecting insurance requirements for  
 397 the purpose of conforming the declaration of condominium to the  
 398 coverage requirements of this subsection.

399 (j) Any portion of the condominium property required to be  
 400 insured by the association against casualty loss pursuant to  
 401 paragraph (f) which is damaged by casualty shall be  
 402 reconstructed, repaired, or replaced as necessary by the  
 403 association as a common expense. All hazard insurance  
 404 deductibles, uninsured losses, and other damages in excess of  
 405 hazard insurance coverage under the hazard insurance policies  
 406 maintained by the association are a common expense of the  
 407 condominium, except that:

408 1. A unit owner is responsible for the costs of repair or  
 409 replacement of any portion of the condominium property not paid  
 410 by insurance proceeds, if such damage is caused by intentional  
 411 conduct, negligence, or failure to comply with the terms of the  
 412 declaration or the rules of the association by a unit owner, the  
 413 members of his or her family, unit occupants, tenants, guests,  
 414 or invitees, without compromise of the subrogation rights of any  
 415 insurer as set forth in paragraph (g).

416 2. The provisions of subparagraph 1. regarding the  
 417 financial responsibility of a unit owner for the costs of

418 repairing or replacing other portions of the condominium  
419 property also applies to the costs of repair or replacement of  
420 personal property of other unit owners or the association, as  
421 well as other property, whether real or personal, which the unit  
422 owners are required to insure under paragraph (g).

423 3. To the extent the cost of repair or reconstruction for  
424 which the unit owner is responsible under this paragraph is  
425 reimbursed to the association by insurance proceeds, and, to the  
426 extent the association has collected the cost of such repair or  
427 reconstruction from the unit owner, the association shall  
428 reimburse the unit owner without the waiver of any rights of  
429 subrogation.

430 4. The association is not obligated to pay for repair or  
431 reconstruction or repairs of casualty losses as a common expense  
432 if the casualty losses were known or should have been known to a  
433 unit owner and were not reported to the association until after  
434 the insurance claim of the association for that casualty was  
435 settled or resolved with finality, or denied on the basis that  
436 it was untimely filed.

437 (k) An association may, upon the approval of a majority of  
438 the total voting interests in the association, opt out of the  
439 provisions of paragraph (j) for the allocation of repair or  
440 reconstruction expenses and allocate repair or reconstruction  
441 expenses in the manner provided in the declaration as originally  
442 recorded or as amended. Such vote may be approved by the voting  
443 interests of the association without regard to any mortgagee  
444 consent requirements.



445       (l) In a multicondominium association that has not  
446 consolidated its financial operations under s. 718.111(6), any  
447 condominium operated by the association may opt out of the  
448 provisions of paragraph (j) with the approval of a majority of  
449 the total voting interests in that condominium. Such vote may be  
450 approved by the voting interests without regard to any mortgagee  
451 consent requirements.

452       (m) Any association or condominium voting to opt out of  
453 the guidelines for repair or reconstruction expenses as  
454 described in paragraph (j) must record a notice setting forth  
455 the date of the opt-out vote and the page of the official  
456 records book on which the declaration is recorded. The decision  
457 to opt out is effective upon the date of recording of the notice  
458 in the public records by the association. An association that  
459 has voted to opt out of paragraph (j) may reverse that decision  
460 by the same vote required in paragraphs (k) and (l), and notice  
461 thereof shall be recorded in the official records.

462       (n) The association is not obligated to pay for any  
463 reconstruction or repair expenses due to casualty loss to any  
464 improvements installed by a current or former owner of the unit  
465 or by the developer if the improvement benefits only the unit  
466 for which it was installed and is not part of the standard  
467 improvements installed by the developer on all units as part of  
468 original construction, whether or not such improvement is  
469 located within the unit. This paragraph does not relieve any  
470 party of its obligations regarding recovery due under any  
471 insurance implemented specifically for any such improvements.

472        (o) The provisions of this subsection shall not apply to  
473 timeshare condominium associations. Insurance for timeshare  
474 condominium associations shall be maintained pursuant to s.  
475 721.165. Therefore, the Legislature requires a report to be  
476 prepared by the Office of Insurance Regulation of the Department  
477 of Financial Services for publication 18 months from the  
478 effective date of this act, evaluating premium increases or  
479 decreases for associations, unit owner premium increases or  
480 decreases, recommended changes to better define common areas, or  
481 any other information the Office of Insurance Regulation deems  
482 appropriate.

483        ~~(a) A unit owner controlled association operating a~~  
484 ~~residential condominium shall use its best efforts to obtain and~~  
485 ~~maintain adequate insurance to protect the association, the~~  
486 ~~association property, the common elements, and the condominium~~  
487 ~~property required to be insured by the association pursuant to~~  
488 ~~paragraph (b). If the association is developer controlled, the~~  
489 ~~association shall exercise due diligence to obtain and maintain~~  
490 ~~such insurance. Failure to obtain and maintain adequate~~  
491 ~~insurance during any period of developer control shall~~  
492 ~~constitute a breach of fiduciary responsibility by the~~  
493 ~~developer appointed members of the board of directors of the~~  
494 ~~association, unless said members can show that despite such~~  
495 ~~failure, they have exercised due diligence. The declaration of~~  
496 ~~condominium as originally recorded, or amended pursuant to~~  
497 ~~procedures provided therein, may require that condominium~~  
498 ~~property consisting of freestanding buildings where there is no~~  
499 ~~more than one building in or on such unit need not be insured by~~

500 ~~the association if the declaration requires the unit owner to~~  
501 ~~obtain adequate insurance for the condominium property. An~~  
502 ~~association may also obtain and maintain liability insurance for~~  
503 ~~directors and officers, insurance for the benefit of association~~  
504 ~~employees, and flood insurance for common elements, association~~  
505 ~~property, and units. Adequate insurance, regardless of any~~  
506 ~~requirement in the declaration of condominium for coverage by~~  
507 ~~the association for "full insurable value," "replacement cost,"~~  
508 ~~or the like, may include reasonable deductibles as determined by~~  
509 ~~the board based upon available funds or predetermined assessment~~  
510 ~~authority at the time that the insurance is obtained.~~

511 ~~1. Windstorm insurance coverage for a group of no fewer~~  
512 ~~than three communities created and operating under this chapter,~~  
513 ~~chapter 719, chapter 720, or chapter 721 may be obtained and~~  
514 ~~maintained for the communities if the insurance coverage is~~  
515 ~~sufficient to cover an amount equal to the probable maximum loss~~  
516 ~~for the communities for a 250 year windstorm event. Such~~  
517 ~~probable maximum loss must be determined through the use of a~~  
518 ~~competent model that has been accepted by the Florida Commission~~  
519 ~~on Hurricane Loss Projection Methodology. Such insurance~~  
520 ~~coverage is deemed adequate windstorm insurance for the purposes~~  
521 ~~of this section.~~

522 ~~2. An association or group of associations may self insure~~  
523 ~~against claims against the association, the association~~  
524 ~~property, and the condominium property required to be insured by~~  
525 ~~an association, upon compliance with the applicable provisions~~  
526 ~~of ss. 624.460-624.488, which shall be considered adequate~~  
527 ~~insurance for the purposes of this section. A copy of each~~

528 ~~policy of insurance in effect shall be made available for~~  
529 ~~inspection by unit owners at reasonable times.~~

530 ~~(b) Every hazard insurance policy issued or renewed on or~~  
531 ~~after January 1, 2004, to protect the condominium shall provide~~  
532 ~~primary coverage for:~~

533 ~~1. All portions of the condominium property located~~  
534 ~~outside the units;~~

535 ~~2. The condominium property located inside the units as~~  
536 ~~such property was initially installed, or replacements thereof~~  
537 ~~of like kind and quality and in accordance with the original~~  
538 ~~plans and specifications or, if the original plans and~~  
539 ~~specifications are not available, as they existed at the time~~  
540 ~~the unit was initially conveyed; and~~

541 ~~3. All portions of the condominium property for which the~~  
542 ~~declaration of condominium requires coverage by the association.~~

543  
544 ~~Anything to the contrary notwithstanding, the terms "condominium~~  
545 ~~property," "building," "improvements," "insurable improvements,"~~  
546 ~~"common elements," "association property," or any other term~~  
547 ~~found in the declaration of condominium which defines the scope~~  
548 ~~of property or casualty insurance that a condominium association~~  
549 ~~must obtain shall exclude all floor, wall, and ceiling~~  
550 ~~coverings, electrical fixtures, appliances, air conditioner or~~  
551 ~~heating equipment, water heaters, water filters, built-in~~  
552 ~~cabinets and countertops, and window treatments, including~~  
553 ~~curtains, drapes, blinds, hardware, and similar window treatment~~  
554 ~~components, or replacements of any of the foregoing which are~~  
555 ~~located within the boundaries of a unit and serve only one unit~~

556 ~~and all air conditioning compressors that service only an~~  
557 ~~individual unit, whether or not located within the unit~~  
558 ~~boundaries. The foregoing is intended to establish the property~~  
559 ~~or casualty insuring responsibilities of the association and~~  
560 ~~those of the individual unit owner and do not serve to broaden~~  
561 ~~or extend the perils of coverage afforded by any insurance~~  
562 ~~contract provided to the individual unit owner. Beginning~~  
563 ~~January 1, 2004, the association shall have the authority to~~  
564 ~~amend the declaration of condominium, without regard to any~~  
565 ~~requirement for mortgagee approval of amendments affecting~~  
566 ~~insurance requirements, to conform the declaration of~~  
567 ~~condominium to the coverage requirements of this section.~~

568 ~~(c) Every hazard insurance policy issued or renewed on or~~  
569 ~~after January 1, 2004, to an individual unit owner shall provide~~  
570 ~~that the coverage afforded by such policy is excess over the~~  
571 ~~amount recoverable under any other policy covering the same~~  
572 ~~property. Each insurance policy issued to an individual unit~~  
573 ~~owner providing such coverage shall be without rights of~~  
574 ~~subrogation against the condominium association that operates~~  
575 ~~the condominium in which such unit owner's unit is located. All~~  
576 ~~real or personal property located within the boundaries of the~~  
577 ~~unit owner's unit which is excluded from the coverage to be~~  
578 ~~provided by the association as set forth in paragraph (b) shall~~  
579 ~~be insured by the individual unit owner.~~

580 ~~(d) The association shall obtain and maintain adequate~~  
581 ~~insurance or fidelity bonding of all persons who control or~~  
582 ~~disburse funds of the association. The insurance policy or~~  
583 ~~fidelity bond must cover the maximum funds that will be in the~~

584 ~~eustody of the association or its management agent at any one~~  
 585 ~~time. As used in this paragraph, the term "persons who control~~  
 586 ~~or disburse funds of the association" includes, but is not~~  
 587 ~~limited to, those individuals authorized to sign checks and the~~  
 588 ~~president, secretary, and treasurer of the association. The~~  
 589 ~~association shall bear the cost of bonding.~~

590 Section 2. Paragraph (a) of subsection (1) of section  
 591 718.115, Florida Statutes, is amended to read:

592 718.115 Common expenses and common surplus.--

593 (1) (a) Common expenses include the expenses of the  
 594 operation, maintenance, repair, replacement, or protection of  
 595 the common elements and association property, costs of carrying  
 596 out the powers and duties of the association, and any other  
 597 expense, whether or not included in the foregoing, designated as  
 598 common expense by this chapter, the declaration, the documents  
 599 creating the association, or the bylaws. Common expenses also  
 600 include reasonable transportation services, insurance for  
 601 directors and officers, road maintenance and operation expenses,  
 602 in-house communications, and security services, which are  
 603 reasonably related to the general benefit of the unit owners  
 604 even if such expenses do not attach to the common elements or  
 605 property of the condominium. However, such common expenses must  
 606 either have been services or items provided on or after the date  
 607 control of the association is transferred from the developer to  
 608 the unit owners or must be services or items provided for in the  
 609 condominium documents or bylaws. Unless the manner of payment or  
 610 allocation of expenses is otherwise addressed in the declaration  
 611 of condominium, the expenses of any items or services required

612 by any federal, state, or local governmental entity to be  
 613 installed, maintained, or supplied to the condominium property  
 614 by the association, including, but not limited to, fire safety  
 615 equipment or water and sewer service where a master meter serves  
 616 the condominium, shall be common expenses whether or not such  
 617 items or services are specifically identified as common expenses  
 618 in the declaration of condominium, articles of incorporation, or  
 619 bylaws of the association.

620 Section 3. Subsection (8) of section 718.116, Florida  
 621 Statutes, is amended to read:

622 718.116 Assessments; liability; lien and priority;  
 623 interest; collection.--

624 (8) Within 15 days after receiving a written request  
 625 therefor from a unit owner or his or her designee  ~~purchaser~~, or  
 626 a unit mortgagee or his or her designee, the association shall  
 627 provide a certificate signed by an officer or agent of the  
 628 association stating all assessments and other moneys owed to the  
 629 association by the unit owner with respect to the condominium  
 630 parcel.

631 (a) Any person other than the owner who relies upon such  
 632 certificate shall be protected thereby.

633 (b) A summary proceeding pursuant to s. 51.011 may be  
 634 brought to compel compliance with this subsection, and in any  
 635 such action the prevailing party is entitled to recover  
 636 reasonable attorney's fees.

637 (c) Notwithstanding any limitation on transfer fees  
 638 contained in s. 718.112(2)(i), the association or its authorized  
 639 agent may charge a reasonable fee for the preparation of the

640 certificate. The amount of the fee must be included on the  
641 certificate.

642 (d) The authority to charge a fee for the certificate  
643 shall be established by a written resolution adopted by the  
644 board or provided by a written management, bookkeeping, or  
645 maintenance contract and is payable upon the preparation of the  
646 certificate. If the certificate is requested in conjunction with  
647 the sale or mortgage of a unit but the closing does not occur  
648 and no later than 30 days after the closing date for which the  
649 certificate was sought the preparer receives a written request,  
650 accompanied by reasonable documentation, that the sale did not  
651 occur from a payer that is not the unit owner, the fee shall be  
652 refunded to that payer within 30 days after receipt of the  
653 request. The refund is the obligation of the unit owner, and the  
654 association may collect it from that owner in the same manner as  
655 an assessment as provided in this section.

656 Section 4. Paragraph (c) of subsection (17) of section  
657 718.117, Florida Statutes, is amended to read:

658 718.117 Termination of condominium.--

659 (17) DISTRIBUTION.--

660 (c) The proceeds from any sale of condominium property or  
661 association property and any remaining condominium property or  
662 association property, common surplus, and other assets shall be  
663 distributed in the following priority:

664 1. To pay the reasonable termination trustee's fees and  
665 costs and accounting fees and costs.

666 2. To lienholders of liens recorded prior to the recording  
667 of the declaration.



668 3. To purchase-money lienholders on units to the extent  
 669 necessary to satisfy their liens; however, the distribution may  
 670 not exceed a unit owner's share of the proceeds.

671 4. To lienholders of liens of the association which have  
 672 been consented to under s. 718.121(1).

673 5. To creditors of the association, as their interests  
 674 appear.

675 6. To unit owners, the proceeds of any sale of condominium  
 676 property subject to satisfaction of liens on each unit in their  
 677 order of priority, in shares specified in the plan of  
 678 termination, unless objected to by a unit owner or lienor as  
 679 provided in paragraph (b).

680 7. To unit owners, the remaining condominium property,  
 681 subject to satisfaction of liens on each unit in their order of  
 682 priority, in shares specified in the plan of termination, unless  
 683 objected to by a unit owner or a lienor as provided in paragraph  
 684 (b).

685 8. To unit owners, the proceeds of any sale of association  
 686 property, the remaining association property, common surplus,  
 687 and other assets of the association, subject to satisfaction of  
 688 liens on each unit in their order of priority, in shares  
 689 specified in the plan of termination, unless objected to by a  
 690 unit owner or a lienor as provided in paragraph (b).

691 Section 5. Section 720.30851, Florida Statutes, is created  
 692 to read:

693 720.30851 Estoppel certificates.--Within 15 days after the  
 694 date on which a request for an estoppel certificate is received  
 695 from a parcel owner or mortgagee, or his or her designee, the

696 association shall provide a certificate signed by an officer or  
697 authorized agent of the association stating all assessments and  
698 other moneys owed to the association by the parcel owner or  
699 mortgagee with respect to the parcel. An association may charge  
700 a fee for the preparation of such certificate, and the amount of  
701 such fee must be stated on the certificate.

702 (1) Any person other than a parcel owner who relies upon a  
703 certificate receives the benefits and protection thereof.

704 (2) A summary proceeding pursuant to s. 51.011 may be  
705 brought to compel compliance with this section, and the  
706 prevailing party is entitled to recover reasonable attorney's  
707 fees.

708 (3) The authority to charge a fee for the certificate  
709 shall be established by a written resolution adopted by the  
710 board or provided by a written management, bookkeeping, or  
711 maintenance contract and is payable upon the preparation of the  
712 certificate. If the certificate is requested in conjunction with  
713 the sale or mortgage of a parcel but the closing does not occur  
714 and no later than 30 days after the closing date for which the  
715 certificate was sought the preparer receives a written request,  
716 accompanied by reasonable documentation, that the sale did not  
717 occur from a payer that is not the parcel owner, the fee shall  
718 be refunded to that payer within 30 days after receipt of the  
719 request. The refund is the obligation of the parcel owner, and  
720 the association may collect it from that owner in the same  
721 manner as an assessment as provided in this section.

722 Section 6. Paragraphs (d) and (j) of subsection (2) of  
723 section 20.165, Florida Statutes, are amended to read:

724 20.165 Department of Business and Professional  
 725 Regulation.--There is created a Department of Business and  
 726 Professional Regulation.

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

729 (d) Division of Florida ~~Land Sales~~, Condominiums,  
 730 Timeshares, and Mobile Homes.

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

732 Section 7. Subsection (2) of section 73.073, Florida  
 733 Statutes, is amended to read:

734 73.073 Eminent domain procedure with respect to  
 735 condominium common elements.--

736 (2) With respect to the exercise of eminent domain or a  
 737 negotiated sale for the purchase or taking of a portion of the  
 738 common elements of a condominium, the condemning authority shall  
 739 have the responsibility of contacting the condominium  
 740 association and acquiring the most recent rolls indicating the  
 741 names of the unit owners or contacting the appropriate taxing  
 742 authority to obtain the names of the owners of record on the tax  
 743 rolls. Notification shall ~~thereupon~~ be sent by certified mail,  
 744 return receipt requested, to the unit owners of record of the  
 745 condominium units by the condemning authority indicating the  
 746 intent to purchase or take the required property and requesting  
 747 a response from the unit owner. The condemning authority shall  
 748 be responsible for the expense of sending notification pursuant  
 749 to this section. Such notice shall, at a minimum, include:

- 750 (a) The name and address of the condemning authority.
- 751 (b) A written or visual description of the property.

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

753 (d) The appraisal value of the property.

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

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

761

762 The Division of Florida ~~Land Sales~~, Condominiums, Timeshares,  
763 and Mobile Homes of the Department of Business and Professional  
764 Regulation may adopt, by rule, a standard form for such notice  
765 and may require the notice to include any additional relevant  
766 information.

767 Section 8. Subsections (2) and (3) of section 190.009,  
768 Florida Statutes, are amended to read:

769 190.009 Disclosure of public financing.--

770 ~~(2) The Division of Florida Land Sales, Condominiums, and~~  
771 ~~Mobile Homes of the Department of Business and Professional~~  
772 ~~Regulation shall ensure that disclosures made by developers~~  
773 ~~pursuant to chapter 498 meet the requirements of subsection (1).~~

774 (2)~~(3)~~ The Department of Community Affairs shall keep a  
775 current list of districts and their disclosures pursuant to this  
776 act and shall make such studies and reports and take such  
777 actions as it deems necessary.

778 Section 9. Paragraph (e) of subsection (6) of section  
779 192.037, Florida Statutes, is amended to read:

780           192.037 Fee timeshare real property; taxes and  
781 assessments; escrow.--

782           (6)

783           (e) On or before May 1 of each year, a statement of  
784 receipts and disbursements of the escrow account must be filed  
785 with the Division of Florida ~~Land Sales~~, Condominiums,  
786 Timeshares, and Mobile Homes of the Department of Business and  
787 Professional Regulation, which may enforce this paragraph  
788 pursuant to s. 721.26. This statement must appropriately show  
789 the amount of principal and interest in such account.

790           Section 10. Paragraph (i) of subsection (8) of section  
791 213.053, Florida Statutes, is amended to read:

792           213.053 Confidentiality and information sharing.--

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

795           (i) Information relative to chapters 212 and 326 to the  
796 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
797 Mobile Homes of the Department of Business and Professional  
798 Regulation in the conduct of its official duties.

799

800 Disclosure of information under this subsection shall be  
801 pursuant to a written agreement between the executive director  
802 and the agency. Such agencies, governmental or nongovernmental,  
803 shall be bound by the same requirements of confidentiality as  
804 the Department of Revenue. Breach of confidentiality is a  
805 misdemeanor of the first degree, punishable as provided by s.  
806 775.082 or s. 775.083.

807 Section 11. Paragraph (d) of subsection (4) of section  
 808 215.20, Florida Statutes, is amended to read:

809 215.20 Certain income and certain trust funds to  
 810 contribute to the General Revenue Fund.--

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

815 (d) Within the Department of Business and Professional  
 816 Regulation:

- 817 1. The Administrative Trust Fund.
- 818 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 819 3. The Cigarette Tax Collection Trust Fund.
- 820 4. The Division of Florida ~~Land Sales~~, Condominiums,  
 821 Timeshares, and Mobile Homes Trust Fund.
- 822 5. The Hotel and Restaurant Trust Fund, with the exception  
 823 of those fees collected for the purpose of funding of the  
 824 hospitality education program as stated in s. 509.302.
- 825 6. The Professional Regulation Trust Fund.
- 826 7. The trust funds administered by the Division of Pari-  
 827 mutuel Wagering.

828  
 829 The enumeration of the foregoing moneys or trust funds shall not  
 830 prohibit the applicability ~~thereto~~ of s. 215.24 should the  
 831 Governor determine that for the reasons mentioned in s. 215.24  
 832 the money or trust funds should be exempt herefrom, as it is the  
 833 purpose of this law to exempt income from its force and effect  
 834 when, by the operation of this law, federal matching funds or

835 contributions or private grants to any trust fund would be lost  
836 to the state.

837 Section 12. Subsection (2) of section 326.002, Florida  
838 Statutes, is amended to read:

839 326.002 Definitions.--As used in ss. 326.001-326.006, the  
840 term:

841 (2) "Division" means the Division of Florida ~~Land Sales,~~  
842 Condominiums, Timeshares, and Mobile Homes of the Department of  
843 Business and Professional Regulation.

844 Section 13. Paragraph (d) of subsection (2) and subsection  
845 (3) of section 326.006, Florida Statutes, are amended to read:

846 326.006 Powers and duties of division.--

847 (2) The division has the power to enforce and ensure  
848 compliance with the provisions of this chapter and rules adopted  
849 under this chapter relating to the sale and ownership of yachts  
850 and ships. In performing its duties, the division has the  
851 following powers and duties:

852 (d) Notwithstanding any remedies available to a yacht or  
853 ship purchaser, if the division has reasonable cause to believe  
854 that a violation of any provision of this chapter or rule  
855 adopted under this chapter has occurred, the division may  
856 institute enforcement proceedings in its own name against any  
857 broker or salesperson or any of his or her assignees or agents,  
858 or against any unlicensed person or any of his or her assignees  
859 or agents, as follows:

860 1. The division may permit a person whose conduct or  
861 actions are under investigation to waive formal proceedings and  
862 enter into a consent proceeding whereby orders, rules, or

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

865 2. The division may issue an order requiring the broker or  
 866 salesperson or any of his or her assignees or agents, or  
 867 requiring any unlicensed person or any of his or her assignees  
 868 or agents, to cease and desist from the unlawful practice and  
 869 take such affirmative action as in the judgment of the division  
 870 will carry out the purposes of this chapter.

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

874 4. The division may impose a civil penalty against a  
 875 broker or salesperson or any of his or her assignees or agents,  
 876 or against an unlicensed person or any of his or her assignees  
 877 or agents, for any violation of this chapter or a rule adopted  
 878 under this chapter. A penalty may be imposed for each day of  
 879 continuing violation, but in no event may the penalty for any  
 880 offense exceed \$10,000. All amounts collected must be deposited  
 881 with the Chief Financial Officer to the credit of the Division  
 882 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile  
 883 Homes Trust Fund. If a broker, salesperson, or unlicensed person  
 884 working for a broker, fails to pay the civil penalty, the  
 885 division shall ~~thereupon~~ issue an order suspending the broker's  
 886 license until such time as the civil penalty is paid or may  
 887 pursue enforcement of the penalty in a court of competent  
 888 jurisdiction. The order imposing the civil penalty or the order  
 889 of suspension may not become effective until 20 days after the  
 890 date of such order. Any action commenced by the division must be



891 brought in the county in which the division has its executive  
892 offices or in the county where the violation occurred.

893 (3) All fees must be deposited in the Division of Florida  
894 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
895 Fund as provided by law.

896 Section 14. Subsection (18) of section 380.05, Florida  
897 Statutes, is amended to read:

898 380.05 Areas of critical state concern.--

899 (18) Neither the designation of an area of critical state  
900 concern nor the adoption of any regulations for such an area  
901 shall in any way limit or modify the rights of any person to  
902 complete any development that was ~~has been~~ authorized by  
903 registration of a subdivision pursuant to former chapter 498 or  
904 former chapter 478, by recordation pursuant to local subdivision  
905 plat law, or by a building permit or other authorization to  
906 commence development on which there has been reliance and a  
907 change of position, and which registration or recordation was  
908 accomplished, or which permit or authorization was issued, prior  
909 to the approval under subsection (6), or the adoption under  
910 subsection (8), of land development regulations for the area of  
911 critical state concern. If a developer has by his or her actions  
912 in reliance on prior regulations obtained vested or other legal  
913 rights that in law would have prevented a local government from  
914 changing those regulations in a way adverse to the developer's  
915 interests, nothing in this chapter authorizes any governmental  
916 agency to abridge those rights.

917 Section 15. Subsection (20) of section 380.06, Florida  
918 Statutes, is amended to read:

919 | 380.06 Developments of regional impact.--

920 | (20) VESTED RIGHTS.--Nothing in this section shall limit  
921 | or modify the rights of any person to complete any development  
922 | that was ~~has been~~ authorized by registration of a subdivision  
923 | pursuant to former chapter 498, by recordation pursuant to local  
924 | subdivision plat law, or by a building permit or other  
925 | authorization to commence development on which there has been  
926 | reliance and a change of position and which registration or  
927 | recordation was accomplished, or which permit or authorization  
928 | was issued, prior to July 1, 1973. If a developer has, by his or  
929 | her actions in reliance on prior regulations, obtained vested or  
930 | other legal rights that in law would have prevented a local  
931 | government from changing those regulations in a way adverse to  
932 | the developer's interests, nothing in this chapter authorizes  
933 | any governmental agency to abridge those rights.

934 | (a) For the purpose of determining the vesting of rights  
935 | under this subsection, approval pursuant to local subdivision  
936 | plat law, ordinances, or regulations of a subdivision plat by  
937 | formal vote of a county or municipal governmental body having  
938 | jurisdiction after August 1, 1967, and prior to July 1, 1973, is  
939 | sufficient to vest all property rights for the purposes of this  
940 | subsection; and no action in reliance on, or change of position  
941 | concerning, such local governmental approval is required for  
942 | vesting to take place. Anyone claiming vested rights under this  
943 | paragraph must ~~se~~ notify the department in writing by January 1,  
944 | 1986. Such notification shall include information adequate to  
945 | document the rights established by this subsection. When such  
946 | notification requirements are met, in order for the vested

947 rights authorized pursuant to this paragraph to remain valid  
 948 after June 30, 1990, development of the vested plan must be  
 949 commenced prior to that date upon the property that the state  
 950 land planning agency has determined to have acquired vested  
 951 rights following the notification or in a binding letter of  
 952 interpretation. When the notification requirements have not been  
 953 met, the vested rights authorized by this paragraph shall expire  
 954 June 30, 1986, unless development commenced prior to that date.

955 (b) For the purpose of this act, the conveyance of, or the  
 956 agreement to convey, property to the county, state, or local  
 957 government as a prerequisite to zoning change approval shall be  
 958 construed as an act of reliance to vest rights as determined  
 959 under this subsection, provided such zoning change is actually  
 960 granted by such government.

961 Section 16. Paragraph (a) of subsection (4) of section  
 962 380.0651, Florida Statutes, is amended to read:

963 380.0651 Statewide guidelines and standards.--

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

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

972 1.a. The same person has retained or shared control of the  
 973 developments;

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

976           c. There is common management of the developments  
977 controlling the form of physical development or disposition of  
978 parcels of the development.

979           2. There is a reasonable closeness in time between the  
980 completion of 80 percent or less of one development and the  
981 submission to a governmental agency of a master plan or series  
982 of plans or drawings for the other development which is  
983 indicative of a common development effort.

984           3. A master plan or series of plans or drawings exists  
985 covering the developments sought to be aggregated which have  
986 been submitted to a local general-purpose government, water  
987 management district, the Florida Department of Environmental  
988 Protection, or the Division of Florida ~~Land Sales~~, Condominiums,  
989 Timeshares, and Mobile Homes for authorization to commence  
990 development. The existence or implementation of a utility's  
991 master utility plan required by the Public Service Commission or  
992 general-purpose local government or a master drainage plan shall  
993 not be the sole determinant of the existence of a master plan.

994           4. The voluntary sharing of infrastructure that is  
995 indicative of a common development effort or is designated  
996 specifically to accommodate the developments sought to be  
997 aggregated, except that which was implemented because it was  
998 required by a local general-purpose government; water management  
999 district; the Department of Environmental Protection; the  
1000 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
1001 Mobile Homes; or the Public Service Commission.

1002           5. There is a common advertising scheme or promotional  
1003 plan in effect for the developments sought to be aggregated.

1004           Section 17. Paragraph (c) of subsection (4) of section  
1005 381.0065, Florida Statutes, is amended to read:

1006           381.0065 Onsite sewage treatment and disposal systems;  
1007 regulation.--

1008           (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may  
1009 not construct, repair, modify, abandon, or operate an onsite  
1010 sewage treatment and disposal system without first obtaining a  
1011 permit approved by the department. The department may issue  
1012 permits to carry out this section, but shall not make the  
1013 issuance of such permits contingent upon prior approval by the  
1014 Department of Environmental Protection, except that the issuance  
1015 of a permit for work seaward of the coastal construction control  
1016 line established under s. 161.053 shall be contingent upon  
1017 receipt of any required coastal construction control line permit  
1018 from the Department of Environmental Protection. A construction  
1019 permit is valid for 18 months from the issuance date and may be  
1020 extended by the department for one 90-day period under rules  
1021 adopted by the department. A repair permit is valid for 90 days  
1022 from the date of issuance. An operating permit must be obtained  
1023 prior to the use of any aerobic treatment unit or if the  
1024 establishment generates commercial waste. Buildings or  
1025 establishments that use an aerobic treatment unit or generate  
1026 commercial waste shall be inspected by the department at least  
1027 annually to assure compliance with the terms of the operating  
1028 permit. The operating permit for a commercial wastewater system  
1029 is valid for 1 year from the date of issuance and must be

1030 renewed annually. The operating permit for an aerobic treatment  
1031 unit is valid for 2 years from the date of issuance and must be  
1032 renewed every 2 years. If all information pertaining to the  
1033 siting, location, and installation conditions or repair of an  
1034 onsite sewage treatment and disposal system remains the same, a  
1035 construction or repair permit for the onsite sewage treatment  
1036 and disposal system may be transferred to another person, if the  
1037 transferee files, within 60 days after the transfer of  
1038 ownership, an amended application providing all corrected  
1039 information and proof of ownership of the property. There is no  
1040 fee associated with the processing of this supplemental  
1041 information. A person may not contract to construct, modify,  
1042 alter, repair, service, abandon, or maintain any portion of an  
1043 onsite sewage treatment and disposal system without being  
1044 registered under part III of chapter 489. A property owner who  
1045 personally performs construction, maintenance, or repairs to a  
1046 system serving his or her own owner-occupied single-family  
1047 residence is exempt from registration requirements for  
1048 performing such construction, maintenance, or repairs on that  
1049 residence, but is subject to all permitting requirements. A  
1050 municipality or political subdivision of the state may not issue  
1051 a building or plumbing permit for any building that requires the  
1052 use of an onsite sewage treatment and disposal system unless the  
1053 owner or builder has received a construction permit for such  
1054 system from the department. A building or structure may not be  
1055 occupied and a municipality, political subdivision, or any state  
1056 or federal agency may not authorize occupancy until the  
1057 department approves the final installation of the onsite sewage

1058 treatment and disposal system. A municipality or political  
 1059 subdivision of the state may not approve any change in occupancy  
 1060 or tenancy of a building that uses an onsite sewage treatment  
 1061 and disposal system until the department has reviewed the use of  
 1062 the system with the proposed change, approved the change, and  
 1063 amended the operating permit.

1064 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and  
 1065 (b), for subdivisions platted of record on or before October 1,  
 1066 1991, when a developer or other appropriate entity has  
 1067 previously made or makes provisions, including financial  
 1068 assurances or other commitments, acceptable to the Department of  
 1069 Health, that a central water system will be installed by a  
 1070 regulated public utility based on a density formula, private  
 1071 potable wells may be used with onsite sewage treatment and  
 1072 disposal systems until the agreed-upon densities are reached.  
 1073 ~~The department may consider assurances filed with the Department~~  
 1074 ~~of Business and Professional Regulation under chapter 498 in~~  
 1075 ~~determining the adequacy of the financial assurance required by~~  
 1076 ~~this paragraph.~~ In a subdivision regulated by this paragraph,  
 1077 the average daily sewage flow may not exceed 2,500 gallons per  
 1078 acre per day. This section does not affect the validity of  
 1079 existing prior agreements. After October 1, 1991, the exception  
 1080 provided under this paragraph is not available to a developer or  
 1081 other appropriate entity.

1082 Section 18. Subsections (8) through (12) of section  
 1083 450.33, Florida Statutes, are amended to read:

1084 450.33 Duties of farm labor contractor.--Every farm labor  
 1085 contractor must:

1086           ~~(8) File, within such time as the department may~~  
 1087 ~~prescribe, a set of his or her fingerprints.~~

1088           (8)~~(9)~~ Produce evidence to the department that each  
 1089 vehicle he or she uses for the transportation of employees  
 1090 complies with the requirements and specifications established in  
 1091 chapter 316, s. 316.622, or Pub. L. No. 93-518 as amended by  
 1092 Pub. L. No. 97-470 meeting Department of Transportation  
 1093 requirements or, in lieu thereof, bears a valid inspection  
 1094 sticker showing that the vehicle has passed the inspection in  
 1095 the state in which the vehicle is registered.

1096           (9)~~(10)~~ Comply with all applicable statutes, rules, and  
 1097 regulations of the United States and of the State of Florida for  
 1098 the protection or benefit of labor, including, but not limited  
 1099 to, those providing for wages, hours, fair labor standards,  
 1100 social security, workers' compensation, unemployment  
 1101 compensation, child labor, and transportation.

1102           (10)~~(11)~~ Maintain accurate daily field records for each  
 1103 employee actually paid by the farm labor contractor reflecting  
 1104 the hours worked for the farm labor contractor and, if paid by  
 1105 unit, the number of units harvested and the amount paid per  
 1106 unit.

1107           (11)~~(12)~~ Clearly display on each vehicle used to transport  
 1108 migrant or seasonal farm workers a display sticker issued by the  
 1109 department, which states that the vehicle is authorized by the  
 1110 department to transport farm workers and the expiration date of  
 1111 the authorization.

1112           Section 19. Subsection (10) is added to section 455.203,  
 1113 Florida Statutes, to read:



1114 455.203 Department; powers and duties.--The department,  
 1115 for the boards under its jurisdiction, shall:

1116 (10) Have authority to:

1117 (a) Close and terminate deficient license application  
 1118 files 2 years after the board or the department notifies the  
 1119 applicant of the deficiency; and

1120 (b) Approve applications for professional licenses that  
 1121 meet all statutory and rule requirements for licensure.

1122 Section 20. Subsection (5) of section 455.116, Florida  
 1123 Statutes, is amended to read:

1124 455.116 Regulation trust funds.--The following trust funds  
 1125 shall be placed in the department:

1126 (5) Division of Florida ~~Land Sales,~~ Condominiums,  
 1127 Timeshares, and Mobile Homes Trust Fund.

1128 Section 21. Subsection (1) of section 455.217, Florida  
 1129 Statutes, is amended to read:

1130 455.217 Examinations.--This section shall be read in  
 1131 conjunction with the appropriate practice act associated with  
 1132 each regulated profession under this chapter.

1133 (1) The Division of Technology, ~~Licensure, and Testing~~ of  
 1134 the Department of Business and Professional Regulation shall  
 1135 provide, contract, or approve services for the development,  
 1136 preparation, administration, scoring, score reporting, and  
 1137 evaluation of all examinations. The division shall seek the  
 1138 advice of the appropriate board in providing such services.

1139 (a) The department, acting in conjunction with the  
 1140 Division of Technology, ~~Licensure, and Testing~~ and the Division  
 1141 of Real Estate, as appropriate, shall ensure that examinations

1142 adequately and reliably measure an applicant's ability to  
1143 practice the profession regulated by the department. After an  
1144 examination developed or approved by the department has been  
1145 administered, the board or department may reject any question  
1146 which does not reliably measure the general areas of competency  
1147 specified in the rules of the board or department, when there is  
1148 no board. The department shall use professional testing services  
1149 for the development, preparation, and evaluation of  
1150 examinations, when such services are available and approved by  
1151 the board.

1152 (b) For each examination developed by the department or  
1153 contracted vendor, to the extent not otherwise specified by  
1154 statute, the board or the department when there is no board,  
1155 shall by rule specify the general areas of competency to be  
1156 covered by the examination, the relative weight to be assigned  
1157 in grading each area tested, the score necessary to achieve a  
1158 passing grade, and the fees, where applicable, to cover the  
1159 actual cost for any purchase, development, and administration of  
1160 the required examination. However, statutory fee caps in each  
1161 practice act shall apply. This subsection does not apply to  
1162 national examinations approved and administered pursuant to  
1163 paragraph (d).

1164 (c) If a practical examination is deemed to be necessary,  
1165 rules shall specify the criteria by which examiners are to be  
1166 selected, the grading criteria to be used by the examiner, the  
1167 relative weight to be assigned in grading each criterion, and  
1168 the score necessary to achieve a passing grade. When a mandatory  
1169 standardization exercise for a practical examination is required

1170 by law, the board may conduct such exercise. Therefore, board  
1171 members may serve as examiners at a practical examination with  
1172 the consent of the board.

1173 (d) A board, or the department when there is no board, may  
1174 approve by rule the use of any national examination which the  
1175 department has certified as meeting requirements of national  
1176 examinations and generally accepted testing standards pursuant  
1177 to department rules. Providers of examinations, which may be  
1178 either profit or nonprofit entities, seeking certification by  
1179 the department shall pay the actual costs incurred by the  
1180 department in making a determination regarding the  
1181 certification. The department shall use any national examination  
1182 which is available, certified by the department, and approved by  
1183 the board. The name and number of a candidate may be provided to  
1184 a national contractor for the limited purpose of preparing the  
1185 grade tape and information to be returned to the board or  
1186 department or, to the extent otherwise specified by rule, the  
1187 candidate may apply directly to the vendor of the national  
1188 examination. The department may delegate to the board the duty  
1189 to provide and administer the examination. Any national  
1190 examination approved by a board, or the department when there is  
1191 no board, prior to October 1, 1997, is deemed certified under  
1192 this paragraph. Any licensing or certification examination that  
1193 is not developed or administered by the department in-house or  
1194 provided as a national examination shall be competitively bid.

1195 (e) The department shall adopt rules regarding the  
1196 security and monitoring of examinations. In order to maintain  
1197 the security of examinations, the department may employ the

1198 | procedures set forth in s. 455.228 to seek fines and injunctive  
1199 | relief against an examinee who violates the provisions of s.  
1200 | 455.2175 or the rules adopted pursuant to this paragraph. The  
1201 | department, or any agent thereof, may, for the purposes of  
1202 | investigation, confiscate any written, photographic, or  
1203 | recording material or device in the possession of the examinee  
1204 | at the examination site which the department deems necessary to  
1205 | enforce such provisions or rules.

1206 |       (f) If the professional board with jurisdiction over an  
1207 | examination concurs, the department may, for a fee, share with  
1208 | any other state's licensing authority an examination developed  
1209 | by or for the department unless prohibited by a contract entered  
1210 | into by the department for development or purchase of the  
1211 | examination. The department, with the concurrence of the  
1212 | appropriate board, shall establish guidelines that ensure  
1213 | security of a shared exam and shall require that any other  
1214 | state's licensing authority comply with those guidelines. Those  
1215 | guidelines shall be approved by the appropriate professional  
1216 | board. All fees paid by the user shall be applied to the  
1217 | department's examination and development program for professions  
1218 | regulated by this chapter. All fees paid by the user for  
1219 | professions not regulated by this chapter shall be applied to  
1220 | offset the fees for the development and administration of that  
1221 | profession's examination. If both a written and a practical  
1222 | examination are given, an applicant shall be required to retake  
1223 | only the portion of the examination for which he or she failed  
1224 | to achieve a passing grade, if he or she successfully passes

1225 that portion within a reasonable time of his or her passing the  
 1226 other portion.

1227 Section 22. Subsection (6) is added to section 455.2273,  
 1228 Florida Statutes, to read:

1229 455.2273 Disciplinary guidelines.--

1230 (6) Notwithstanding s. 455.017, this section applies to  
 1231 disciplinary guidelines adopted by all boards or divisions  
 1232 within the department.

1233 Section 23. Effective July 1, 2010, paragraph (d) of  
 1234 subsection (1) and paragraph (d) of subsection (2) of section  
 1235 468.841, Florida Statutes, are amended to read:

1236 468.841 Exemptions.--

1237 (1) The following persons are not required to comply with  
 1238 any provisions of this part relating to mold assessment:

1239 (d) Persons or business organizations acting within the  
 1240 scope of the respective licenses required under chapter 471,  
 1241 part I of chapter 481, chapter 482, ~~or~~ chapter 489, or part XV  
 1242 of this chapter, are acting on behalf of an insurer under part  
 1243 VI of chapter 626, or are persons in the manufactured housing  
 1244 industry who are licensed under chapter 320, except when any  
 1245 such persons or business organizations hold themselves out for  
 1246 hire to the public as a "certified mold assessor ~~remediator,~~"  
 1247 "registered mold assessor ~~remediator,~~" "licensed mold assessor  
 1248 ~~remediator,~~" "mold assessor ~~remediator,~~" "professional mold  
 1249 assessor ~~remediator,~~" or any combination thereof stating or  
 1250 implying licensure under this part.

1251 (2) The following persons are not required to comply with  
 1252 any provisions of this part relating to mold remediation:

1253 (d) Persons or business organizations that are acting  
 1254 within the scope of the respective licenses required under  
 1255 chapter 471, part I of chapter 481, chapter 482, ~~or~~ chapter 489,  
 1256 or part XV of this chapter, are acting on behalf of an insurer  
 1257 under part VI of chapter 626, or are persons in the manufactured  
 1258 housing industry who are licensed under chapter 320, except when  
 1259 any such persons or business organizations hold themselves out  
 1260 for hire to the public as a "certified mold remediator  
 1261 ~~assessor~~," "registered mold remediator ~~assessor~~," "licensed mold  
 1262 remediator ~~assessor~~," "mold remediator ~~assessor~~," "professional  
 1263 mold remediator ~~assessor~~," or any combination thereof stating or  
 1264 implying licensure under this part.

1265 Section 24. Paragraph (b) of subsection (2) of section  
 1266 475.17, Florida Statutes, is amended to read:

1267 475.17 Qualifications for practice.--

1268 (2)

1269 (b) A person may not be licensed as a real estate broker  
 1270 unless, in addition to the other requirements of law, the person  
 1271 has held:

1272 1. An active real estate sales associate's license for at  
 1273 least 24 ~~12~~ months during the preceding 5 years in the office of  
 1274 one or more real estate brokers licensed in this state or any  
 1275 other state, territory, or jurisdiction of the United States or  
 1276 in any foreign national jurisdiction;

1277 2. A current and valid real estate sales associate's  
 1278 license for at least 24 ~~12~~ months during the preceding 5 years  
 1279 in the employ of a governmental agency for a salary and

1280 performing the duties authorized in this part for real estate  
 1281 licensees; or

1282 3. A current and valid real estate broker's license for at  
 1283 least 24 ~~12~~ months during the preceding 5 years in any other  
 1284 state, territory, or jurisdiction of the United States or in any  
 1285 foreign national jurisdiction.

1286  
 1287 ~~This paragraph does not apply to a person employed as a real  
 1288 estate investigator by the Division of Real Estate, provided the  
 1289 person has been employed as a real estate investigator for at  
 1290 least 24 months. The person must be currently employed as a real  
 1291 estate investigator to sit for the real estate broker's  
 1292 examination and have held a valid and current sales associate's  
 1293 license for at least 12 months.~~

1294 Section 25. Subsection (9) of section 475.451, Florida  
 1295 Statutes, is amended to read:

1296 475.451 Schools teaching real estate practice.--

1297 ~~(9)(a) Each school permitholder of a proprietary real  
 1298 estate school, each chief administrative person of such an  
 1299 institution, or each course sponsor shall deliver to the  
 1300 department, in a format acceptable to the department, a copy of  
 1301 the classroom course roster of courses that require satisfactory  
 1302 completion of an examination no later than 30 days beyond the  
 1303 end of the calendar month in which the course was completed.~~

1304 ~~(b) The course roster shall consist of the institution or  
 1305 school name and permit number, if applicable, the instructor's  
 1306 name and permit number, if applicable, course title, beginning  
 1307 and ending dates of the course, number of course hours, course~~

1308 ~~location, if applicable, each student's full name and license~~  
 1309 ~~number, if applicable, each student's mailing address, and the~~  
 1310 ~~numerical grade each student achieved. The course roster shall~~  
 1311 ~~also include the signature of the school permitholder, the chief~~  
 1312 ~~administrative person, or the course sponsor.~~

1313 Section 26. Section 475.455, Florida Statutes, is amended  
 1314 to read:

1315 475.455 Exchange of disciplinary information.--The  
 1316 commission shall inform the Division of Florida ~~Land Sales,~~  
 1317 Condominiums, Timeshares, and Mobile Homes of the Department of  
 1318 Business and Professional Regulation of any disciplinary action  
 1319 the commission has taken against any of its licensees. The  
 1320 division shall inform the commission of any disciplinary action  
 1321 the division has taken against any broker or sales associate  
 1322 registered with the division.

1323 Section 27. Paragraph (d) is added to subsection (2) of  
 1324 section 477.019, Florida Statutes, and subsection (4) of that  
 1325 section is amended, to read:

1326 477.019 Cosmetologists; qualifications; licensure;  
 1327 supervised practice; license renewal; endorsement; continuing  
 1328 education.--

1329 (2) An applicant shall be eligible for licensure by  
 1330 examination to practice cosmetology if the applicant:

1331 (d) Has submitted for examination approval in the last 100  
 1332 hours of training by a pregraduate of a licensed cosmetology  
 1333 school or a program within the public school system, if such  
 1334 school or program is certified by the Department of Education  
 1335 and the applicant pays the application fee as required in



1336 paragraph (b). Upon approval and the completion of all required  
1337 training, the applicant may schedule an examination. An  
1338 applicant must take the examination within 6 months from the  
1339 date on which he or she receives approval. If the applicant  
1340 fails to take the examination within the 6-month period, he or  
1341 she must reapply for examination approval. The board shall  
1342 establish by rule procedures for the pregraduate application  
1343 process.

1344 (4) If an applicant passes all parts of the examination  
1345 for licensure as a cosmetologist, he or she may practice in the  
1346 time between passing the examination and receiving a physical  
1347 copy of his or her license if he or she practices under the  
1348 supervision of a licensed cosmetologist in a licensed salon. An  
1349 applicant who fails any part of the examination may not practice  
1350 as a cosmetologist and may immediately apply for reexamination.  
1351 ~~Following the completion of the first licensing examination and~~  
1352 ~~pending the results of that examination and issuance of a~~  
1353 ~~license to practice cosmetology, graduates of licensed~~  
1354 ~~cosmetology schools or cosmetology programs offered in public~~  
1355 ~~school systems, which schools or programs are certified by the~~  
1356 ~~Department of Education, are eligible to practice cosmetology,~~  
1357 ~~provided such graduates practice under the supervision of a~~  
1358 ~~licensed cosmetologist in a licensed cosmetology salon. A~~  
1359 ~~graduate who fails the first examination may continue to~~  
1360 ~~practice under the supervision of a licensed cosmetologist in a~~  
1361 ~~licensed cosmetology salon if the graduate applies for the next~~  
1362 ~~available examination and until the graduate receives the~~  
1363 ~~results of that examination. No graduate may continue to~~

1364 ~~practice under this subsection if the graduate fails the~~  
1365 ~~examination twice.~~

1366 Section 28. Subsection (6) of section 489.105, Florida  
1367 Statutes, is amended to read:

1368 489.105 Definitions.--As used in this part:

1369 (6) "Contracting" means, except as exempted in this part,  
1370 engaging in business as a contractor and includes, but is not  
1371 limited to, performance of any of the acts as set forth in  
1372 subsection (3) which define types of contractors. The attempted  
1373 sale of contracting services and the negotiation or bid for a  
1374 contract on these services also constitutes contracting. If the  
1375 services offered require licensure or agent qualification, the  
1376 offering, negotiation for a bid, or attempted sale of these  
1377 services requires the corresponding licensure. However, the term  
1378 "contracting" shall not extend to an individual, partnership,  
1379 corporation, trust, or other legal entity that offers to sell or  
1380 sells completed residences on property on which the individual  
1381 or business entity has any legal or equitable interest, or to  
1382 the individual or business entity that offers to sell or sells  
1383 manufactured or factory-built buildings that will be completed  
1384 on site on property on which either party to a contract has any  
1385 legal or equitable interest, if the services of a qualified  
1386 contractor certified or registered pursuant to the requirements  
1387 of this chapter have been or will be retained for the purpose of  
1388 constructing or completing such residences.

1389 Section 29. Section 489.511, Florida Statutes, is amended  
1390 to read:

1391 489.511 Certification; application; examinations;  
 1392 endorsement.--

1393 (1) (a) Any person who is at least 18 years of age may take  
 1394 the certification examination.

1395 (b) Any person desiring to be certified as a contractor  
 1396 shall apply to the department in writing and must meet the  
 1397 following criteria: to take the certification examination.

1398 ~~(2) (a) A person shall be entitled to take the~~  
 1399 ~~certification examination for the purpose of determining whether~~  
 1400 ~~he or she is qualified to engage in contracting throughout the~~  
 1401 ~~state as a contractor if the person:~~

1402 ~~1. Is at least 18 years of age;~~

1403 ~~1.2. Be~~ Is of good moral character;

1404 2. Pass the certification examination, achieving a passing  
 1405 grade as established by board rule; and

1406 3. Meet ~~Meets~~ eligibility requirements according to one of  
 1407 the following criteria:

1408 a. Has, within the 6 years immediately preceding the  
 1409 filing of the application, at least 3 years' proven management  
 1410 experience in the trade or education equivalent thereto, or a  
 1411 combination thereof, but not more than one-half of such  
 1412 experience may be educational equivalent;

1413 b. Has, within the 8 years immediately preceding the  
 1414 filing of the application, at least 4 years' experience as a  
 1415 supervisor or contractor in the trade for which he or she is  
 1416 making application;

1417 c. Has, within the 12 years immediately preceding the  
 1418 filing of the application, at least 6 years of comprehensive

1419 training, technical education, or supervisory experience  
1420 associated with an electrical or alarm system contracting  
1421 business, or at least 6 years of technical experience in  
1422 electrical or alarm system work with the Armed Forces or a  
1423 governmental entity;

1424 d. Has, within the 12 years immediately preceding the  
1425 filing of the application, been licensed for 3 years as a  
1426 professional engineer who is qualified by education, training,  
1427 or experience to practice electrical engineering; or

1428 e. Has any combination of qualifications under sub-  
1429 subparagraphs a.-c. totaling 6 years of experience.

1430 (c)~~(b)~~ For purposes of this subsection, "supervisor" means  
1431 a person having the experience gained while having the general  
1432 duty of overseeing the technical duties of the trade, provided  
1433 that such experience is gained by a person who is able to  
1434 perform the technical duties of the trade without supervision.

1435 (d)~~(e)~~ For purposes of this subsection, at least 40  
1436 percent of the work experience for an alarm system contractor I  
1437 must be in the types of fire alarm systems typically used in a  
1438 commercial setting.

1439 (2)~~(3)~~ The board may determine by rule the number of times  
1440 per year the applicant may take the examination and after three  
1441 unsuccessful attempts may ~~On or after October 1, 1998, every~~  
1442 ~~applicant who is qualified shall be allowed to take the~~  
1443 ~~examination three times, notwithstanding the number of times the~~  
1444 ~~applicant has previously failed the examination. If an applicant~~  
1445 ~~fails the examination three times after October 1, 1998, the~~  
1446 ~~board shall~~ require the applicant to complete additional

1447 college-level or technical education courses in the areas of  
 1448 deficiency, as determined by the board, as a condition of future  
 1449 eligibility to take the examination. ~~The applicant must also~~  
 1450 ~~submit a new application that meets all certification~~  
 1451 ~~requirements at the time of its submission and must pay all~~  
 1452 ~~appropriate fees.~~

1453 (3)~~(4)~~(a) "Good moral character" means a personal history  
 1454 of honesty, fairness, and respect for the rights of others and  
 1455 for laws of this state and nation.

1456 (b) The board may determine that an individual applying  
 1457 for certification is ineligible ~~to take the examination~~ for  
 1458 failure to satisfy the requirement of good moral character only  
 1459 if:

1460 1. There is a substantial connection between the lack of  
 1461 good moral character of the individual and the professional  
 1462 responsibilities of a certified contractor; and

1463 2. The finding by the board of lack of good moral  
 1464 character is supported by clear and convincing evidence.

1465 (c) When an individual is found to be unqualified for  
 1466 certification ~~examination~~ because of a lack of good moral  
 1467 character, the board shall furnish such individual a statement  
 1468 containing the findings of the board, a complete record of the  
 1469 evidence upon which the determination was based, and a notice of  
 1470 the rights of the individual to a rehearing and appeal.

1471 (4)~~(5)~~ The board shall, by rule, designate those types of  
 1472 specialty electrical or alarm system contractors who may be  
 1473 certified under this part. The limit of the scope of work and  
 1474 responsibility of a certified specialty contractor shall be

1475 established by board rule. A certified specialty contractor  
 1476 category exists as an optional statewide licensing category.  
 1477 Qualification for certification in a specialty category created  
 1478 by rule shall be the same as set forth in paragraph (1) (b)  
 1479 ~~(2) (a)~~. The existence of a specialty category created by rule  
 1480 does not itself create any licensing requirement; however,  
 1481 neither does its optional nature remove any licensure  
 1482 requirement established elsewhere in this part.

1483 (5)~~(6)~~ The board shall certify as qualified for  
 1484 certification by endorsement any individual applying for  
 1485 certification who:

1486 (a) Meets the requirements for certification as set forth  
 1487 in this section; has passed a national, regional, state, or  
 1488 United States territorial licensing examination that is  
 1489 substantially equivalent to the examination required by this  
 1490 part; and has satisfied the requirements set forth in s.  
 1491 489.521; or

1492 (b) Holds a valid license to practice electrical or alarm  
 1493 system contracting issued by another state or territory of the  
 1494 United States, if the criteria for issuance of such license was  
 1495 substantially equivalent to the certification criteria that  
 1496 existed in this state at the time the certificate was issued.

1497 (6)~~(7)~~ Upon the issuance of a certificate, any previously  
 1498 issued registered licenses for the classification in which the  
 1499 certification is issued are rendered void.

1500 Section 30. Paragraph (b) of subsection (1) of section  
 1501 489.515, Florida Statutes, is amended to read:

1502 489.515 Issuance of certificates; registrations.--

1503 (1)  
 1504 (b) The board shall certify as qualified for certification  
 1505 any person who satisfies the requirements of s. 489.511, ~~who~~  
 1506 ~~successfully passes the certification examination administered~~  
 1507 ~~by the department, achieving a passing grade as established by~~  
 1508 ~~board rule,~~ and who submits satisfactory evidence that he or she  
 1509 has obtained both workers' compensation insurance or an  
 1510 acceptable exemption certificate issued by the department and  
 1511 public liability and property damage insurance for the health,  
 1512 safety, and welfare of the public in amounts determined by rule  
 1513 of the board, and furnishes evidence of financial  
 1514 responsibility, credit, and business reputation of either  
 1515 himself or herself or the business organization he or she  
 1516 desires to qualify.

1517 Section 31. Section 494.008, Florida Statutes, is amended  
 1518 to read:

1519 494.008 Mortgages offered by land developers licensed  
 1520 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~  
 1521 requirements; prohibitions.--No mortgage loan which has a face  
 1522 amount of \$35,000 or less and is secured by vacant land  
 1523 ~~registered under the Florida Uniform Land Sales Practices Law,~~  
 1524 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial  
 1525 institution, by any person unless all of the following  
 1526 requirements are met:

1527 (1) Each mortgage securing a note or other obligation sold  
 1528 or offered for sale shall be eligible for a recordation as a  
 1529 first mortgage.

1530           (2) Each mortgage negotiated pursuant to this section must  
 1531 include a mortgagee's title insurance policy or an opinion of  
 1532 title, from an attorney who is licensed to practice law in this  
 1533 state, on each parcel of land which is described in the  
 1534 mortgage. The policy or opinion shall reflect that there are no  
 1535 other mortgages on the property. A notice stating the priority  
 1536 of the mortgage shall be placed on the face of each mortgage in  
 1537 an amount over \$35,000 issued pursuant to this section.

1538           (3) Contracts to purchase a mortgage loan shall contain,  
 1539 immediately above the purchaser's signature line, the statement  
 1540 in 10-point boldfaced type: "This mortgage is secured by vacant  
 1541 land subject to development at a future time." This statement  
 1542 shall also be typed or printed in 10-point type on the face of  
 1543 the note and mortgage sold.

1544           (4) The most recent assessment for tax purposes made by  
 1545 the county property appraiser of each parcel of land described  
 1546 in the mortgage shall be furnished to each mortgagee.

1547           (5) The mortgage broker shall record or cause to be  
 1548 recorded all mortgages or other similar documents prior to  
 1549 delivery of the note and mortgage to the mortgagee.

1550           (6) All funds received by the mortgage broker pursuant to  
 1551 this section shall promptly be deposited in the broker's trust  
 1552 account where they shall remain until the note and mortgage are  
 1553 fully executed and recorded.

1554           (7) Willful failure to comply with any of the above  
 1555 provisions shall subject the person to the penalties of s.  
 1556 494.05.



1557           Section 32. Section 498.009, Florida Statutes, is  
 1558 renumbered as section 718.50152, Florida Statutes.

1559           Section 33. Section 498.011, Florida Statutes, is  
 1560 renumbered as section 718.50153, Florida Statutes, and amended  
 1561 to read:

1562           718.50153 ~~498.011~~ Payment of per diem, mileage, and other  
 1563 expenses to division employees.--The amount of per diem and  
 1564 mileage and expense money paid to employees shall be as provided  
 1565 in s. 112.061, except that the division shall establish by rule  
 1566 the standards for reimbursement of actual verified expenses  
 1567 incurred in connection with an on-site review ~~inspection~~ or  
 1568 investigation ~~of subdivided lands.~~

1569           Section 34. Section 498.013, Florida Statutes, is  
 1570 renumbered as section 718.50154, Florida Statutes.

1571           Section 35. Section 498.057, Florida Statutes, is  
 1572 renumbered as section 718.50155, Florida Statutes, and amended,  
 1573 to read:

1574           718.50155 ~~498.057~~ Service of process.--

1575           (1) In addition to the methods of service provided for in  
 1576 the Florida Rules of Civil Procedure and the Florida Statutes,  
 1577 service may be made and ~~by delivering a copy of the process to~~  
 1578 ~~the director of the division, which~~ shall be binding upon the  
 1579 defendant or respondent if:

1580           (a) The division ~~plaintiff~~, which is acting as the  
 1581 petitioner or plaintiff ~~may be the division~~, immediately sends a  
 1582 copy of the process and of the pleading by certified mail to the  
 1583 defendant or respondent at his or her last known address;7 and

1584 (b) The division ~~plaintiff~~ files an affidavit of  
 1585 compliance with this section on or before the return date of the  
 1586 process or within the time set by the court.

1587 (2) If any person, including any nonresident of this  
 1588 state, allegedly engages in conduct prohibited by this chapter,  
 1589 or any rule or order of the division, and has not filed a  
 1590 consent to service of process, and personal jurisdiction over  
 1591 him or her cannot otherwise be obtained in this state, the  
 1592 director shall be authorized to receive service of process in  
 1593 any noncriminal proceeding against that person or his or her  
 1594 successor which grows out of the conduct and which is brought by  
 1595 the division under this chapter or any rule or order of the  
 1596 division. The process shall have the same force and validity as  
 1597 if personally served. Notice shall be given as provided in  
 1598 subsection (1).

1599 Section 36. Sections 498.001, 498.003, 498.005, 498.007,  
 1600 498.017, 498.021, 498.022, 498.023, 498.024, 498.025, 498.027,  
 1601 498.028, 498.029, 498.031, 498.033, 498.035, 498.037, 498.039,  
 1602 498.041, 498.047, 498.049, 498.051, 498.053, 498.059, 498.061,  
 1603 and 498.063, Florida Statutes, are repealed.

1604 Section 37. Section 509.512, Florida Statutes, is amended  
 1605 to read:

1606 509.512 Timeshare plan developer and exchange company  
 1607 exemption.--Sections 509.501-509.511 do not apply to a developer  
 1608 of a timeshare plan or an exchange company approved by the  
 1609 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
 1610 Mobile Homes pursuant to chapter 721, but only to the extent

1611 that the developer or exchange company engages in conduct  
 1612 regulated under chapter 721.

1613 Section 38. Subsection (2) of section 517.301, Florida  
 1614 Statutes, is amended to read:

1615 517.301 Fraudulent transactions; falsification or  
 1616 concealment of facts.--

1617 (2) For purposes of ss. 517.311 and 517.312 and this  
 1618 section, the term "investment" means any commitment of money or  
 1619 property principally induced by a representation that an  
 1620 economic benefit may be derived from such commitment, except  
 1621 that the term "~~investment~~" does not include a commitment of  
 1622 money or property for:

1623 (a) The purchase of a business opportunity, business  
 1624 enterprise, or real property through a person licensed under  
 1625 chapter 475 or registered under former chapter 498; or

1626 (b) The purchase of tangible personal property through a  
 1627 person not engaged in telephone solicitation, where said  
 1628 property is offered and sold in accordance with the following  
 1629 conditions:

1630 1. There are no specific representations or guarantees  
 1631 made by the offeror or seller as to the economic benefit to be  
 1632 derived from the purchase;

1633 2. The tangible property is delivered to the purchaser  
 1634 within 30 days after sale, except that such 30-day period may be  
 1635 extended by the office if market conditions so warrant; and

1636 3. The seller has offered the purchaser a full refund  
 1637 policy in writing, exercisable by the purchaser within 10 days  
 1638 of the date of delivery of such tangible personal property,

1639 except that the amount of such refund may not ~~in no event shall~~  
1640 exceed the bid price in effect at the time the property is  
1641 returned to the seller. If the applicable sellers' market is  
1642 closed at the time the property is returned to the seller for a  
1643 refund, the amount of such refund shall be based on the bid  
1644 price for such property at the next opening of such market.

1645 Section 39. Subsection (4) of section 548.0065, Florida  
1646 Statutes, is amended to read:

1647 548.0065 Amateur matches; sanctioning and supervision;  
1648 health and safety standards; compliance checks; continuation,  
1649 suspension, and revocation of sanctioning approval.--

1650 (4) Any member of the commission or the executive director  
1651 of the commission may suspend the approval of an amateur  
1652 sanctioning organization for failure to supervise amateur  
1653 matches or to enforce the approved health and safety standards  
1654 required under this chapter, provided that the suspension  
1655 complies with the procedures for summary suspensions in s.  
1656 120.60(6). At any amateur boxing, ~~or~~ kickboxing, or mixed  
1657 martial arts contest, any member of the commission or a  
1658 representative of the commission may immediately suspend one or  
1659 more matches in an event whenever it appears that the match or  
1660 matches violate the health and safety standards established by  
1661 rule as required by this chapter. A law enforcement officer may  
1662 assist any member of the commission or a representative of the  
1663 commission to enforce an order to stop a contest if called upon  
1664 to do so by a member of the commission or a representative of  
1665 the commission.

1666 Section 40. Subsections (2), (3), and (4) of section  
 1667 548.008, Florida Statutes, are amended to read:

1668 548.008 Prohibited competitions.--

1669 ~~(2) No amateur mixed martial arts match may be held in~~  
 1670 ~~this state.~~

1671 (2)~~(3)~~ No professional match may be held in this state  
 1672 unless it meets the requirements for holding the match as  
 1673 provided in this chapter and the rules adopted by the  
 1674 commission.

1675 (3)~~(4)~~(a) Any person participating in a match prohibited  
 1676 under this section, knowing the match to be prohibited, commits  
 1677 a misdemeanor of the second degree, punishable as provided in s.  
 1678 775.082 or s. 775.083.

1679 (b) Any person holding, promoting, or sponsoring a match  
 1680 prohibited under this section commits a felony of the third  
 1681 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1682 775.084.

1683 Section 41. Subsection (1) of section 548.041, Florida  
 1684 Statutes, is amended to read:

1685 548.041 Age, condition, and suspension of participants.--

1686 (1) A person may ~~shall~~ not be licensed as a participant,  
 1687 and the license of a ~~any~~ participant shall be suspended or  
 1688 revoked, if such person:

1689 (a) Is under the age of 18;

1690 (b) Has participated in a match in this state which was  
 1691 not sanctioned by the commission or by a Native American  
 1692 commission properly constituted under federal law; ~~or~~

1693 (c) Does not meet certain health and medical examination  
 1694 conditions as required by rule of the commission;—

1695 (d) Has not competed in a minimum number of amateur boxing  
 1696 events as determined by commission rule prior to licensure; or

1697 (e) Has not participated in a minimum number of amateur  
 1698 mixed martial arts events as determined by commission rule prior  
 1699 to licensure.

1700 Section 42. Subsection (1) of section 559.935, Florida  
 1701 Statutes, is amended to read:

1702 559.935 Exemptions.--

1703 (1) This part does not apply to:

1704 (a) A bona fide employee of a seller of travel who is  
 1705 engaged solely in the business of her or his employer;

1706 (b) Any direct common carrier of passengers or property  
 1707 regulated by an agency of the Federal Government or employees of  
 1708 such carrier when engaged solely in the transportation business  
 1709 of the carrier as identified in the carrier's certificate;

1710 (c) An intrastate common carrier of passengers or property  
 1711 selling only transportation as defined in the applicable state  
 1712 or local registration or certification, or employees of such  
 1713 carrier when engaged solely in the transportation business of  
 1714 the carrier;

1715 (d) Hotels, motels, or other places of public  
 1716 accommodation selling public accommodations, or employees of  
 1717 such hotels, motels, or other places of public accommodation,  
 1718 when engaged solely in making arrangements for lodging,  
 1719 accommodations, or sightseeing tours within the state, or taking  
 1720 reservations for the traveler with times, dates, locations, and

1721 accommodations certain at the time the reservations are made,  
 1722 provided that hotels and motels registered with the Department  
 1723 of Business and Professional Regulation pursuant to chapter 509  
 1724 are excluded from the provisions of this chapter;

1725 (e) Persons involved solely in the rental, leasing, or  
 1726 sale of residential property;

1727 (f) Persons involved solely in the rental, leasing, or  
 1728 sale of transportation vehicles;

1729 (g) Persons who make travel arrangements for themselves;  
 1730 for their employees or agents; for distributors, franchisees, or  
 1731 dealers of the persons' products or services; for entities which  
 1732 are financially related to the persons; or for the employees or  
 1733 agents of the distributor, franchisee, or dealer or financially  
 1734 related entity;

1735 (h) A developer of a timeshare plan or an exchange company  
 1736 approved by the Division of Florida ~~Land Sales~~, Condominiums,  
 1737 Timeshares, and Mobile Homes pursuant to chapter 721, but only  
 1738 to the extent that the developer or exchange company engages in  
 1739 conduct regulated under chapter 721; or

1740 (i) Persons or entities engaged solely in offering diving  
 1741 services, including classes and sales or rentals of equipment,  
 1742 when engaged in making any prearranged travel-related or  
 1743 tourist-related services in conjunction with a primarily dive-  
 1744 related event.

1745 Section 43. Subsection (17) of section 718.103, Florida  
 1746 Statutes, is amended to read:

1747 718.103 Definitions.--As used in this chapter, the term:

1748 (17) "Division" means the Division of Florida ~~Land Sales,~~  
 1749 Condominiums, Timeshares, and Mobile Homes of the Department of  
 1750 Business and Professional Regulation.

1751 Section 44. Paragraph (c) of subsection (4) of section  
 1752 718.105, Florida Statutes, is amended to read:

1753 718.105 Recording of declaration.--

1754 (4)

1755 (c) If the sum of money held by the clerk has not been  
 1756 paid to the developer or association as provided in paragraph  
 1757 (b) within ~~by~~ 3 years after the date the declaration was  
 1758 originally recorded, the clerk ~~in his or her discretion~~ may  
 1759 notify, in writing, the registered agent of the association that  
 1760 the sum is still available and the purpose for which it was  
 1761 deposited. If the association does not record the certificate  
 1762 within 90 days after the clerk has given the notice, the clerk  
 1763 may disburse the money to the developer. If the developer cannot  
 1764 be located, the clerk shall disburse the money to the Division  
 1765 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile  
 1766 Homes for deposit in the Division of Florida ~~Land Sales,~~  
 1767 Condominiums, Timeshares, and Mobile Homes Trust Fund.

1768 Section 45. Subsection (4) of section 718.1255, Florida  
 1769 Statutes, is amended to read:

1770 718.1255 Alternative dispute resolution; voluntary  
 1771 mediation; mandatory nonbinding arbitration; legislative  
 1772 findings.--

1773 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
 1774 DISPUTES.--The Division of Florida ~~Land Sales,~~ Condominiums,  
 1775 Timeshares, and Mobile Homes of the Department of Business and



1776 Professional Regulation shall employ full-time attorneys to act  
 1777 as arbitrators to conduct the arbitration hearings provided by  
 1778 this chapter. The division may also certify attorneys who are  
 1779 not employed by the division to act as arbitrators to conduct  
 1780 the arbitration hearings provided by this section. No person may  
 1781 be employed by the department as a full-time arbitrator unless  
 1782 he or she is a member in good standing of The Florida Bar. The  
 1783 department shall adopt ~~promulgate~~ rules of procedure to govern  
 1784 such arbitration hearings including mediation incident thereto.  
 1785 The decision of an arbitrator shall be final; however, ~~such~~ a  
 1786 decision shall not be deemed final agency action. Nothing in  
 1787 this provision shall be construed to foreclose parties from  
 1788 proceeding in a trial de novo unless the parties have agreed  
 1789 that the arbitration is binding. If ~~such~~ judicial proceedings  
 1790 are initiated, the final decision of the arbitrator shall be  
 1791 admissible in evidence in the trial de novo.

1792 (a) Prior to the institution of court litigation, a party  
 1793 to a dispute shall petition the division for nonbinding  
 1794 arbitration. The petition must be accompanied by a filing fee in  
 1795 the amount of \$50. Filing fees collected under this section must  
 1796 be used to defray the expenses of the alternative dispute  
 1797 resolution program.

1798 (b) The petition must recite, and have attached thereto,  
 1799 supporting proof that the petitioner gave the respondents:

- 1800 1. Advance written notice of the specific nature of the  
 1801 dispute;
- 1802 2. A demand for relief, and a reasonable opportunity to  
 1803 comply or to provide the relief; and

1804           3. Notice of the intention to file an arbitration petition  
 1805 or other legal action in the absence of a resolution of the  
 1806 dispute.

1807  
 1808 Failure to include the allegations or proof of compliance with  
 1809 these prerequisites requires dismissal of the petition without  
 1810 prejudice.

1811           (c) Upon receipt, the petition shall be promptly reviewed  
 1812 by the division to determine the existence of a dispute and  
 1813 compliance with the requirements of paragraphs (a) and (b). If  
 1814 emergency relief is required and is not available through  
 1815 arbitration, a motion to stay the arbitration may be filed. The  
 1816 motion must be accompanied by a verified petition alleging facts  
 1817 that, if proven, would support entry of a temporary injunction,  
 1818 and if an appropriate motion and supporting papers are filed,  
 1819 the division may abate the arbitration pending a court hearing  
 1820 and disposition of a motion for temporary injunction.

1821           (d) Upon determination by the division that a dispute  
 1822 exists and that the petition substantially meets the  
 1823 requirements of paragraphs (a) and (b) and any other applicable  
 1824 rules, a copy of the petition shall ~~forthwith~~ be served by the  
 1825 division upon all respondents.

1826           (e) ~~Either~~ Before or after the filing of the respondents'  
 1827 answer to the petition, any party may request that the  
 1828 arbitrator refer the case to mediation under this section and  
 1829 any rules adopted by the division. Upon receipt of a request for  
 1830 mediation, the division shall promptly contact the parties to  
 1831 determine if there is agreement that mediation would be

1832 appropriate. If all parties agree, the dispute must be referred  
1833 to mediation. Notwithstanding a lack of an agreement by all  
1834 parties, the arbitrator may refer a dispute to mediation at any  
1835 time.

1836 (f) Upon referral of a case to mediation, the parties must  
1837 select a mutually acceptable mediator. To assist in the  
1838 selection, the arbitrator shall provide the parties with a list  
1839 of both volunteer and paid mediators that have been certified by  
1840 the division under s. 718.501. If the parties are unable to  
1841 agree on a mediator within the time allowed by the arbitrator,  
1842 the arbitrator shall appoint a mediator from the list of  
1843 certified mediators. If a case is referred to mediation, the  
1844 parties shall attend a mediation conference, as scheduled by the  
1845 parties and the mediator. If any party fails to attend a duly  
1846 noticed mediation conference, without the permission or approval  
1847 of the arbitrator or mediator, the arbitrator must impose  
1848 sanctions against the party, including the striking of any  
1849 pleadings filed, the entry of an order of dismissal or default  
1850 if appropriate, and the award of costs and attorneys' fees  
1851 incurred by the other parties. Unless otherwise agreed to by the  
1852 parties or as provided by order of the arbitrator, a party is  
1853 deemed to have appeared at a mediation conference by the  
1854 physical presence of the party or its representative having full  
1855 authority to settle without further consultation, provided that  
1856 an association may comply by having one or more representatives  
1857 present with full authority to negotiate a settlement and  
1858 recommend that the board of administration ratify and approve  
1859 such a settlement within 5 days from the date of the mediation

1860 conference. The parties shall share equally the expense of  
1861 mediation, unless they agree otherwise.

1862 (g) The purpose of mediation as provided for by this  
1863 section is to present the parties with an opportunity to resolve  
1864 the underlying dispute in good faith, and with a minimum  
1865 expenditure of time and resources.

1866 (h) Mediation proceedings must generally be conducted in  
1867 accordance with the Florida Rules of Civil Procedure, and these  
1868 proceedings are privileged and confidential to the same extent  
1869 as court-ordered mediation. Persons who are not parties to the  
1870 dispute are not allowed to attend the mediation conference  
1871 without the consent of all parties, with the exception of  
1872 counsel for the parties and corporate representatives designated  
1873 to appear for a party. If the mediator declares an impasse after  
1874 a mediation conference has been held, the arbitration proceeding  
1875 terminates, unless all parties agree in writing to continue the  
1876 arbitration proceeding, in which case the arbitrator's decision  
1877 shall be ~~either~~ binding or nonbinding, as agreed upon by the  
1878 parties; in the arbitration proceeding, the arbitrator shall not  
1879 consider any evidence relating to the unsuccessful mediation  
1880 except in a proceeding to impose sanctions for failure to appear  
1881 at the mediation conference. If the parties do not agree to  
1882 continue arbitration, the arbitrator shall enter an order of  
1883 dismissal, and either party may institute a suit in a court of  
1884 competent jurisdiction. The parties may seek to recover any  
1885 costs and attorneys' fees incurred in connection with  
1886 arbitration and mediation proceedings under this section as part

1887 of the costs and fees that may be recovered by the prevailing  
1888 party in any subsequent litigation.

1889 (i) Arbitration shall be conducted according to rules  
1890 adopted ~~promulgated~~ by the division. The filing of a petition  
1891 for arbitration shall toll the applicable statute of  
1892 limitations.

1893 (j) At the request of any party to the arbitration, the  
1894 ~~such~~ arbitrator shall issue subpoenas for the attendance of  
1895 witnesses and the production of books, records, documents, and  
1896 other evidence and any party on whose behalf a subpoena is  
1897 issued may apply to the court for orders compelling such  
1898 attendance and production. Subpoenas shall be served and shall  
1899 be enforceable in the manner provided by the Florida Rules of  
1900 Civil Procedure. Discovery may, in the discretion of the  
1901 arbitrator, be permitted in the manner provided by the Florida  
1902 Rules of Civil Procedure. Rules adopted by the division may  
1903 authorize any reasonable sanctions except contempt for a  
1904 violation of the arbitration procedural rules of the division or  
1905 for the failure of a party to comply with a reasonable nonfinal  
1906 order issued by an arbitrator which is not under judicial  
1907 review.

1908 (k) The arbitration decision shall be presented to the  
1909 parties in writing. An arbitration decision is final in those  
1910 disputes in which the parties have agreed to be bound. An  
1911 arbitration decision is also final if a complaint for a trial de  
1912 novo is not filed in a court of competent jurisdiction in which  
1913 the condominium is located within 30 days. The right to file for  
1914 a trial de novo entitles the parties to file a complaint in the

1915 appropriate trial court for a judicial resolution of the  
1916 dispute. The prevailing party in an arbitration proceeding shall  
1917 be awarded the costs of the arbitration and reasonable  
1918 attorney's fees in an amount determined by the arbitrator. Such  
1919 an award shall include the costs and reasonable attorney's fees  
1920 incurred in the arbitration proceeding as well as the costs and  
1921 reasonable attorney's fees incurred in preparing for and  
1922 attending any scheduled mediation.

1923 (l) The party who files a complaint for a trial de novo  
1924 shall be assessed the other party's arbitration costs, court  
1925 costs, and other reasonable costs, including attorney's fees,  
1926 investigation expenses, and expenses for expert or other  
1927 testimony or evidence incurred after the arbitration hearing if  
1928 the judgment upon the trial de novo is not more favorable than  
1929 the arbitration decision. If the judgment is more favorable, the  
1930 party who filed a complaint for trial de novo shall be awarded  
1931 reasonable court costs and attorney's fees.

1932 (m) Any party to an arbitration proceeding may enforce an  
1933 arbitration award by filing a petition in a court of competent  
1934 jurisdiction in which the condominium is located. A petition may  
1935 not be granted unless the time for appeal by the filing of a  
1936 complaint for trial de novo has expired. If a complaint for a  
1937 trial de novo has been filed, a petition may not be granted with  
1938 respect to an arbitration award that has been stayed. If the  
1939 petition for enforcement is granted, the petitioner shall  
1940 recover reasonable attorney's fees and costs incurred in  
1941 enforcing the arbitration award. A mediation settlement may also  
1942 be enforced through the county or circuit court, as applicable,

1943 and any costs and fees incurred in the enforcement of a  
 1944 settlement agreement reached at mediation must be awarded to the  
 1945 prevailing party in any enforcement action.

1946 Section 46. Section 718.501, Florida Statutes, is amended  
 1947 to read:

1948 718.501 Powers and duties of Division of Florida ~~Land~~  
 1949 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1950 (1) The Division of Florida ~~Land Sales~~, Condominiums,  
 1951 Timeshares, and Mobile Homes of the Department of Business and  
 1952 Professional Regulation, referred to as the "division" in this  
 1953 part, ~~in addition to other powers and duties prescribed by~~  
 1954 ~~chapter 498~~, has the power to enforce and ensure compliance with  
 1955 the provisions of this chapter and rules ~~promulgated pursuant~~  
 1956 ~~hereto~~ relating to the development, construction, sale, lease,  
 1957 ownership, operation, and management of residential condominium  
 1958 units. In performing its duties, the division has the following  
 1959 powers and duties:

1960 (a)1. The division may make necessary public or private  
 1961 investigations within or outside this state to determine whether  
 1962 any person has violated this chapter or any rule or order  
 1963 hereunder, to aid in the enforcement of this chapter, or to aid  
 1964 in the adoption of rules or forms hereunder.

1965 2. The division may submit any official written report,  
 1966 worksheet, or other related paper, or a duly certified copy  
 1967 thereof, compiled, prepared, drafted, or otherwise made by and  
 1968 duly authenticated by a financial examiner or analyst to be  
 1969 admitted as competent evidence in any hearing in which the  
 1970 financial examiner or analyst is available for cross-examination

1971 and attests under oath that such documents were prepared as a  
 1972 result of an examination or inspection conducted pursuant to  
 1973 this chapter.

1974 (b) The division may require or permit any person to file  
 1975 a statement in writing, under oath or otherwise, as the division  
 1976 determines, as to the facts and circumstances concerning a  
 1977 matter to be investigated.

1978 (c) For the purpose of any investigation under this  
 1979 chapter, the division director or any officer or employee  
 1980 designated by the division director may administer oaths or  
 1981 affirmations, subpoena witnesses and compel their attendance,  
 1982 take evidence, and require the production of any matter which is  
 1983 relevant to the investigation, including the existence,  
 1984 description, nature, custody, condition, and location of any  
 1985 books, documents, or other tangible things and the identity and  
 1986 location of persons having knowledge of relevant facts or any  
 1987 other matter reasonably calculated to lead to the discovery of  
 1988 material evidence. Upon the failure by a person to obey a  
 1989 subpoena or to answer questions propounded by the investigating  
 1990 officer and upon reasonable notice to all persons affected  
 1991 thereby, the division may apply to the circuit court for an  
 1992 order compelling compliance.

1993 (d) Notwithstanding any remedies available to unit owners  
 1994 and associations, if the division has reasonable cause to  
 1995 believe that a violation of any provision of this chapter or  
 1996 related rule ~~promulgated pursuant hereto~~ has occurred, the  
 1997 division may institute enforcement proceedings in its own name



1998 against any developer, association, officer, or member of the  
 1999 board of administration, or its assignees or agents, as follows:

2000 1. The division may permit a person whose conduct or  
 2001 actions may be under investigation to waive formal proceedings  
 2002 and enter into a consent proceeding whereby orders, rules, or  
 2003 letters of censure or warning, whether formal or informal, may  
 2004 be entered against the person.

2005 2. The division may issue an order requiring the  
 2006 developer, association, officer, or member of the board of  
 2007 administration, or its assignees or agents, to cease and desist  
 2008 from the unlawful practice and take such affirmative action as  
 2009 in the judgment of the division will carry out the purposes of  
 2010 this chapter. ~~Such affirmative action may include, but is not~~  
 2011 ~~limited to, an order requiring a developer to pay moneys~~  
 2012 ~~determined to be owed to a condominium association. If the~~  
 2013 division finds that a developer, association, officer, or member  
 2014 of the board of administration, or its assignees or agents, is  
 2015 violating or is about to violate any provision of this chapter,  
 2016 any rule adopted or order issued by the division, or any written  
 2017 agreement entered into with the division, and presents an  
 2018 immediate danger to the public requiring an immediate final  
 2019 order, it may issue an emergency cease and desist order reciting  
 2020 with particularity the facts underlying such findings. The  
 2021 emergency cease and desist order is effective for 90 days. If  
 2022 the division begins nonemergency cease and desist proceedings,  
 2023 the emergency cease and desist order remains effective until the  
 2024 conclusion of the proceedings under ss. 120.569 and 120.57.

2025           3. The division may bring an action in circuit court on  
 2026 behalf of a class of unit owners, lessees, or purchasers for  
 2027 declaratory relief, injunctive relief, or restitution.

2028           4. The division may petition the court for the appointment  
 2029 of a receiver or conservator. If appointed, the receiver or  
 2030 conservator may take action to implement the court order to  
 2031 ensure the performance of the order and to remedy any breach  
 2032 thereof. In addition to all other means provided by law for the  
 2033 enforcement of an injunction or temporary restraining order, the  
 2034 circuit court may impound or sequester the property of a party  
 2035 defendant, including books, papers, documents, and related  
 2036 records, and allow the examination and use of the property by  
 2037 the division and a court-appointed receiver or conservator.

2038           5. The division may apply to the circuit court for an  
 2039 order of restitution whereby the defendant in an action brought  
 2040 pursuant to subparagraph 4. shall be ordered to make restitution  
 2041 of those sums shown by the division to have been obtained by the  
 2042 defendant in violation of this chapter. Such restitution shall,  
 2043 at the option of the court, be payable to the conservator or  
 2044 receiver appointed pursuant to subparagraph 4. or directly to  
 2045 the persons whose funds or assets were obtained in violation of  
 2046 this chapter.

2047           6.4. The division may impose a civil penalty against a  
 2048 developer or association, or its assignee or agent, for any  
 2049 violation of this chapter or a rule adopted under this chapter  
 2050 ~~promulgated pursuant hereto~~. The division may impose a civil  
 2051 penalty individually against any officer or board member who  
 2052 willfully and knowingly violates a provision of this chapter,

2053 adopted a rule ~~adopted pursuant hereto~~, or a final order of the  
 2054 division. The term "willfully and knowingly" means that the  
 2055 division informed the officer or board member that his or her  
 2056 action or intended action violates this chapter, a rule adopted  
 2057 under this chapter, or a final order of the division and that  
 2058 the officer or board member refused to comply with the  
 2059 requirements of this chapter, a rule adopted under this chapter,  
 2060 or a final order of the division. The division, prior to  
 2061 initiating formal agency action under chapter 120, shall afford  
 2062 the officer or board member an opportunity to voluntarily comply  
 2063 with this chapter, a rule adopted under this chapter, or a final  
 2064 order of the division. An officer or board member who complies  
 2065 within 10 days is not subject to a civil penalty. A penalty may  
 2066 be imposed on the basis of each day of continuing violation, but  
 2067 in no event shall the penalty for any offense exceed \$5,000. By  
 2068 January 1, 1998, the division shall adopt, by rule, penalty  
 2069 guidelines applicable to possible violations or to categories of  
 2070 violations of this chapter or rules adopted by the division. The  
 2071 guidelines must specify a meaningful range of civil penalties  
 2072 for each such violation of the statute and rules and must be  
 2073 based upon the harm caused by the violation, the repetition of  
 2074 the violation, and upon such other factors deemed relevant by  
 2075 the division. For example, the division may consider whether the  
 2076 violations were committed by a developer or owner-controlled  
 2077 association, the size of the association, and other factors. The  
 2078 guidelines must designate the possible mitigating or aggravating  
 2079 circumstances that justify a departure from the range of  
 2080 penalties provided by the rules. It is the legislative intent

2081 that minor violations be distinguished from those which endanger  
 2082 the health, safety, or welfare of the condominium residents or  
 2083 other persons and that such guidelines provide reasonable and  
 2084 meaningful notice to the public of likely penalties that may be  
 2085 imposed for proscribed conduct. This subsection does not limit  
 2086 the ability of the division to informally dispose of  
 2087 administrative actions or complaints by stipulation, agreed  
 2088 settlement, or consent order. All amounts collected shall be  
 2089 deposited with the Chief Financial Officer to the credit of the  
 2090 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 2091 Mobile Homes Trust Fund. If a developer fails to pay the civil  
 2092 penalty, the division shall ~~thereupon~~ issue an order directing  
 2093 that such developer cease and desist from further operation  
 2094 until such time as the civil penalty is paid or may pursue  
 2095 enforcement of the penalty in a court of competent jurisdiction.  
 2096 If an association fails to pay the civil penalty, the division  
 2097 shall ~~thereupon~~ pursue enforcement in a court of competent  
 2098 jurisdiction, and the order imposing the civil penalty or the  
 2099 cease and desist order will not become effective until 20 days  
 2100 after the date of such order. Any action commenced by the  
 2101 division shall be brought in the county in which the division  
 2102 has its executive offices or in the county where the violation  
 2103 occurred.

2104 7. In addition to subparagraph 6., the division may seek  
 2105 the imposition of a civil penalty through the circuit court for  
 2106 any violation for which the division may issue a notice to show  
 2107 cause under paragraph (q). The civil penalty shall be at least  
 2108 \$500 but no more than \$5,000 for each violation. The court may

2109 also award to the prevailing party court costs and reasonable  
 2110 attorney's fees and, if the division prevails, may also award  
 2111 reasonable costs of investigation.

2112 (e) The division may ~~is authorized to~~ prepare and  
 2113 disseminate a prospectus and other information to assist  
 2114 prospective owners, purchasers, lessees, and developers of  
 2115 residential condominiums in assessing the rights, privileges,  
 2116 and duties pertaining thereto.

2117 (f) The division has authority to adopt rules pursuant to  
 2118 ss. 120.536(1) and 120.54 to implement and enforce the  
 2119 provisions of this chapter.

2120 (g) The division shall establish procedures for providing  
 2121 notice to an association when the division is considering the  
 2122 issuance of a declaratory statement with respect to the  
 2123 declaration of condominium or any related document governing in  
 2124 such condominium community.

2125 (h) The division shall furnish each association which pays  
 2126 the fees required by paragraph (2)(a) a copy of this act,  
 2127 subsequent changes to this act on an annual basis, an amended  
 2128 version of this act as it becomes available from the Secretary  
 2129 of State's office on a biennial basis, and the rules adopted  
 2130 ~~promulgated pursuant~~ thereto on an annual basis.

2131 (i) The division shall annually provide each association  
 2132 with a summary of declaratory statements and formal legal  
 2133 opinions relating to the operations of condominiums which were  
 2134 rendered by the division during the previous year.

2135 (j) The division shall provide training programs for  
 2136 condominium association board members and unit owners.

2137 (k) The division shall maintain a toll-free telephone  
2138 number accessible to condominium unit owners.

2139 (l) The division shall develop a program to certify both  
2140 volunteer and paid mediators to provide mediation of condominium  
2141 disputes. The division shall provide, upon request, a list of  
2142 such mediators to any association, unit owner, or other  
2143 participant in arbitration proceedings under s. 718.1255  
2144 requesting a copy of the list. The division shall include on the  
2145 list of volunteer mediators only the names of persons who have  
2146 received at least 20 hours of training in mediation techniques  
2147 or who have mediated at least 20 disputes. In order to become  
2148 initially certified by the division, paid mediators must be  
2149 certified by the Supreme Court to mediate court cases in ~~either~~  
2150 county or circuit courts. However, the division may adopt, by  
2151 rule, additional factors for the certification of paid  
2152 mediators, which factors must be related to experience,  
2153 education, or background. Any person initially certified as a  
2154 paid mediator by the division must, in order to continue to be  
2155 certified, comply with the factors or requirements imposed by  
2156 rules adopted by the division.

2157 (m) When a complaint is made, the division shall conduct  
2158 its inquiry with due regard to the interests of the affected  
2159 parties. Within 30 days after receipt of a complaint, the  
2160 division shall acknowledge the complaint in writing and notify  
2161 the complainant whether the complaint is within the jurisdiction  
2162 of the division and whether additional information is needed by  
2163 the division from the complainant. The division shall conduct  
2164 its investigation and shall, within 90 days after receipt of the

2165 original complaint or of timely requested additional  
 2166 information, take action upon the complaint. However, the  
 2167 failure to complete the investigation within 90 days does not  
 2168 prevent the division from continuing the investigation,  
 2169 accepting or considering evidence obtained or received after 90  
 2170 days, or taking administrative action if reasonable cause exists  
 2171 to believe that a violation of this chapter or a rule of the  
 2172 division has occurred. If an investigation is not completed  
 2173 within the time limits established in this paragraph, the  
 2174 division shall, on a monthly basis, notify the complainant in  
 2175 writing of the status of the investigation. When reporting its  
 2176 action to the complainant, the division shall inform the  
 2177 complainant of any right to a hearing pursuant to ss. 120.569  
 2178 and 120.57.

2179 (n) The division may:

2180 1. Contract with agencies in this state or other  
 2181 jurisdictions to perform investigative functions; or

2182 2. Accept grants-in-aid from any source.

2183 (o) The division shall cooperate with similar agencies in  
 2184 other jurisdictions to establish uniform filing procedures and  
 2185 forms, public offering statements, advertising standards, and  
 2186 rules and common administrative practices.

2187 (p) The division shall consider notice to a developer to  
 2188 be complete when it is delivered to the developer's address  
 2189 currently on file with the division.

2190 (q) In addition to its enforcement authority, the division  
 2191 may issue a notice to show cause, which shall provide for a  
 2192 hearing, upon written request, in accordance with chapter 120.

2193           (2) (a) Effective January 1, 1992, Each condominium  
 2194 association which operates more than two units shall pay to the  
 2195 division an annual fee in the amount of \$4 for each residential  
 2196 unit in condominiums operated by the association. If the fee is  
 2197 not paid by March 1, ~~then~~ the association shall be assessed a  
 2198 penalty of 10 percent of the amount due, and the association  
 2199 will not have standing to maintain or defend any action in the  
 2200 courts of this state until the amount due, plus any penalty, is  
 2201 paid.

2202           (b) All fees shall be deposited in the Division of Florida  
 2203 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust  
 2204 Fund as provided by law.

2205           Section 47. Subsection (1) of section 718.5011, Florida  
 2206 Statutes, is amended to read:

2207           718.5011 Ombudsman; appointment; administration.--

2208           (1) There is created an Office of the Condominium  
 2209 Ombudsman, to be located for administrative purposes within the  
 2210 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 2211 Mobile Homes. The functions of the office shall be funded by the  
 2212 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 2213 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief  
 2214 of the division, and the office shall be set within the division  
 2215 in the same manner as any other bureau is staffed and funded.

2216           Section 48. Paragraph (a) of subsection (2) of section  
 2217 718.502, Florida Statutes, is amended to read:

2218           718.502 Filing prior to sale or lease.--

2219           (2) (a) Prior to filing as required by subsection (1), and  
 2220 prior to acquiring an ownership, leasehold, or contractual



2221 interest in the land upon which the condominium is to be  
 2222 developed, a developer shall not offer a contract for purchase  
 2223 of a unit or lease of a unit for more than 5 years. However, the  
 2224 developer may accept deposits for reservations upon the approval  
 2225 of a fully executed escrow agreement and reservation agreement  
 2226 form properly filed with the Division of Florida ~~Land Sales,~~  
 2227 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
 2228 proposed reservation program shall be accompanied by a filing  
 2229 fee of \$250. Reservations shall not be taken on a proposed  
 2230 condominium unless the developer has an ownership, leasehold, or  
 2231 contractual interest in the land upon which the condominium is  
 2232 to be developed. The division shall notify the developer within  
 2233 20 days of receipt of the reservation filing of any deficiencies  
 2234 contained therein. Such notification shall not preclude the  
 2235 determination of reservation filing deficiencies at a later  
 2236 date, nor shall it relieve the developer of any responsibility  
 2237 under the law. The escrow agreement and the reservation  
 2238 agreement form shall include a statement of the right of the  
 2239 prospective purchaser to an immediate unqualified refund of the  
 2240 reservation deposit moneys upon written request to the escrow  
 2241 agent by the prospective purchaser or the developer.

2242 Section 49. Section 718.504, Florida Statutes, is amended  
 2243 to read:

2244 718.504 Prospectus or offering circular.--Every developer  
 2245 of a residential condominium which contains more than 20  
 2246 residential units, or which is part of a group of residential  
 2247 condominiums which will be served by property to be used in  
 2248 common by unit owners of more than 20 residential units, shall

2249 | prepare a prospectus or offering circular and file it with the  
2250 | Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
2251 | Mobile Homes prior to entering into an enforceable contract of  
2252 | purchase and sale of any unit or lease of a unit for more than 5  
2253 | years and shall furnish a copy of the prospectus or offering  
2254 | circular to each buyer. In addition to the prospectus or  
2255 | offering circular, each buyer shall be furnished a separate page  
2256 | entitled "Frequently Asked Questions and Answers," which shall  
2257 | be in accordance with a format approved by the division and a  
2258 | copy of the financial information required by s. 718.111. This  
2259 | page shall, in readable language, inform prospective purchasers  
2260 | regarding their voting rights and unit use restrictions,  
2261 | including restrictions on the leasing of a unit; shall indicate  
2262 | whether and in what amount the unit owners or the association is  
2263 | obligated to pay rent or land use fees for recreational or other  
2264 | commonly used facilities; shall contain a statement identifying  
2265 | that amount of assessment which, pursuant to the budget, would  
2266 | be levied upon each unit type, exclusive of any special  
2267 | assessments, and which shall further identify the basis upon  
2268 | which assessments are levied, whether monthly, quarterly, or  
2269 | otherwise; shall state and identify any court cases in which the  
2270 | association is currently a party of record in which the  
2271 | association may face liability in excess of \$100,000; and which  
2272 | shall further state whether membership in a recreational  
2273 | facilities association is mandatory, and if so, shall identify  
2274 | the fees currently charged per unit type. The division shall by  
2275 | rule require such other disclosure as in its judgment will  
2276 | assist prospective purchasers. The prospectus or offering

2277 circular may include more than one condominium, although not all  
2278 such units are being offered for sale as of the date of the  
2279 prospectus or offering circular. The prospectus or offering  
2280 circular must contain the following information:

2281 (1) The front cover or the first page must contain only:

2282 (a) The name of the condominium.

2283 (b) The following statements in conspicuous type:

2284 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
2285 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2286 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
2287 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
2288 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
2289 MATERIALS.

2290 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
2291 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
2292 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
2293 REPRESENTATIONS.

2294 (2) Summary: The next page must contain all statements  
2295 required to be in conspicuous type in the prospectus or offering  
2296 circular.

2297 (3) A separate index of the contents and exhibits of the  
2298 prospectus.

2299 (4) Beginning on the first page of the text (not including  
2300 the summary and index), a description of the condominium,  
2301 including, but not limited to, the following information:

2302 (a) Its name and location.

2303 (b) A description of the condominium property, including,  
2304 without limitation:

2305           1. The number of buildings, the number of units in each  
 2306 building, the number of bathrooms and bedrooms in each unit, and  
 2307 the total number of units, if the condominium is not a phase  
 2308 condominium, or the maximum number of buildings that may be  
 2309 contained within the condominium, the minimum and maximum  
 2310 numbers of units in each building, the minimum and maximum  
 2311 numbers of bathrooms and bedrooms that may be contained in each  
 2312 unit, and the maximum number of units that may be contained  
 2313 within the condominium, if the condominium is a phase  
 2314 condominium.

2315           2. The page in the condominium documents where a copy of  
 2316 the plot plan and survey of the condominium is located.

2317           3. The estimated latest date of completion of  
 2318 constructing, finishing, and equipping. In lieu of a date, the  
 2319 description shall include a statement that the estimated date of  
 2320 completion of the condominium is in the purchase agreement and a  
 2321 reference to the article or paragraph containing that  
 2322 information.

2323           (c) The maximum number of units that will use facilities  
 2324 in common with the condominium. If the maximum number of units  
 2325 will vary, a description of the basis for variation and the  
 2326 minimum amount of dollars per unit to be spent for additional  
 2327 recreational facilities or enlargement of such facilities. If  
 2328 the addition or enlargement of facilities will result in a  
 2329 material increase of a unit owner's maintenance expense or  
 2330 rental expense, if any, the maximum increase and limitations  
 2331 thereon shall be stated.

2332 (5) (a) A statement in conspicuous type describing whether  
 2333 the condominium is created and being sold as fee simple  
 2334 interests or as leasehold interests. If the condominium is  
 2335 created or being sold on a leasehold, the location of the lease  
 2336 in the disclosure materials shall be stated.

2337 (b) If timeshare estates are or may be created with  
 2338 respect to any unit in the condominium, a statement in  
 2339 conspicuous type stating that timeshare estates are created and  
 2340 being sold in units in the condominium.

2341 (6) A description of the recreational and other commonly  
 2342 used facilities that will be used only by unit owners of the  
 2343 condominium, including, but not limited to, the following:

2344 (a) Each room and its intended purposes, location,  
 2345 approximate floor area, and capacity in numbers of people.

2346 (b) Each swimming pool, as to its general location,  
 2347 approximate size and depths, approximate deck size and capacity,  
 2348 and whether heated.

2349 (c) Additional facilities, as to the number of each  
 2350 facility, its approximate location, approximate size, and  
 2351 approximate capacity.

2352 (d) A general description of the items of personal  
 2353 property and the approximate number of each item of personal  
 2354 property that the developer is committing to furnish for each  
 2355 room or other facility or, in the alternative, a representation  
 2356 as to the minimum amount of expenditure that will be made to  
 2357 purchase the personal property for the facility.

2358 (e) The estimated date when each room or other facility  
 2359 will be available for use by the unit owners.

2360 (f)1. An identification of each room or other facility to  
 2361 be used by unit owners that will not be owned by the unit owners  
 2362 or the association;

2363 2. A reference to the location in the disclosure materials  
 2364 of the lease or other agreements providing for the use of those  
 2365 facilities; and

2366 3. A description of the terms of the lease or other  
 2367 agreements, including the length of the term; the rent payable,  
 2368 directly or indirectly, by each unit owner, and the total rent  
 2369 payable to the lessor, stated in monthly and annual amounts for  
 2370 the entire term of the lease; and a description of any option to  
 2371 purchase the property leased under any such lease, including the  
 2372 time the option may be exercised, the purchase price or how it  
 2373 is to be determined, the manner of payment, and whether the  
 2374 option may be exercised for a unit owner's share or only as to  
 2375 the entire leased property.

2376 (g) A statement as to whether the developer may provide  
 2377 additional facilities not described above; their general  
 2378 locations and types; improvements or changes that may be made;  
 2379 the approximate dollar amount to be expended; and the maximum  
 2380 additional common expense or cost to the individual unit owners  
 2381 that may be charged during the first annual period of operation  
 2382 of the modified or added facilities.

2383  
 2384 Descriptions as to locations, areas, capacities, numbers,  
 2385 volumes, or sizes may be stated as approximations or minimums.

2386 (7) A description of the recreational and other facilities  
 2387 that will be used in common with other condominiums, community

2388 associations, or planned developments which require the payment  
2389 of the maintenance and expenses of such facilities, ~~either~~  
2390 directly or indirectly, by the unit owners. The description  
2391 shall include, but not be limited to, the following:

2392 (a) Each building and facility committed to be built.

2393 (b) Facilities not committed to be built except under  
2394 certain conditions, and a statement of those conditions or  
2395 contingencies.

2396 (c) As to each facility committed to be built, or which  
2397 will be committed to be built upon the happening of one of the  
2398 conditions in paragraph (b), a statement of whether it will be  
2399 owned by the unit owners having the use thereof or by an  
2400 association or other entity which will be controlled by them, or  
2401 others, and the location in the exhibits of the lease or other  
2402 document providing for use of those facilities.

2403 (d) The year in which each facility will be available for  
2404 use by the unit owners or, in the alternative, the maximum  
2405 number of unit owners in the project at the time each of all of  
2406 the facilities is committed to be completed.

2407 (e) A general description of the items of personal  
2408 property, and the approximate number of each item of personal  
2409 property, that the developer is committing to furnish for each  
2410 room or other facility or, in the alternative, a representation  
2411 as to the minimum amount of expenditure that will be made to  
2412 purchase the personal property for the facility.

2413 (f) If there are leases, a description thereof, including  
2414 the length of the term, the rent payable, and a description of  
2415 any option to purchase.

2416  
 2417 Descriptions shall include location, areas, capacities, numbers,  
 2418 volumes, or sizes and may be stated as approximations or  
 2419 minimums.

2420 (8) Recreation lease or associated club membership:

2421 (a) If any recreational facilities or other facilities  
 2422 offered by the developer and available to, or to be used by,  
 2423 unit owners are to be leased or have club membership associated,  
 2424 the following statement in conspicuous type shall be included:  
 2425 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 2426 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 2427 CONDOMINIUM. There shall be a reference to the location in the  
 2428 disclosure materials where the recreation lease or club  
 2429 membership is described in detail.

2430 (b) If it is mandatory that unit owners pay a fee, rent,  
 2431 dues, or other charges under a recreational facilities lease or  
 2432 club membership for the use of facilities, there shall be in  
 2433 conspicuous type the applicable statement:

2434 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
 2435 MANDATORY FOR UNIT OWNERS; or

2436 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
 2437 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2438 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
 2439 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
 2440 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
 2441 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or



2442 4. A similar statement of the nature of the organization  
 2443 or the manner in which the use rights are created, and that unit  
 2444 owners are required to pay.

2445  
 2446 Immediately following the applicable statement, the location in  
 2447 the disclosure materials where the development is described in  
 2448 detail shall be stated.

2449 (c) If the developer, or any other person other than the  
 2450 unit owners and other persons having use rights in the  
 2451 facilities, reserves, or is entitled to receive, any rent, fee,  
 2452 or other payment for the use of the facilities, then there shall  
 2453 be the following statement in conspicuous type: THE UNIT OWNERS  
 2454 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 2455 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
 2456 following this statement, the location in the disclosure  
 2457 materials where the rent or land use fees are described in  
 2458 detail shall be stated.

2459 (d) If, in any recreation format, whether leasehold, club,  
 2460 or other, any person other than the association has the right to  
 2461 a lien on the units to secure the payment of assessments, rent,  
 2462 or other exactions, there shall appear a statement in  
 2463 conspicuous type in substantially the following form:

2464 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 2465 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
 2466 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 2467 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2468 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 2469 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE

2470 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
 2471 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
 2472 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2473  
 2474 Immediately following the applicable statement, the location in  
 2475 the disclosure materials where the lien or lien right is  
 2476 described in detail shall be stated.

2477 (9) If the developer or any other person has the right to  
 2478 increase or add to the recreational facilities at any time after  
 2479 the establishment of the condominium whose unit owners have use  
 2480 rights therein, without the consent of the unit owners or  
 2481 associations being required, there shall appear a statement in  
 2482 conspicuous type in substantially the following form:

2483 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
 2484 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
 2485 statement, the location in the disclosure materials where such  
 2486 reserved rights are described shall be stated.

2487 (10) A statement of whether the developer's plan includes  
 2488 a program of leasing units rather than selling them, or leasing  
 2489 units and selling them subject to such leases. If so, there  
 2490 shall be a description of the plan, including the number and  
 2491 identification of the units and the provisions and term of the  
 2492 proposed leases, and a statement in boldfaced type that: **THE**  
 2493 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

2494 (11) The arrangements for management of the association  
 2495 and maintenance and operation of the condominium property and of  
 2496 other property that will serve the unit owners of the  
 2497 condominium property, and a description of the management

2498 contract and all other contracts for these purposes having a  
 2499 term in excess of 1 year, including the following:

- 2500 (a) The names of contracting parties.
- 2501 (b) The term of the contract.
- 2502 (c) The nature of the services included.
- 2503 (d) The compensation, stated on a monthly and annual  
 2504 basis, and provisions for increases in the compensation.
- 2505 (e) A reference to the volumes and pages of the  
 2506 condominium documents and of the exhibits containing copies of  
 2507 such contracts.

2508  
 2509 Copies of all described contracts shall be attached as exhibits.  
 2510 If there is a contract for the management of the condominium  
 2511 property, then a statement in conspicuous type in substantially  
 2512 the following form shall appear, identifying the proposed or  
 2513 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
 2514 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE  
 2515 CONTRACT MANAGER). Immediately following this statement, the  
 2516 location in the disclosure materials of the contract for  
 2517 management of the condominium property shall be stated.

2518 (12) If the developer or any other person or persons other  
 2519 than the unit owners has the right to retain control of the  
 2520 board of administration of the association for a period of time  
 2521 which can exceed 1 year after the closing of the sale of a  
 2522 majority of the units in that condominium to persons other than  
 2523 successors or alternate developers, then a statement in  
 2524 conspicuous type in substantially the following form shall be  
 2525 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO

2526 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
 2527 HAVE BEEN SOLD. Immediately following this statement, the  
 2528 location in the disclosure materials where this right to control  
 2529 is described in detail shall be stated.

2530 (13) If there are any restrictions upon the sale,  
 2531 transfer, conveyance, or leasing of a unit, then a statement in  
 2532 conspicuous type in substantially the following form shall be  
 2533 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
 2534 CONTROLLED. Immediately following this statement, the location  
 2535 in the disclosure materials where the restriction, limitation,  
 2536 or control on the sale, lease, or transfer of units is described  
 2537 in detail shall be stated.

2538 (14) If the condominium is part of a phase project, the  
 2539 following information shall be stated:

2540 (a) A statement in conspicuous type in substantially the  
 2541 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
 2542 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
 2543 this statement, the location in the disclosure materials where  
 2544 the phasing is described shall be stated.

2545 (b) A summary of the provisions of the declaration which  
 2546 provide for the phasing.

2547 (c) A statement as to whether or not residential buildings  
 2548 and units which are added to the condominium may be  
 2549 substantially different from the residential buildings and units  
 2550 originally in the condominium. If the added residential  
 2551 buildings and units may be substantially different, there shall  
 2552 be a general description of the extent to which such added  
 2553 residential buildings and units may differ, and a statement in

2554 conspicuous type in substantially the following form shall be  
 2555 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM  
 2556 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
 2557 UNITS IN THE CONDOMINIUM. Immediately following this statement,  
 2558 the location in the disclosure materials where the extent to  
 2559 which added residential buildings and units may substantially  
 2560 differ is described shall be stated.

2561 (d) A statement of the maximum number of buildings  
 2562 containing units, the maximum and minimum numbers of units in  
 2563 each building, the maximum number of units, and the minimum and  
 2564 maximum square footage of the units that may be contained within  
 2565 each parcel of land which may be added to the condominium.

2566 (15) If a condominium created on or after July 1, 2000, is  
 2567 or may become part of a multicondominium, the following  
 2568 information must be provided:

2569 (a) A statement in conspicuous type in substantially the  
 2570 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
 2571 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
 2572 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following  
 2573 this statement, the location in the prospectus or offering  
 2574 circular and its exhibits where the multicondominium aspects of  
 2575 the offering are described must be stated.

2576 (b) A summary of the provisions in the declaration,  
 2577 articles of incorporation, and bylaws which establish and  
 2578 provide for the operation of the multicondominium, including a  
 2579 statement as to whether unit owners in the condominium will have  
 2580 the right to use recreational or other facilities located or  
 2581 planned to be located in other condominiums operated by the same

2582 association, and the manner of sharing the common expenses  
2583 related to such facilities.

2584 (c) A statement of the minimum and maximum number of  
2585 condominiums, and the minimum and maximum number of units in  
2586 each of those condominiums, which will or may be operated by the  
2587 association, and the latest date by which the exact number will  
2588 be finally determined.

2589 (d) A statement as to whether any of the condominiums in  
2590 the multicondominium may include units intended to be used for  
2591 nonresidential purposes and the purpose or purposes permitted  
2592 for such use.

2593 (e) A general description of the location and approximate  
2594 acreage of any land on which any additional condominiums to be  
2595 operated by the association may be located.

2596 (16) If the condominium is created by conversion of  
2597 existing improvements, the following information shall be  
2598 stated:

2599 (a) The information required by s. 718.616.

2600 (b) A caveat that there are no express warranties unless  
2601 they are stated in writing by the developer.

2602 (17) A summary of the restrictions, if any, to be imposed  
2603 on units concerning the use of any of the condominium property,  
2604 including statements as to whether there are restrictions upon  
2605 children and pets, and reference to the volumes and pages of the  
2606 condominium documents where such restrictions are found, or if  
2607 such restrictions are contained elsewhere, then a copy of the  
2608 documents containing the restrictions shall be attached as an  
2609 exhibit.

2610 (18) If there is any land that is offered by the developer  
2611 for use by the unit owners and that is neither owned by them nor  
2612 leased to them, the association, or any entity controlled by  
2613 unit owners and other persons having the use rights to such  
2614 land, a statement shall be made as to how such land will serve  
2615 the condominium. If any part of such land will serve the  
2616 condominium, the statement shall describe the land and the  
2617 nature and term of service, and the declaration or other  
2618 instrument creating such servitude shall be included as an  
2619 exhibit.

2620 (19) The manner in which utility and other services,  
2621 including, but not limited to, sewage and waste disposal, water  
2622 supply, and storm drainage, will be provided and the person or  
2623 entity furnishing them.

2624 (20) An explanation of the manner in which the  
2625 apportionment of common expenses and ownership of the common  
2626 elements has been determined.

2627 (21) An estimated operating budget for the condominium and  
2628 the association, and a schedule of the unit owner's expenses  
2629 shall be attached as an exhibit and shall contain the following  
2630 information:

2631 (a) The estimated monthly and annual expenses of the  
2632 condominium and the association that are collected from unit  
2633 owners by assessments.

2634 (b) The estimated monthly and annual expenses of each unit  
2635 owner for a unit, other than common expenses paid by all unit  
2636 owners, payable by the unit owner to persons or entities other  
2637 than the association, as well as to the association, including

2638 fees assessed pursuant to s. 718.113(1) for maintenance of  
 2639 limited common elements where such costs are shared only by  
 2640 those entitled to use the limited common element, and the total  
 2641 estimated monthly and annual expense. There may be excluded from  
 2642 this estimate expenses which are not provided for or  
 2643 contemplated by the condominium documents, including, but not  
 2644 limited to, the costs of private telephone; maintenance of the  
 2645 interior of condominium units, which is not the obligation of  
 2646 the association; maid or janitorial services privately  
 2647 contracted for by the unit owners; utility bills billed directly  
 2648 to each unit owner for utility services to his or her unit;  
 2649 insurance premiums other than those incurred for policies  
 2650 obtained by the condominium; and similar personal expenses of  
 2651 the unit owner. A unit owner's estimated payments for  
 2652 assessments shall also be stated in the estimated amounts for  
 2653 the times when they will be due.

2654 (c) The estimated items of expenses of the condominium and  
 2655 the association, except as excluded under paragraph (b),  
 2656 including, but not limited to, the following items, which shall  
 2657 be stated ~~either~~ as an association expense collectible by  
 2658 assessments or as unit owners' expenses payable to persons other  
 2659 than the association:

- 2660 1. Expenses for the association and condominium:
- 2661 a. Administration of the association.
- 2662 b. Management fees.
- 2663 c. Maintenance.
- 2664 d. Rent for recreational and other commonly used
- 2665 facilities.



- 2666 e. Taxes upon association property.
- 2667 f. Taxes upon leased areas.
- 2668 g. Insurance.
- 2669 h. Security provisions.
- 2670 i. Other expenses.
- 2671 j. Operating capital.
- 2672 k. Reserves.
- 2673 l. Fees payable to the division.
- 2674 2. Expenses for a unit owner:
- 2675 a. Rent for the unit, if subject to a lease.
- 2676 b. Rent payable by the unit owner directly to the lessor
- 2677 or agent under any recreational lease or lease for the use of
- 2678 commonly used facilities, which use and payment is a mandatory
- 2679 condition of ownership and is not included in the common expense
- 2680 or assessments for common maintenance paid by the unit owners to
- 2681 the association.
- 2682 (d) The following statement in conspicuous type: THE
- 2683 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 2684 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
- 2685 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 2686 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 2687 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 2688 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
- 2689 THE OFFERING.
- 2690 (e) Each budget for an association prepared by a developer
- 2691 consistent with this subsection shall be prepared in good faith
- 2692 and shall reflect accurate estimated amounts for the required
- 2693 items in paragraph (c) at the time of the filing of the offering

2694 circular with the division, and subsequent increased amounts of  
2695 any item included in the association's estimated budget that are  
2696 beyond the control of the developer shall not be considered an  
2697 amendment that would give rise to rescission rights set forth in  
2698 s. 718.503(1)(a) or (b), nor shall such increases modify, void,  
2699 or otherwise affect any guarantee of the developer contained in  
2700 the offering circular or any purchase contract. It is the intent  
2701 of this paragraph to clarify existing law.

2702 (f) The estimated amounts shall be stated for a period of  
2703 at least 12 months and may distinguish between the period prior  
2704 to the time unit owners other than the developer elect a  
2705 majority of the board of administration and the period after  
2706 that date.

2707 (22) A schedule of estimated closing expenses to be paid  
2708 by a buyer or lessee of a unit and a statement of whether title  
2709 opinion or title insurance policy is available to the buyer and,  
2710 if so, at whose expense.

2711 (23) The identity of the developer and the chief operating  
2712 officer or principal directing the creation and sale of the  
2713 condominium and a statement of its and his or her experience in  
2714 this field.

2715 (24) Copies of the following, to the extent they are  
2716 applicable, shall be included as exhibits:

2717 (a) The declaration of condominium, or the proposed  
2718 declaration if the declaration has not been recorded.

2719 (b) The articles of incorporation creating the  
2720 association.

2721 (c) The bylaws of the association.

2722 (d) The ground lease or other underlying lease of the  
2723 condominium.

2724 (e) The management agreement and all maintenance and other  
2725 contracts for management of the association and operation of the  
2726 condominium and facilities used by the unit owners having a  
2727 service term in excess of 1 year.

2728 (f) The estimated operating budget for the condominium and  
2729 the required schedule of unit owners' expenses.

2730 (g) A copy of the floor plan of the unit and the plot plan  
2731 showing the location of the residential buildings and the  
2732 recreation and other common areas.

2733 (h) The lease of recreational and other facilities that  
2734 will be used only by unit owners of the subject condominium.

2735 (i) The lease of facilities used by owners and others.

2736 (j) The form of unit lease, if the offer is of a  
2737 leasehold.

2738 (k) A declaration of servitude of properties serving the  
2739 condominium but not owned by unit owners or leased to them or  
2740 the association.

2741 (l) The statement of condition of the existing building or  
2742 buildings, if the offering is of units in an operation being  
2743 converted to condominium ownership.

2744 (m) The statement of inspection for termite damage and  
2745 treatment of the existing improvements, if the condominium is a  
2746 conversion.

2747 (n) The form of agreement for sale or lease of units.

2748 (o) A copy of the agreement for escrow of payments made to  
2749 the developer prior to closing.

2750 (p) A copy of the documents containing any restrictions on  
 2751 use of the property required by subsection (17).

2752 (25) Any prospectus or offering circular complying, prior  
 2753 to the effective date of this act, with the provisions of former  
 2754 ss. 711.69 and 711.802 may continue to be used without amendment  
 2755 or may be amended to comply with ~~the provisions of~~ this chapter.

2756 (26) A brief narrative description of the location and  
 2757 effect of all existing and intended easements located or to be  
 2758 located on the condominium property other than those described  
 2759 in the declaration.

2760 (27) If the developer is required by state or local  
 2761 authorities to obtain acceptance or approval of any dock or  
 2762 marina facilities intended to serve the condominium, a copy of  
 2763 any such acceptance or approval acquired by the time of filing  
 2764 with the division under s. 718.502(1) or a statement that such  
 2765 acceptance or approval has not been acquired or received.

2766 (28) Evidence demonstrating that the developer has an  
 2767 ownership, leasehold, or contractual interest in the land upon  
 2768 which the condominium is to be developed.

2769 Section 50. Section 718.508, Florida Statutes, is amended  
 2770 to read:

2771 718.508 Regulation by Division of Hotels and  
 2772 Restaurants.--In addition to the authority, regulation, or  
 2773 control exercised by the Division of Florida ~~Land Sales,~~  
 2774 Condominiums, Timeshares, and Mobile Homes pursuant to this act  
 2775 with respect to condominiums, buildings included in a  
 2776 condominium property are ~~shall be~~ subject to the authority,  
 2777 regulation, or control of the Division of Hotels and Restaurants

2778 of the Department of Business and Professional Regulation, to  
 2779 the extent provided ~~for~~ in chapter 399.

2780 Section 51. Section 718.509, Florida Statutes, is amended,  
 2781 and section 498.019, Florida Statutes, is transferred,  
 2782 renumbered as subsections (1) and (2) of that section, and  
 2783 amended to read:

2784 718.509 Division of Florida ~~Land Sales,~~ Condominiums,  
 2785 Timeshares, and Mobile Homes Trust Fund. --~~All funds collected by~~  
 2786 ~~the division and any amount paid for a fee or penalty under this~~  
 2787 ~~chapter shall be deposited in the State Treasury to the credit~~  
 2788 ~~of the Division of Florida Land Sales, Condominiums, and Mobile~~  
 2789 ~~Homes Trust Fund created by s. 498.019.~~

2790 ~~498.019 Division of Florida Land Sales, Condominiums, and~~  
 2791 ~~Mobile Homes Trust Fund.~~

2792 (1) There is created within the State Treasury the  
 2793 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 2794 Mobile Homes Trust Fund to be used for the administration and  
 2795 operation of this chapter and chapters 718, 719, 721, and 723 by  
 2796 the division.

2797 (2) All moneys collected by the division from fees, fines,  
 2798 or penalties or from costs awarded to the division by a court or  
 2799 administrative final order shall be paid into the Division of  
 2800 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes  
 2801 Trust Fund. The Legislature shall appropriate funds from this  
 2802 trust fund sufficient to carry out the provisions of this  
 2803 chapter and the provisions of law with respect to each category  
 2804 of business covered by the ~~this~~ trust fund. The division shall  
 2805 maintain separate revenue accounts in the trust fund for each of

2806 the businesses regulated by the division. The division shall  
 2807 provide for the proportionate allocation among the accounts of  
 2808 expenses incurred by the division in the performance of its  
 2809 duties with respect to each of these businesses. As part of its  
 2810 normal budgetary process, the division shall prepare an annual  
 2811 report of revenue and allocated expenses related to the  
 2812 operation of each of these businesses which may be used to  
 2813 determine fees charged by the division. This subsection shall  
 2814 operate pursuant to the provisions of s. 215.20.

2815 Section 52. Paragraph (a) of subsection (2) of section  
 2816 718.608, Florida Statutes, is amended to read:

2817 718.608 Notice of intended conversion; time of delivery;  
 2818 content.--

2819 (2) (a) Each notice of intended conversion shall be dated  
 2820 and in writing. The notice shall contain the following  
 2821 statement, with the phrases of the following statement which  
 2822 appear in upper case printed in conspicuous type:

2823  
 2824 These apartments are being converted to condominium by  
 2825 (name of developer) , the developer.

2826 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
 2827 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
 2828 AGREEMENT AS FOLLOWS:

2829 a. If you have continuously been a resident of these  
 2830 apartments during the last 180 days and your rental agreement  
 2831 expires during the next 270 days, you may extend your rental  
 2832 agreement for up to 270 days after the date of this notice.

2833           b. If you have not been a continuous resident of these  
2834 apartments for the last 180 days and your rental agreement  
2835 expires during the next 180 days, you may extend your rental  
2836 agreement for up to 180 days after the date of this notice.

2837           c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
2838 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
2839 DATE OF THIS NOTICE.

2840           2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
2841 you may extend your rental agreement for up to 45 days after the  
2842 date of this notice while you decide whether to extend your  
2843 rental agreement as explained above. To do so, you must notify  
2844 the developer in writing. You will then have the full 45 days to  
2845 decide whether to extend your rental agreement as explained  
2846 above.

2847           3. During the extension of your rental agreement you will  
2848 be charged the same rent that you are now paying.

2849           4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
2850 OF THE RENTAL AGREEMENT AS FOLLOWS:

2851           a. If your rental agreement began or was extended or  
2852 renewed after May 1, 1980, and your rental agreement, including  
2853 extensions and renewals, has an unexpired term of 180 days or  
2854 less, you may cancel your rental agreement upon 30 days' written  
2855 notice and move. Also, upon 30 days' written notice, you may  
2856 cancel any extension of the rental agreement.

2857           b. If your rental agreement was not begun or was not  
2858 extended or renewed after May 1, 1980, you may not cancel the  
2859 rental agreement without the consent of the developer. If your  
2860 rental agreement, including extensions and renewals, has an

2861 unexpired term of 180 days or less, you may, however, upon 30  
 2862 days' written notice cancel any extension of the rental  
 2863 agreement.

2864 5. All notices must be given in writing and sent by mail,  
 2865 return receipt requested, or delivered in person to the  
 2866 developer at this address: (name and address of developer) .

2867 6. If you have continuously been a resident of these  
 2868 apartments during the last 180 days:

2869 a. You have the right to purchase your apartment and will  
 2870 have 45 days to decide whether to purchase. If you do not buy  
 2871 the unit at that price and the unit is later offered at a lower  
 2872 price, you will have the opportunity to buy the unit at the  
 2873 lower price. However, in all events your right to purchase the  
 2874 unit ends when the rental agreement or any extension of the  
 2875 rental agreement ends or when you waive this right in writing.

2876 b. Within 90 days you will be provided purchase  
 2877 information relating to your apartment, including the price of  
 2878 your unit and the condition of the building. If you do not  
 2879 receive this information within 90 days, your rental agreement  
 2880 and any extension will be extended 1 day for each day over 90  
 2881 days until you are given the purchase information. If you do not  
 2882 want this rental agreement extension, you must notify the  
 2883 developer in writing.

2884 7. If you have any questions regarding this conversion or  
 2885 the Condominium Act, you may contact the developer or the state  
 2886 agency which regulates condominiums: The Division of Florida  
 2887 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,  
 2888 (Tallahassee address and telephone number of division) .



2889 Section 53. Subsection (17) of section 719.103, Florida  
 2890 Statutes, is amended to read:

2891 719.103 Definitions.--As used in this chapter:

2892 (17) "Division" means the Division of Florida ~~Land Sales,~~  
 2893 Condominiums, Timeshares, and Mobile Homes of the Department of  
 2894 Business and Professional Regulation.

2895 Section 54. Section 719.1255, Florida Statutes, is amended  
 2896 to read:

2897 719.1255 Alternative resolution of disputes.--The Division  
 2898 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile  
 2899 Homes of the Department of Business and Professional Regulation  
 2900 shall provide for alternative dispute resolution in accordance  
 2901 with s. 718.1255.

2902 Section 55. Section 719.501, Florida Statutes, is amended  
 2903 to read:

2904 719.501 Powers and duties of Division of Florida ~~Land~~  
 2905 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes.--

2906 (1) The Division of Florida ~~Land Sales,~~ Condominiums,  
 2907 Timeshares, and Mobile Homes of the Department of Business and  
 2908 Professional Regulation, referred to as the "division" in this  
 2909 part, in addition to other powers and duties prescribed by  
 2910 chapter 718 ~~498~~, has the power to enforce and ensure compliance  
 2911 with ~~the provisions of~~ this chapter and adopted rules  
 2912 ~~promulgated pursuant hereto~~ relating to the development,  
 2913 construction, sale, lease, ownership, operation, and management  
 2914 of residential cooperative units. In performing its duties, the  
 2915 division shall have the following powers and duties:

2916 (a) The division may make necessary public or private  
2917 investigations within or outside this state to determine whether  
2918 any person has violated this chapter or any rule or order  
2919 hereunder, to aid in the enforcement of this chapter, or to aid  
2920 in the adoption of rules or forms hereunder.

2921 (b) The division may require or permit any person to file  
2922 a statement in writing, under oath or otherwise, as the division  
2923 determines, as to the facts and circumstances concerning a  
2924 matter to be investigated.

2925 (c) For the purpose of any investigation under this  
2926 chapter, the division director or any officer or employee  
2927 designated by the division director may administer oaths or  
2928 affirmations, subpoena witnesses and compel their attendance,  
2929 take evidence, and require the production of any matter which is  
2930 relevant to the investigation, including the existence,  
2931 description, nature, custody, condition, and location of any  
2932 books, documents, or other tangible things and the identity and  
2933 location of persons having knowledge of relevant facts or any  
2934 other matter reasonably calculated to lead to the discovery of  
2935 material evidence. Upon failure by a person to obey a subpoena  
2936 or to answer questions propounded by the investigating officer  
2937 and upon reasonable notice to all persons affected thereby, the  
2938 division may apply to the circuit court for an order compelling  
2939 compliance.

2940 (d) Notwithstanding any remedies available to unit owners  
2941 and associations, if the division has reasonable cause to  
2942 believe that a violation of any provision of this chapter or  
2943 related rule ~~promulgated pursuant hereto~~ has occurred, the

2944 division may institute enforcement proceedings in its own name  
 2945 against a developer, association, officer, or member of the  
 2946 board, or its assignees or agents, as follows:

2947 1. The division may permit a person whose conduct or  
 2948 actions may be under investigation to waive formal proceedings  
 2949 and enter into a consent proceeding whereby orders, rules, or  
 2950 letters of censure or warning, whether formal or informal, may  
 2951 be entered against the person.

2952 2. The division may issue an order requiring the  
 2953 developer, association, officer, or member of the board, or its  
 2954 assignees or agents, to cease and desist from the unlawful  
 2955 practice and take such affirmative action as in the judgment of  
 2956 the division will carry out the purposes of this chapter. Such  
 2957 affirmative action may include, but is not limited to, an order  
 2958 requiring a developer to pay moneys determined to be owed to a  
 2959 condominium association.

2960 3. The division may bring an action in circuit court on  
 2961 behalf of a class of unit owners, lessees, or purchasers for  
 2962 declaratory relief, injunctive relief, or restitution.

2963 4. The division may impose a civil penalty against a  
 2964 developer or association, or its assignees or agents, for any  
 2965 violation of this chapter or related a rule ~~promulgated pursuant~~  
 2966 ~~hereto~~. The division may impose a civil penalty individually  
 2967 against any officer or board member who willfully and knowingly  
 2968 violates a provision of this chapter, a rule adopted pursuant to  
 2969 this chapter, or a final order of the division. The term  
 2970 "willfully and knowingly" means that the division informed the  
 2971 officer or board member that his or her action or intended

2972 | action violates this chapter, a rule adopted under this chapter,  
2973 | or a final order of the division, and that the officer or board  
2974 | member refused to comply with the requirements of this chapter,  
2975 | a rule adopted under this chapter, or a final order of the  
2976 | division. The division, prior to initiating formal agency action  
2977 | under chapter 120, shall afford the officer or board member an  
2978 | opportunity to voluntarily comply with this chapter, a rule  
2979 | adopted under this chapter, or a final order of the division. An  
2980 | officer or board member who complies within 10 days is not  
2981 | subject to a civil penalty. A penalty may be imposed on the  
2982 | basis of each day of continuing violation, but in no event shall  
2983 | the penalty for any offense exceed \$5,000. By January 1, 1998,  
2984 | the division shall adopt, by rule, penalty guidelines applicable  
2985 | to possible violations or to categories of violations of this  
2986 | chapter or rules adopted by the division. The guidelines must  
2987 | specify a meaningful range of civil penalties for each such  
2988 | violation of the statute and rules and must be based upon the  
2989 | harm caused by the violation, the repetition of the violation,  
2990 | and upon such other factors deemed relevant by the division. For  
2991 | example, the division may consider whether the violations were  
2992 | committed by a developer or owner-controlled association, the  
2993 | size of the association, and other factors. The guidelines must  
2994 | designate the possible mitigating or aggravating circumstances  
2995 | that justify a departure from the range of penalties provided by  
2996 | the rules. It is the legislative intent that minor violations be  
2997 | distinguished from those which endanger the health, safety, or  
2998 | welfare of the cooperative residents or other persons and that  
2999 | such guidelines provide reasonable and meaningful notice to the

3000 public of likely penalties that may be imposed for proscribed  
3001 conduct. This subsection does not limit the ability of the  
3002 division to informally dispose of administrative actions or  
3003 complaints by stipulation, agreed settlement, or consent order.  
3004 All amounts collected shall be deposited with the Chief  
3005 Financial Officer to the credit of the Division of Florida ~~Land~~  
3006 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If  
3007 a developer fails to pay the civil penalty, the division shall  
3008 thereupon issue an order directing that such developer cease and  
3009 desist from further operation until such time as the civil  
3010 penalty is paid or may pursue enforcement of the penalty in a  
3011 court of competent jurisdiction. If an association fails to pay  
3012 the civil penalty, the division shall thereupon pursue  
3013 enforcement in a court of competent jurisdiction, and the order  
3014 imposing the civil penalty or the cease and desist order shall  
3015 not become effective until 20 days after the date of such order.  
3016 Any action commenced by the division shall be brought in the  
3017 county in which the division has its executive offices or in the  
3018 county where the violation occurred.

3019 (e) The division may ~~is authorized to~~ prepare and  
3020 disseminate a prospectus and other information to assist  
3021 prospective owners, purchasers, lessees, and developers of  
3022 residential cooperatives in assessing the rights, privileges,  
3023 and duties pertaining thereto.

3024 (f) The division has authority to adopt rules pursuant to  
3025 ss. 120.536(1) and 120.54 to implement and enforce the  
3026 provisions of this chapter.

3027 (g) The division shall establish procedures for providing  
3028 notice to an association when the division is considering the  
3029 issuance of a declaratory statement with respect to the  
3030 cooperative documents governing such cooperative community.

3031 (h) The division shall furnish each association which pays  
3032 the fees required by paragraph (2)(a) a copy of this act,  
3033 subsequent changes to this act on an annual basis, an amended  
3034 version of this act as it becomes available from the Secretary  
3035 of State's office on a biennial basis, and the rules adopted  
3036 ~~promulgated pursuant~~ thereto on an annual basis.

3037 (i) The division shall annually provide each association  
3038 with a summary of declaratory statements and formal legal  
3039 opinions relating to the operations of cooperatives which were  
3040 rendered by the division during the previous year.

3041 (j) The division shall adopt uniform accounting  
3042 principles, policies, and standards to be used by all  
3043 associations in the preparation and presentation of all  
3044 financial statements required by this chapter. The principles,  
3045 policies, and standards shall take into consideration the size  
3046 of the association and the total revenue collected by the  
3047 association.

3048 (k) The division shall provide training programs for  
3049 cooperative association board members and unit owners.

3050 (l) The division shall maintain a toll-free telephone  
3051 number accessible to cooperative unit owners.

3052 (m) When a complaint is made to the division, the division  
3053 shall conduct its inquiry with reasonable dispatch and with due  
3054 regard to the interests of the affected parties. Within 30 days

3055 after receipt of a complaint, the division shall acknowledge the  
3056 complaint in writing and notify the complainant whether the  
3057 complaint is within the jurisdiction of the division and whether  
3058 additional information is needed by the division from the  
3059 complainant. The division shall conduct its investigation and  
3060 shall, within 90 days after receipt of the original complaint or  
3061 timely requested additional information, take action upon the  
3062 complaint. However, the failure to complete the investigation  
3063 within 90 days does not prevent the division from continuing the  
3064 investigation, accepting or considering evidence obtained or  
3065 received after 90 days, or taking administrative action if  
3066 reasonable cause exists to believe that a violation of this  
3067 chapter or a rule of the division has occurred. If an  
3068 investigation is not completed within the time limits  
3069 established in this paragraph, the division shall, on a monthly  
3070 basis, notify the complainant in writing of the status of the  
3071 investigation. When reporting its action to the complainant, the  
3072 division shall inform the complainant of any right to a hearing  
3073 pursuant to ss. 120.569 and 120.57.

3074 (n) The division shall develop a program to certify both  
3075 volunteer and paid mediators to provide mediation of cooperative  
3076 disputes. The division shall provide, upon request, a list of  
3077 such mediators to any association, unit owner, or other  
3078 participant in arbitration proceedings under s. 718.1255  
3079 requesting a copy of the list. The division shall include on the  
3080 list of voluntary mediators only persons who have received at  
3081 least 20 hours of training in mediation techniques or have  
3082 mediated at least 20 disputes. In order to become initially

3083 certified by the division, paid mediators must be certified by  
 3084 the Supreme Court to mediate court cases in ~~either~~ county or  
 3085 circuit courts. However, the division may adopt, by rule,  
 3086 additional factors for the certification of paid mediators,  
 3087 which factors must be related to experience, education, or  
 3088 background. Any person initially certified as a paid mediator by  
 3089 the division must, in order to continue to be certified, comply  
 3090 with the factors or requirements imposed by rules adopted by the  
 3091 division.

3092 (2) (a) Each cooperative association shall pay to the  
 3093 division, on or before January 1 of each year, an annual fee in  
 3094 the amount of \$4 for each residential unit in cooperatives  
 3095 operated by the association. If the fee is not paid by March 1,  
 3096 then the association shall be assessed a penalty of 10 percent  
 3097 of the amount due, and the association shall not have the  
 3098 standing to maintain or defend any action in the courts of this  
 3099 state until the amount due is paid.

3100 (b) All fees shall be deposited in the Division of Florida  
 3101 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
 3102 Fund as provided by law.

3103 Section 56. Paragraph (a) of subsection (2) of section  
 3104 719.502, Florida Statutes, is amended to read:

3105 719.502 Filing prior to sale or lease.--

3106 (2) (a) Prior to filing as required by subsection (1), and  
 3107 prior to acquiring an ownership, leasehold, or contractual  
 3108 interest in the land upon which the cooperative is to be  
 3109 developed, a developer shall not offer a contract for purchase  
 3110 or lease of a unit for more than 5 years. However, the developer



3111 may accept deposits for reservations upon the approval of a  
 3112 fully executed escrow agreement and reservation agreement form  
 3113 properly filed with the Division of Florida ~~Land Sales,~~  
 3114 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
 3115 proposed reservation program shall be accompanied by a filing  
 3116 fee of \$250. Reservations shall not be taken on a proposed  
 3117 cooperative unless the developer has an ownership, leasehold, or  
 3118 contractual interest in the land upon which the cooperative is  
 3119 to be developed. The division shall notify the developer within  
 3120 20 days of receipt of the reservation filing of any deficiencies  
 3121 contained therein. Such notification shall not preclude the  
 3122 determination of reservation filing deficiencies at a later  
 3123 date, nor shall it relieve the developer of any responsibility  
 3124 under the law. The escrow agreement and the reservation  
 3125 agreement form shall include a statement of the right of the  
 3126 prospective purchaser to an immediate unqualified refund of the  
 3127 reservation deposit moneys upon written request to the escrow  
 3128 agent by the prospective purchaser or the developer.

3129 Section 57. Section 719.504, Florida Statutes, is amended  
 3130 to read:

3131 719.504 Prospectus or offering circular.--Every developer  
 3132 of a residential cooperative which contains more than 20  
 3133 residential units, or which is part of a group of residential  
 3134 cooperatives which will be served by property to be used in  
 3135 common by unit owners of more than 20 residential units, shall  
 3136 prepare a prospectus or offering circular and file it with the  
 3137 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
 3138 Mobile Homes prior to entering into an enforceable contract of

3139 purchase and sale of any unit or lease of a unit for more than 5  
3140 years and shall furnish a copy of the prospectus or offering  
3141 circular to each buyer. In addition to the prospectus or  
3142 offering circular, each buyer shall be furnished a separate page  
3143 entitled "Frequently Asked Questions and Answers," which must be  
3144 in accordance with a format approved by the division. This page  
3145 must, in readable language: inform prospective purchasers  
3146 regarding their voting rights and unit use restrictions,  
3147 including restrictions on the leasing of a unit; indicate  
3148 whether and in what amount the unit owners or the association is  
3149 obligated to pay rent or land use fees for recreational or other  
3150 commonly used facilities; contain a statement identifying that  
3151 amount of assessment which, pursuant to the budget, would be  
3152 levied upon each unit type, exclusive of any special  
3153 assessments, and which identifies the basis upon which  
3154 assessments are levied, whether monthly, quarterly, or  
3155 otherwise; state and identify any court cases in which the  
3156 association is currently a party of record in which the  
3157 association may face liability in excess of \$100,000; and state  
3158 whether membership in a recreational facilities association is  
3159 mandatory and, if so, identify the fees currently charged per  
3160 unit type. The division shall by rule require such other  
3161 disclosure as in its judgment will assist prospective  
3162 purchasers. The prospectus or offering circular may include more  
3163 than one cooperative, although not all such units are being  
3164 offered for sale as of the date of the prospectus or offering  
3165 circular. The prospectus or offering circular must contain the  
3166 following information:

3167 (1) The front cover or the first page must contain only:  
 3168 (a) The name of the cooperative.  
 3169 (b) The following statements in conspicuous type:  
 3170 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
 3171 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.  
 3172 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
 3173 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
 3174 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
 3175 MATERIALS.  
 3176 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
 3177 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
 3178 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
 3179 REPRESENTATIONS.  
 3180 (2) Summary: The next page must contain all statements  
 3181 required to be in conspicuous type in the prospectus or offering  
 3182 circular.  
 3183 (3) A separate index of the contents and exhibits of the  
 3184 prospectus.  
 3185 (4) Beginning on the first page of the text (not including  
 3186 the summary and index), a description of the cooperative,  
 3187 including, but not limited to, the following information:  
 3188 (a) Its name and location.  
 3189 (b) A description of the cooperative property, including,  
 3190 without limitation:  
 3191 1. The number of buildings, the number of units in each  
 3192 building, the number of bathrooms and bedrooms in each unit, and  
 3193 the total number of units, if the cooperative is not a phase  
 3194 cooperative; or, if the cooperative is a phase cooperative, the

3195 maximum number of buildings that may be contained within the  
3196 cooperative, the minimum and maximum number of units in each  
3197 building, the minimum and maximum number of bathrooms and  
3198 bedrooms that may be contained in each unit, and the maximum  
3199 number of units that may be contained within the cooperative.

3200 2. The page in the cooperative documents where a copy of  
3201 the survey and plot plan of the cooperative is located.

3202 3. The estimated latest date of completion of  
3203 constructing, finishing, and equipping. In lieu of a date, a  
3204 statement that the estimated date of completion of the  
3205 cooperative is in the purchase agreement and a reference to the  
3206 article or paragraph containing that information.

3207 (c) The maximum number of units that will use facilities  
3208 in common with the cooperative. If the maximum number of units  
3209 will vary, a description of the basis for variation and the  
3210 minimum amount of dollars per unit to be spent for additional  
3211 recreational facilities or enlargement of such facilities. If  
3212 the addition or enlargement of facilities will result in a  
3213 material increase of a unit owner's maintenance expense or  
3214 rental expense, if any, the maximum increase and limitations  
3215 thereon shall be stated.

3216 (5) (a) A statement in conspicuous type describing whether  
3217 the cooperative is created and being sold as fee simple  
3218 interests or as leasehold interests. If the cooperative is  
3219 created or being sold on a leasehold, the location of the lease  
3220 in the disclosure materials shall be stated.

3221 (b) If timeshare estates are or may be created with  
3222 respect to any unit in the cooperative, a statement in

3223 conspicuous type stating that timeshare estates are created and  
 3224 being sold in such specified units in the cooperative.

3225 (6) A description of the recreational and other common  
 3226 areas that will be used only by unit owners of the cooperative,  
 3227 including, but not limited to, the following:

3228 (a) Each room and its intended purposes, location,  
 3229 approximate floor area, and capacity in numbers of people.

3230 (b) Each swimming pool, as to its general location,  
 3231 approximate size and depths, approximate deck size and capacity,  
 3232 and whether heated.

3233 (c) Additional facilities, as to the number of each  
 3234 facility, its approximate location, approximate size, and  
 3235 approximate capacity.

3236 (d) A general description of the items of personal  
 3237 property and the approximate number of each item of personal  
 3238 property that the developer is committing to furnish for each  
 3239 room or other facility or, in the alternative, a representation  
 3240 as to the minimum amount of expenditure that will be made to  
 3241 purchase the personal property for the facility.

3242 (e) The estimated date when each room or other facility  
 3243 will be available for use by the unit owners.

3244 (f)1. An identification of each room or other facility to  
 3245 be used by unit owners that will not be owned by the unit owners  
 3246 or the association;

3247 2. A reference to the location in the disclosure materials  
 3248 of the lease or other agreements providing for the use of those  
 3249 facilities; and

3250           3. A description of the terms of the lease or other  
 3251 agreements, including the length of the term; the rent payable,  
 3252 directly or indirectly, by each unit owner, and the total rent  
 3253 payable to the lessor, stated in monthly and annual amounts for  
 3254 the entire term of the lease; and a description of any option to  
 3255 purchase the property leased under any such lease, including the  
 3256 time the option may be exercised, the purchase price or how it  
 3257 is to be determined, the manner of payment, and whether the  
 3258 option may be exercised for a unit owner's share or only as to  
 3259 the entire leased property.

3260           (g) A statement as to whether the developer may provide  
 3261 additional facilities not described above, their general  
 3262 locations and types, improvements or changes that may be made,  
 3263 the approximate dollar amount to be expended, and the maximum  
 3264 additional common expense or cost to the individual unit owners  
 3265 that may be charged during the first annual period of operation  
 3266 of the modified or added facilities.

3267  
 3268 Descriptions as to locations, areas, capacities, numbers,  
 3269 volumes, or sizes may be stated as approximations or minimums.

3270           (7) A description of the recreational and other facilities  
 3271 that will be used in common with other cooperatives, community  
 3272 associations, or planned developments which require the payment  
 3273 of the maintenance and expenses of such facilities, ~~either~~  
 3274 directly or indirectly, by the unit owners. The description  
 3275 shall include, but not be limited to, the following:

3276           (a) Each building and facility committed to be built.

3277 (b) Facilities not committed to be built except under  
 3278 certain conditions, and a statement of those conditions or  
 3279 contingencies.

3280 (c) As to each facility committed to be built, or which  
 3281 will be committed to be built upon the happening of one of the  
 3282 conditions in paragraph (b), a statement of whether it will be  
 3283 owned by the unit owners having the use thereof or by an  
 3284 association or other entity which will be controlled by them, or  
 3285 others, and the location in the exhibits of the lease or other  
 3286 document providing for use of those facilities.

3287 (d) The year in which each facility will be available for  
 3288 use by the unit owners or, in the alternative, the maximum  
 3289 number of unit owners in the project at the time each of all of  
 3290 the facilities is committed to be completed.

3291 (e) A general description of the items of personal  
 3292 property, and the approximate number of each item of personal  
 3293 property, that the developer is committing to furnish for each  
 3294 room or other facility or, in the alternative, a representation  
 3295 as to the minimum amount of expenditure that will be made to  
 3296 purchase the personal property for the facility.

3297 (f) If there are leases, a description thereof, including  
 3298 the length of the term, the rent payable, and a description of  
 3299 any option to purchase.

3300  
 3301 Descriptions shall include location, areas, capacities, numbers,  
 3302 volumes, or sizes and may be stated as approximations or  
 3303 minimums.

3304 (8) Recreation lease or associated club membership:

3305 (a) If any recreational facilities or other common areas  
 3306 offered by the developer and available to, or to be used by,  
 3307 unit owners are to be leased or have club membership associated,  
 3308 the following statement in conspicuous type shall be included:  
 3309 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 3310 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 3311 COOPERATIVE. There shall be a reference to the location in the  
 3312 disclosure materials where the recreation lease or club  
 3313 membership is described in detail.

3314 (b) If it is mandatory that unit owners pay a fee, rent,  
 3315 dues, or other charges under a recreational facilities lease or  
 3316 club membership for the use of facilities, there shall be in  
 3317 conspicuous type the applicable statement:

3318 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
 3319 MANDATORY FOR UNIT OWNERS; or

3320 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
 3321 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3322 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
 3323 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
 3324 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
 3325 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3326 4. A similar statement of the nature of the organization  
 3327 or manner in which the use rights are created, and that unit  
 3328 owners are required to pay.

3329  
 3330 Immediately following the applicable statement, the location in  
 3331 the disclosure materials where the development is described in  
 3332 detail shall be stated.



3333 (c) If the developer, or any other person other than the  
 3334 unit owners and other persons having use rights in the  
 3335 facilities, reserves, or is entitled to receive, any rent, fee,  
 3336 or other payment for the use of the facilities, then there shall  
 3337 be the following statement in conspicuous type: THE UNIT OWNERS  
 3338 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 3339 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this  
 3340 statement, the location in the disclosure materials where the  
 3341 rent or land use fees are described in detail shall be stated.

3342 (d) If, in any recreation format, whether leasehold, club,  
 3343 or other, any person other than the association has the right to  
 3344 a lien on the units to secure the payment of assessments, rent,  
 3345 or other exactions, there shall appear a statement in  
 3346 conspicuous type in substantially the following form:

3347 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 3348 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
 3349 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 3350 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

3351 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 3352 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
 3353 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
 3354 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 3355 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3356  
 3357 Immediately following the applicable statement, the location in  
 3358 the disclosure materials where the lien or lien right is  
 3359 described in detail shall be stated.

3360 (9) If the developer or any other person has the right to  
3361 increase or add to the recreational facilities at any time after  
3362 the establishment of the cooperative whose unit owners have use  
3363 rights therein, without the consent of the unit owners or  
3364 associations being required, there shall appear a statement in  
3365 conspicuous type in substantially the following form:

3366 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
3367 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
3368 statement, the location in the disclosure materials where such  
3369 reserved rights are described shall be stated.

3370 (10) A statement of whether the developer's plan includes  
3371 a program of leasing units rather than selling them, or leasing  
3372 units and selling them subject to such leases. If so, there  
3373 shall be a description of the plan, including the number and  
3374 identification of the units and the provisions and term of the  
3375 proposed leases, and a statement in boldfaced type that: THE  
3376 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

3377 (11) The arrangements for management of the association  
3378 and maintenance and operation of the cooperative property and of  
3379 other property that will serve the unit owners of the  
3380 cooperative property, and a description of the management  
3381 contract and all other contracts for these purposes having a  
3382 term in excess of 1 year, including the following:

3383 (a) The names of contracting parties.

3384 (b) The term of the contract.

3385 (c) The nature of the services included.

3386 (d) The compensation, stated on a monthly and annual  
3387 basis, and provisions for increases in the compensation.

3388 (e) A reference to the volumes and pages of the  
 3389 cooperative documents and of the exhibits containing copies of  
 3390 such contracts.

3391  
 3392 Copies of all described contracts shall be attached as exhibits.  
 3393 If there is a contract for the management of the cooperative  
 3394 property, then a statement in conspicuous type in substantially  
 3395 the following form shall appear, identifying the proposed or  
 3396 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
 3397 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE  
 3398 CONTRACT MANAGER). Immediately following this statement, the  
 3399 location in the disclosure materials of the contract for  
 3400 management of the cooperative property shall be stated.

3401 (12) If the developer or any other person or persons other  
 3402 than the unit owners has the right to retain control of the  
 3403 board of administration of the association for a period of time  
 3404 which can exceed 1 year after the closing of the sale of a  
 3405 majority of the units in that cooperative to persons other than  
 3406 successors or alternate developers, then a statement in  
 3407 conspicuous type in substantially the following form shall be  
 3408 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
 3409 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
 3410 HAVE BEEN SOLD. Immediately following this statement, the  
 3411 location in the disclosure materials where this right to control  
 3412 is described in detail shall be stated.

3413 (13) If there are any restrictions upon the sale,  
 3414 transfer, conveyance, or leasing of a unit, then a statement in  
 3415 conspicuous type in substantially the following form shall be

3416 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
 3417 CONTROLLED. Immediately following this statement, the location  
 3418 in the disclosure materials where the restriction, limitation,  
 3419 or control on the sale, lease, or transfer of units is described  
 3420 in detail shall be stated.

3421 (14) If the cooperative is part of a phase project, the  
 3422 following shall be stated:

3423 (a) A statement in conspicuous type in substantially the  
 3424 following form shall be included: THIS IS A PHASE COOPERATIVE.  
 3425 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
 3426 Immediately following this statement, the location in the  
 3427 disclosure materials where the phasing is described shall be  
 3428 stated.

3429 (b) A summary of the provisions of the declaration  
 3430 providing for the phasing.

3431 (c) A statement as to whether or not residential buildings  
 3432 and units which are added to the cooperative may be  
 3433 substantially different from the residential buildings and units  
 3434 originally in the cooperative, and, if the added residential  
 3435 buildings and units may be substantially different, there shall  
 3436 be a general description of the extent to which such added  
 3437 residential buildings and units may differ, and a statement in  
 3438 conspicuous type in substantially the following form shall be  
 3439 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE  
 3440 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
 3441 UNITS IN THE COOPERATIVE. Immediately following this statement,  
 3442 the location in the disclosure materials where the extent to

3443 | which added residential buildings and units may substantially  
3444 | differ is described shall be stated.

3445 |       (d) A statement of the maximum number of buildings  
3446 | containing units, the maximum and minimum number of units in  
3447 | each building, the maximum number of units, and the minimum and  
3448 | maximum square footage of the units that may be contained within  
3449 | each parcel of land which may be added to the cooperative.

3450 |       (15) If the cooperative is created by conversion of  
3451 | existing improvements, the following information shall be  
3452 | stated:

3453 |           (a) The information required by s. 719.616.

3454 |           (b) A caveat that there are no express warranties unless  
3455 | they are stated in writing by the developer.

3456 |       (16) A summary of the restrictions, if any, to be imposed  
3457 | on units concerning the use of any of the cooperative property,  
3458 | including statements as to whether there are restrictions upon  
3459 | children and pets, and reference to the volumes and pages of the  
3460 | cooperative documents where such restrictions are found, or if  
3461 | such restrictions are contained elsewhere, then a copy of the  
3462 | documents containing the restrictions shall be attached as an  
3463 | exhibit.

3464 |       (17) If there is any land that is offered by the developer  
3465 | for use by the unit owners and that is neither owned by them nor  
3466 | leased to them, the association, or any entity controlled by  
3467 | unit owners and other persons having the use rights to such  
3468 | land, a statement shall be made as to how such land will serve  
3469 | the cooperative. If any part of such land will serve the  
3470 | cooperative, the statement shall describe the land and the

3471 nature and term of service, and the cooperative documents or  
 3472 other instrument creating such servitude shall be included as an  
 3473 exhibit.

3474 (18) The manner in which utility and other services,  
 3475 including, but not limited to, sewage and waste disposal, water  
 3476 supply, and storm drainage, will be provided and the person or  
 3477 entity furnishing them.

3478 (19) An explanation of the manner in which the  
 3479 apportionment of common expenses and ownership of the common  
 3480 areas have been determined.

3481 (20) An estimated operating budget for the cooperative and  
 3482 the association, and a schedule of the unit owner's expenses  
 3483 shall be attached as an exhibit and shall contain the following  
 3484 information:

3485 (a) The estimated monthly and annual expenses of the  
 3486 cooperative and the association that are collected from unit  
 3487 owners by assessments.

3488 (b) The estimated monthly and annual expenses of each unit  
 3489 owner for a unit, other than assessments payable to the  
 3490 association, payable by the unit owner to persons or entities  
 3491 other than the association, and the total estimated monthly and  
 3492 annual expense. There may be excluded from this estimate  
 3493 expenses that are personal to unit owners, which are not  
 3494 uniformly incurred by all unit owners, or which are not provided  
 3495 for or contemplated by the cooperative documents, including, but  
 3496 not limited to, the costs of private telephone; maintenance of  
 3497 the interior of cooperative units, which is not the obligation  
 3498 of the association; maid or janitorial services privately

3499 | contracted for by the unit owners; utility bills billed directly  
 3500 | to each unit owner for utility services to his or her unit;  
 3501 | insurance premiums other than those incurred for policies  
 3502 | obtained by the cooperative; and similar personal expenses of  
 3503 | the unit owner. A unit owner's estimated payments for  
 3504 | assessments shall also be stated in the estimated amounts for  
 3505 | the times when they will be due.

3506 | (c) The estimated items of expenses of the cooperative and  
 3507 | the association, except as excluded under paragraph (b),  
 3508 | including, but not limited to, the following items, which shall  
 3509 | be stated ~~either~~ as an association expense collectible by  
 3510 | assessments or as unit owners' expenses payable to persons other  
 3511 | than the association:

- 3512 | 1. Expenses for the association and cooperative:
- 3513 | a. Administration of the association.
- 3514 | b. Management fees.
- 3515 | c. Maintenance.
- 3516 | d. Rent for recreational and other commonly used areas.
- 3517 | e. Taxes upon association property.
- 3518 | f. Taxes upon leased areas.
- 3519 | g. Insurance.
- 3520 | h. Security provisions.
- 3521 | i. Other expenses.
- 3522 | j. Operating capital.
- 3523 | k. Reserves.
- 3524 | 1. Fee payable to the division.
- 3525 | 2. Expenses for a unit owner:
- 3526 | a. Rent for the unit, if subject to a lease.

3527           b. Rent payable by the unit owner directly to the lessor  
3528 or agent under any recreational lease or lease for the use of  
3529 commonly used areas, which use and payment are a mandatory  
3530 condition of ownership and are not included in the common  
3531 expense or assessments for common maintenance paid by the unit  
3532 owners to the association.

3533           (d) The following statement in conspicuous type: THE  
3534 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
3535 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE  
3536 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
3537 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
3538 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
3539 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
3540 THE OFFERING.

3541           (e) Each budget for an association prepared by a developer  
3542 consistent with this subsection shall be prepared in good faith  
3543 and shall reflect accurate estimated amounts for the required  
3544 items in paragraph (c) at the time of the filing of the offering  
3545 circular with the division, and subsequent increased amounts of  
3546 any item included in the association's estimated budget that are  
3547 beyond the control of the developer shall not be considered an  
3548 amendment that would give rise to rescission rights set forth in  
3549 s. 719.503(1)(a) or (b), nor shall such increases modify, void,  
3550 or otherwise affect any guarantee of the developer contained in  
3551 the offering circular or any purchase contract. It is the intent  
3552 of this paragraph to clarify existing law.

3553           (f) The estimated amounts shall be stated for a period of  
3554 at least 12 months and may distinguish between the period prior



3555 to the time unit owners other than the developer elect a  
3556 majority of the board of administration and the period after  
3557 that date.

3558 (21) A schedule of estimated closing expenses to be paid  
3559 by a buyer or lessee of a unit and a statement of whether title  
3560 opinion or title insurance policy is available to the buyer and,  
3561 if so, at whose expense.

3562 (22) The identity of the developer and the chief operating  
3563 officer or principal directing the creation and sale of the  
3564 cooperative and a statement of its and his or her experience in  
3565 this field.

3566 (23) Copies of the following, to the extent they are  
3567 applicable, shall be included as exhibits:

3568 (a) The cooperative documents, or the proposed cooperative  
3569 documents if the documents have not been recorded.

3570 (b) The articles of incorporation creating the  
3571 association.

3572 (c) The bylaws of the association.

3573 (d) The ground lease or other underlying lease of the  
3574 cooperative.

3575 (e) The management agreement and all maintenance and other  
3576 contracts for management of the association and operation of the  
3577 cooperative and facilities used by the unit owners having a  
3578 service term in excess of 1 year.

3579 (f) The estimated operating budget for the cooperative and  
3580 the required schedule of unit owners' expenses.

3581 (g) A copy of the floor plan of the unit and the plot plan  
 3582 showing the location of the residential buildings and the  
 3583 recreation and other common areas.

3584 (h) The lease of recreational and other facilities that  
 3585 will be used only by unit owners of the subject cooperative.

3586 (i) The lease of facilities used by owners and others.

3587 (j) The form of unit lease, if the offer is of a  
 3588 leasehold.

3589 (k) A declaration of servitude of properties serving the  
 3590 cooperative but not owned by unit owners or leased to them or  
 3591 the association.

3592 (l) The statement of condition of the existing building or  
 3593 buildings, if the offering is of units in an operation being  
 3594 converted to cooperative ownership.

3595 (m) The statement of inspection for termite damage and  
 3596 treatment of the existing improvements, if the cooperative is a  
 3597 conversion.

3598 (n) The form of agreement for sale or lease of units.

3599 (o) A copy of the agreement for escrow of payments made to  
 3600 the developer prior to closing.

3601 (p) A copy of the documents containing any restrictions on  
 3602 use of the property required by subsection (16).

3603 (24) Any prospectus or offering circular complying with  
 3604 the provisions of former ss. 711.69 and 711.802 may continue to  
 3605 be used without amendment, or may be amended to comply with ~~the~~  
 3606 ~~provisions of this chapter.~~

3607 (25) A brief narrative description of the location and  
 3608 effect of all existing and intended easements located or to be

3609 | located on the cooperative property other than those in the  
 3610 | declaration.

3611 |         (26) If the developer is required by state or local  
 3612 | authorities to obtain acceptance or approval of any dock or  
 3613 | marina facility intended to serve the cooperative, a copy of  
 3614 | such acceptance or approval acquired by the time of filing with  
 3615 | the division pursuant to s. 719.502 or a statement that such  
 3616 | acceptance has not been acquired or received.

3617 |         (27) Evidence demonstrating that the developer has an  
 3618 | ownership, leasehold, or contractual interest in the land upon  
 3619 | which the cooperative is to be developed.

3620 |         Section 58. Section 719.508, Florida Statutes, is amended  
 3621 | to read:

3622 |         719.508 Regulation by Division of Hotels and  
 3623 | Restaurants.--In addition to the authority, regulation, or  
 3624 | control exercised by the Division of Florida ~~Land Sales,~~  
 3625 | Condominiums, Timeshares, and Mobile Homes pursuant to this act  
 3626 | with respect to cooperatives, buildings included in a  
 3627 | cooperative property shall be subject to the authority,  
 3628 | regulation, or control of the Division of Hotels and Restaurants  
 3629 | of the Department of Business and Professional Regulation, to  
 3630 | the extent provided ~~for~~ in chapters 399 and 509.

3631 |         Section 59. Paragraph (a) of subsection (2) of section  
 3632 | 719.608, Florida Statutes, is amended to read:

3633 |         719.608 Notice of intended conversion; time of delivery;  
 3634 | content.--

3635 |         (2) (a) Each notice of intended conversion shall be dated  
 3636 | and in writing. The notice shall contain the following

3637 statement, with the phrases of the following statement which  
3638 appear in upper case printed in conspicuous type:

3639

3640 These apartments are being converted to cooperative by  
3641 (name of developer) , the developer.

3642 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
3643 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
3644 AGREEMENT AS FOLLOWS:

3645 a. If you have continuously been a resident of these  
3646 apartments during the last 180 days and your rental agreement  
3647 expires during the next 270 days, you may extend your rental  
3648 agreement for up to 270 days after the date of this notice.

3649 b. If you have not been a continuous resident of these  
3650 apartments for the last 180 days and your rental agreement  
3651 expires during the next 180 days, you may extend your rental  
3652 agreement for up to 180 days after the date of this notice.

3653 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
3654 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
3655 DATE OF THIS NOTICE.

3656 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
3657 you may extend your rental agreement for up to 45 days after the  
3658 date of this notice while you decide whether to extend your  
3659 rental agreement as explained above. To do so, you must notify  
3660 the developer in writing. You will then have the full 45 days to  
3661 decide whether to extend your rental agreement as explained  
3662 above.

3663 3. During the extension of your rental agreement you will  
3664 be charged the same rent that you are now paying.

3665 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
 3666 OF THE RENTAL AGREEMENT AS FOLLOWS:

3667 a. If your rental agreement began or was extended or  
 3668 renewed after May 1, 1980, and your rental agreement, including  
 3669 extensions and renewals, has an unexpired term of 180 days or  
 3670 less, you may cancel your rental agreement upon 30 days' written  
 3671 notice and move. Also, upon 30 days' written notice, you may  
 3672 cancel any extension of the rental agreement.

3673 b. If your rental agreement was not begun or was not  
 3674 extended or renewed after May 1, 1980, you may not cancel the  
 3675 rental agreement without the consent of the developer. If your  
 3676 rental agreement, including extensions and renewals, has an  
 3677 unexpired term of 180 days or less, you may, however, upon 30  
 3678 days' written notice cancel any extension of the rental  
 3679 agreement.

3680 5. All notices must be given in writing and sent by mail,  
 3681 return receipt requested, or delivered in person to the  
 3682 developer at this address: (name and address of developer) .

3683 6. If you have continuously been a resident of these  
 3684 apartments during the last 180 days:

3685 a. You have the right to purchase your apartment and will  
 3686 have 45 days to decide whether to purchase. If you do not buy  
 3687 the unit at that price and the unit is later offered at a lower  
 3688 price, you will have the opportunity to buy the unit at the  
 3689 lower price. However, in all events your right to purchase the  
 3690 unit ends when the rental agreement or any extension of the  
 3691 rental agreement ends or when you waive this right in writing.

3692           b. Within 90 days you will be provided purchase  
 3693 information relating to your apartment, including the price of  
 3694 your unit and the condition of the building. If you do not  
 3695 receive this information within 90 days, your rental agreement  
 3696 and any extension will be extended 1 day for each day over 90  
 3697 days until you are given the purchase information. If you do not  
 3698 want this rental agreement extension, you must notify the  
 3699 developer in writing.

3700           7. If you have any questions regarding this conversion or  
 3701 the Cooperative Act, you may contact the developer or the state  
 3702 agency which regulates cooperatives: The Division of Florida  
 3703 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,  
 3704 (Tallahassee address and telephone number of division) .

3705           Section 60. Subsection (7) of section 720.301, Florida  
 3706 Statutes, is amended to read:

3707           720.301 Definitions.--As used in this chapter, the term:

3708           (7) "Division" means the Division of Florida ~~Land Sales~~,  
 3709 Condominiums, Timeshares, and Mobile Homes in the Department of  
 3710 Business and Professional Regulation.

3711           Section 61. Subsection (2) of section 720.401, Florida  
 3712 Statutes, is amended to read:

3713           720.401 Prospective purchasers subject to association  
 3714 membership requirement; disclosure required; covenants;  
 3715 assessments; contract cancellation.--

3716           (2) This section does not apply to any association  
 3717 regulated under chapter 718, chapter 719, chapter 721, or  
 3718 chapter 723 ~~or to a subdivider registered under chapter 498~~; and  
 3719 also does not apply if disclosure regarding the association is

3720 otherwise made in connection with the requirements of chapter  
 3721 718, chapter 719, chapter 721, or chapter 723.

3722 Section 62. Paragraph (c) of subsection (1) of section  
 3723 721.03, Florida Statutes, is amended to read:

3724 721.03 Scope of chapter.--

3725 (1) This chapter applies to all timeshare plans consisting  
 3726 of more than seven timeshare periods over a period of at least 3  
 3727 years in which the accommodations and facilities, if any, are  
 3728 located within this state or offered within this state; provided  
 3729 that:

3730 (c) All timeshare accommodations or facilities which are  
 3731 located outside the state but offered for sale in this state  
 3732 shall be governed by the following:

3733 1. The offering for sale in this state of timeshare  
 3734 accommodations and facilities located outside the state is  
 3735 subject only to the provisions of ss. 721.01-721.12, 721.18,  
 3736 721.20, 721.21, 721.26, 721.28, and part II.

3737 2. The division shall not require a developer of timeshare  
 3738 accommodations or facilities located outside of this state to  
 3739 make changes in any timeshare instrument to conform to the  
 3740 provisions of s. 721.07 or s. 721.55. The division shall have  
 3741 the power to require disclosure of those provisions of the  
 3742 timeshare instrument that do not conform to s. 721.07 or s.  
 3743 721.55 as the director determines is necessary to fairly,  
 3744 meaningfully, and effectively disclose all aspects of the  
 3745 timeshare plan.

3746 3. Except as provided in this subparagraph, the division  
 3747 shall have no authority to determine whether any person has

3748 | complied with another state's laws or to disapprove any filing  
3749 | out-of-state, timeshare instrument, or component site document,  
3750 | based solely upon the lack or degree of timeshare regulation in  
3751 | another state. The division may require a developer to obtain  
3752 | and provide to the division existing documentation relating to  
3753 | an out-of-state filing, timeshare instrument, or component site  
3754 | document and prove compliance of same with the laws of that  
3755 | state. In this regard, the division may accept any evidence of  
3756 | the approval or acceptance of any out-of-state filing, timeshare  
3757 | instrument, or component site document by another state in lieu  
3758 | of requiring a developer to file the out-of-state filing,  
3759 | timeshare instrument, or component site document with the  
3760 | division pursuant to this section, or the division may accept an  
3761 | opinion letter from an attorney or law firm opining as to the  
3762 | compliance of such out-of-state filing, timeshare instrument, or  
3763 | component site document with the laws of another state. The  
3764 | division may refuse to approve the inclusion of any out-of-state  
3765 | filing, timeshare instrument, or component site document as part  
3766 | of a public offering statement based upon the inability of the  
3767 | developer to establish the compliance of same with the laws of  
3768 | another state.

3769 |         4. The division is authorized to enter into an agreement  
3770 | with another state for the purpose of facilitating the  
3771 | processing of out-of-state timeshare instruments or other  
3772 | component site documents pursuant to this chapter and for the  
3773 | purpose of facilitating the referral of consumer complaints to  
3774 | the appropriate state.



3775           5. Notwithstanding any other provision of this paragraph,  
 3776 the offer, in this state, of an additional interest to existing  
 3777 purchasers in the same timeshare plan, the same nonspecific  
 3778 multisite timeshare plan, or the same component site of a  
 3779 multisite timeshare plan with accommodations and facilities  
 3780 located outside of this state shall not be subject to the  
 3781 provisions of this chapter if the offer complies with the  
 3782 provisions of s. 721.11(4).

3783           Section 63. Subsection (11) of section 721.05, Florida  
 3784 Statutes, is amended to read:

3785           721.05 Definitions.--As used in this chapter, the term:

3786           (11) "Division" means the Division of Florida ~~Land Sales,~~  
 3787 Condominiums, Timeshares, and Mobile Homes of the Department of  
 3788 Business and Professional Regulation.

3789           Section 64. Paragraph (d) of subsection (2) of section  
 3790 721.07, Florida Statutes, is amended to read:

3791           721.07 Public offering statement.--Prior to offering any  
 3792 timeshare plan, the developer must submit a filed public  
 3793 offering statement to the division for approval as prescribed by  
 3794 s. 721.03, s. 721.55, or this section. Until the division  
 3795 approves such filing, any contract regarding the sale of that  
 3796 timeshare plan is subject to cancellation by the purchaser  
 3797 pursuant to s. 721.10.

3798           (2)

3799           (d) A developer shall have the authority to deliver to  
 3800 purchasers any purchaser public offering statement that is not  
 3801 yet approved by the division, provided that the following shall  
 3802 apply:

3803           1. At the time the developer delivers an unapproved  
 3804 purchaser public offering statement to a purchaser pursuant to  
 3805 this paragraph, the developer shall deliver a fully completed  
 3806 and executed copy of the purchase contract required by s. 721.06  
 3807 that contains the following statement in conspicuous type in  
 3808 substantially the following form which shall replace the  
 3809 statements required by s. 721.06(1)(g):

3810  
 3811 The developer is delivering to you a public offering statement  
 3812 that has been filed with but not yet approved by the Division of  
 3813 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes.  
 3814 Any revisions to the unapproved public offering statement you  
 3815 have received must be delivered to you, but only if the  
 3816 revisions materially alter or modify the offering in a manner  
 3817 adverse to you. After the division approves the public offering  
 3818 statement, you will receive notice of the approval from the  
 3819 developer and the required revisions, if any.

3820  
 3821 Your statutory right to cancel this transaction without any  
 3822 penalty or obligation expires 10 calendar days after the date  
 3823 you signed your purchase contract or the date on which you  
 3824 receive the last of all documents required to be given to you  
 3825 pursuant to section 721.07(6), Florida Statutes, or 10 calendar  
 3826 days after you receive revisions required to be delivered to  
 3827 you, if any, whichever is later. If you decide to cancel this  
 3828 contract, you must notify the seller in writing of your intent  
 3829 to cancel. Your notice of cancellation shall be effective upon  
 3830 the date sent and shall be sent to (Name of Seller) at

3831 (Address of Seller) . Any attempt to obtain a waiver of your  
3832 cancellation right is void and of no effect. While you may  
3833 execute all closing documents in advance, the closing, as  
3834 evidenced by delivery of the deed or other document, before  
3835 expiration of your 10-day cancellation period, is prohibited.

3836

3837 2. After receipt of approval from the division and prior  
3838 to closing, if any revisions made to the documents contained in  
3839 the purchaser public offering statement materially alter or  
3840 modify the offering in a manner adverse to a purchaser, the  
3841 developer shall send the purchaser such revisions together with  
3842 a notice containing a statement in conspicuous type in  
3843 substantially the following form:

3844

3845 The unapproved public offering statement previously delivered to  
3846 you, together with the enclosed revisions, has been approved by  
3847 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares,  
3848 and Mobile Homes. Accordingly, your cancellation right expires  
3849 10 calendar days after you sign your purchase contract or 10  
3850 calendar days after you receive these revisions, whichever is  
3851 later. If you have any questions regarding your cancellation  
3852 rights, you may contact the division at [insert division's  
3853 current address].

3854

3855 3. After receipt of approval from the division and prior  
3856 to closing, if no revisions have been made to the documents  
3857 contained in the unapproved purchaser public offering statement,  
3858 or if such revisions do not materially alter or modify the

3859 offering in a manner adverse to a purchaser, the developer shall  
 3860 send the purchaser a notice containing a statement in  
 3861 conspicuous type in substantially the following form:

3862  
 3863 The unapproved public offering statement previously delivered to  
 3864 you has been approved by the Division of Florida ~~Land Sales,~~  
 3865 Condominiums, Timeshares, and Mobile Homes. Revisions made to  
 3866 the unapproved public offering statement, if any, are ~~either~~ not  
 3867 required to be delivered to you or are not deemed by the  
 3868 developer, in its opinion, to materially alter or modify the  
 3869 offering in a manner that is adverse to you. Accordingly, your  
 3870 cancellation right expired 10 days after you signed your  
 3871 purchase contract. A complete copy of the approved public  
 3872 offering statement is available through the managing entity for  
 3873 inspection as part of the books and records of the plan. If you  
 3874 have any questions regarding your cancellation rights, you may  
 3875 contact the division at [insert division's current address].

3876 Section 65. Subsection (8) of section 721.08, Florida  
 3877 Statutes, is amended to read:

3878 721.08 Escrow accounts; nondisturbance instruments;  
 3879 alternate security arrangements; transfer of legal title.--

3880 (8) An escrow agent holding escrowed funds pursuant to  
 3881 this chapter that have not been claimed for a period of 5 years  
 3882 after the date of deposit shall make at least one reasonable  
 3883 attempt to deliver such unclaimed funds to the purchaser who  
 3884 submitted such funds to escrow. In making such attempt, an  
 3885 escrow agent is entitled to rely on a purchaser's last known  
 3886 address as set forth in the books and records of the escrow

3887 agent and is not required to conduct any further search for the  
 3888 purchaser. If an escrow agent's attempt to deliver unclaimed  
 3889 funds to any purchaser is unsuccessful, the escrow agent may  
 3890 deliver such unclaimed funds to the division and the division  
 3891 shall deposit such unclaimed funds in the Division of Florida  
 3892 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
 3893 Fund, 30 days after giving notice in a publication of general  
 3894 circulation in the county in which the timeshare property  
 3895 containing the purchaser's timeshare interest is located. The  
 3896 purchaser may claim the same at any time prior to the delivery  
 3897 of such funds to the division. After delivery of such funds to  
 3898 the division, the purchaser shall have no more rights to the  
 3899 unclaimed funds. The escrow agent shall not be liable for any  
 3900 claims from any party arising out of the escrow agent's delivery  
 3901 of the unclaimed funds to the division pursuant to this section.

3902 Section 66. Section 721.26, Florida Statutes, is amended  
 3903 to read:

3904 721.26 Regulation by division.--The division has the power  
 3905 to enforce and ensure compliance with ~~the provisions of this~~  
 3906 chapter, except for parts III and IV, using the powers provided  
 3907 in this chapter, as well as the powers prescribed in chapters  
 3908 ~~498~~, ~~718~~, and 719. In performing its duties, the division shall  
 3909 have the following powers and duties:

3910 (1) To aid in the enforcement of this chapter, or any  
 3911 division rule adopted or order ~~promulgated~~ or issued pursuant to  
 3912 this chapter, the division may make necessary public or private  
 3913 investigations within or outside this state to determine whether  
 3914 any person has violated or is about to violate this chapter, or

3915 any division rule adopted or order ~~promulgated or~~ issued  
3916 pursuant to this chapter.

3917 (2) The division may require or permit any person to file  
3918 a written statement under oath or otherwise, as the division  
3919 determines, as to the facts and circumstances concerning a  
3920 matter under investigation.

3921 (3) For the purpose of any investigation under this  
3922 chapter, the director of the division or any officer or employee  
3923 designated by the director may administer oaths or affirmations,  
3924 subpoena witnesses and compel their attendance, take evidence,  
3925 and require the production of any matter which is relevant to  
3926 the investigation, including the identity, existence,  
3927 description, nature, custody, condition, and location of any  
3928 books, documents, or other tangible things and the identity and  
3929 location of persons having knowledge of relevant facts or any  
3930 other matter reasonably calculated to lead to the discovery of  
3931 material evidence. Failure to obey a subpoena or to answer  
3932 questions propounded by the investigating officer and upon  
3933 reasonable notice to all persons affected thereby shall be a  
3934 violation of this chapter. In addition to the other enforcement  
3935 powers authorized in this subsection, the division may, ~~at its~~  
3936 ~~discretion,~~ apply to the circuit court for an order compelling  
3937 compliance.

3938 (4) The division may prepare and disseminate a prospectus  
3939 and other information to assist prospective purchasers, sellers,  
3940 and managing entities of timeshare plans in assessing the  
3941 rights, privileges, and duties pertaining thereto.

3942 (5) Notwithstanding any remedies available to purchasers,  
 3943 if the division has reasonable cause to believe that a violation  
 3944 of this chapter, or of any division rule adopted or order  
 3945 ~~promulgated or~~ issued pursuant to this chapter, has occurred,  
 3946 the division may institute enforcement proceedings in its own  
 3947 name against any regulated party, as such term is defined in  
 3948 this subsection:

3949 (a)1. "Regulated party," for purposes of this section,  
 3950 means any developer, exchange company, seller, managing entity,  
 3951 owners' association, owners' association director, owners'  
 3952 association officer, manager, management firm, escrow agent,  
 3953 trustee, any respective assignees or agents, or any other person  
 3954 having duties or obligations pursuant to this chapter.

3955 2. Any person who materially participates in any offer or  
 3956 disposition of any interest in, or the management or operation  
 3957 of, a timeshare plan in violation of this chapter or relevant  
 3958 rules involving fraud, deception, false pretenses,  
 3959 misrepresentation, or false advertising or the disbursement,  
 3960 concealment, or diversion of any funds or assets, which conduct  
 3961 adversely affects the interests of a purchaser, and which person  
 3962 directly or indirectly controls a regulated party or is a  
 3963 general partner, officer, director, agent, or employee of such  
 3964 regulated party, shall be jointly and severally liable under  
 3965 this subsection with such regulated party, unless such person  
 3966 did not know, and in the exercise of reasonable care could not  
 3967 have known, of the existence of the facts giving rise to the  
 3968 violation of this chapter. A right of contribution shall exist

3969 among jointly and severally liable persons pursuant to this  
 3970 paragraph.

3971 (b) The division may permit any person whose conduct or  
 3972 actions may be under investigation to waive formal proceedings  
 3973 and enter into a consent proceeding whereby an order, rule, or  
 3974 letter of censure or warning, whether formal or informal, may be  
 3975 entered against that person.

3976 (c) The division may issue an order requiring a regulated  
 3977 party to cease and desist from an unlawful practice under this  
 3978 chapter and take such affirmative action as in the judgment of  
 3979 the division will carry out the purposes of this chapter.

3980 (d)1. The division may bring an action in circuit court  
 3981 for declaratory or injunctive relief or for other appropriate  
 3982 relief, including restitution.

3983 2. The division shall have broad authority and discretion  
 3984 to petition the circuit court to appoint a receiver with respect  
 3985 to any managing entity which fails to perform its duties and  
 3986 obligations under this chapter with respect to the operation of  
 3987 a timeshare plan. The circumstances giving rise to an  
 3988 appropriate petition for receivership under this subparagraph  
 3989 include, but are not limited to:

3990 a. Damage to or destruction of any of the accommodations  
 3991 or facilities of a timeshare plan, where the managing entity has  
 3992 failed to repair or reconstruct same.

3993 b. A breach of fiduciary duty by the managing entity,  
 3994 including, but not limited to, undisclosed self-dealing or  
 3995 failure to timely assess, collect, or disburse the common  
 3996 expenses of the timeshare plan.



3997           c. Failure of the managing entity to operate the timeshare  
 3998 plan in accordance with the timeshare instrument and this  
 3999 chapter.

4000  
 4001 If, under the circumstances, it appears that the events giving  
 4002 rise to the petition for receivership cannot be reasonably and  
 4003 timely corrected in a cost-effective manner consistent with the  
 4004 timeshare instrument, the receiver may petition the circuit  
 4005 court to implement such amendments or revisions to the timeshare  
 4006 instrument as may be necessary to enable the managing entity to  
 4007 resume effective operation of the timeshare plan, or to enter an  
 4008 order terminating the timeshare plan, or to enter such further  
 4009 orders regarding the disposition of the timeshare property as  
 4010 the court deems appropriate, including the disposition and sale  
 4011 of the timeshare property held by the owners' association or the  
 4012 purchasers. In the event of a receiver's sale, all rights,  
 4013 title, and interest held by the owners' association or any  
 4014 purchaser shall be extinguished and title shall vest in the  
 4015 buyer. This provision applies to timeshare estates, personal  
 4016 property timeshare interests, and timeshare licenses. All  
 4017 reasonable costs and fees of the receiver relating to the  
 4018 receivership shall become common expenses of the timeshare plan  
 4019 upon order of the court.

4020           3. The division may revoke its approval of any filing for  
 4021 any timeshare plan for which a petition for receivership has  
 4022 been filed pursuant to this paragraph.

4023           (e)1. The division may impose a penalty against any  
 4024 regulated party for a violation of this chapter or any rule

4025 adopted thereunder. A penalty may be imposed on the basis of  
 4026 each day of continuing violation, but in no event may the  
 4027 penalty for any offense exceed \$10,000. All accounts collected  
 4028 shall be deposited with the Chief Financial Officer to the  
 4029 credit of the Division of Florida ~~Land Sales~~, Condominiums,  
 4030 Timeshares, and Mobile Homes Trust Fund.

4031 2.a. If a regulated party fails to pay a penalty, the  
 4032 division shall thereupon issue an order directing that such  
 4033 regulated party cease and desist from further operation until  
 4034 such time as the penalty is paid; or the division may pursue  
 4035 enforcement of the penalty in a court of competent jurisdiction.

4036 b. If an owners' association or managing entity fails to  
 4037 pay a civil penalty, the division may pursue enforcement in a  
 4038 court of competent jurisdiction.

4039 (f) In order to permit the regulated party an opportunity  
 4040 ~~either~~ to appeal such decision administratively or to seek  
 4041 relief in a court of competent jurisdiction, the order imposing  
 4042 the penalty or the cease and desist order shall not become  
 4043 effective until 20 days after the date of such order.

4044 (g) Any action commenced by the division shall be brought  
 4045 in the county in which the division has its executive offices or  
 4046 in the county where the violation occurred.

4047 (h) Notice to any regulated party shall be complete when  
 4048 delivered by United States mail, return receipt requested, to  
 4049 the party's address currently on file with the division or to  
 4050 such other address at which the division is able to locate the  
 4051 party. Every regulated party has an affirmative duty to notify

4052 the division of any change of address at least 5 business days  
 4053 prior to such change.

4054 (6) The division has authority to adopt rules pursuant to  
 4055 ss. 120.536(1) and 120.54 to implement and enforce the  
 4056 provisions of this chapter.

4057 (7) (a) The use of any unfair or deceptive act or practice  
 4058 by any person in connection with the sales or other operations  
 4059 of an exchange program or timeshare plan is a violation of this  
 4060 chapter.

4061 (b) Any violation of the Florida Deceptive and Unfair  
 4062 Trade Practices Act, ss. 501.201 et seq., relating to the  
 4063 creation, promotion, sale, operation, or management of any  
 4064 timeshare plan shall also be a violation of this chapter.

4065 (c) The division may ~~is authorized to~~ institute  
 4066 proceedings against any such person and take any appropriate  
 4067 action authorized in this section in connection therewith,  
 4068 notwithstanding any remedies available to purchasers.

4069 (8) The failure of any person to comply with any order of  
 4070 the division is a violation of this chapter.

4071 Section 67. Section 721.28, Florida Statutes, is amended  
 4072 to read:

4073 721.28 Division of Florida ~~Land Sales,~~ Condominiums,  
 4074 Timeshares, and Mobile Homes Trust Fund.--All funds collected by  
 4075 the division and any amounts paid as fees or penalties under  
 4076 this chapter shall be deposited in the State Treasury to the  
 4077 credit of the Division of Florida ~~Land Sales,~~ Condominiums,  
 4078 Timeshares, and Mobile Homes Trust Fund created by s. 718.509  
 4079 ~~498.019.~~

4080 Section 68. Paragraph (c) of subsection (1) of section  
 4081 721.301, Florida Statutes, is amended to read:

4082 721.301 Florida Timesharing, Vacation Club, and  
 4083 Hospitality Program.--

4084 (1)

4085 (c) The director may designate funds from the Division of  
 4086 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes  
 4087 Trust Fund, not to exceed \$50,000 annually, to support the  
 4088 projects and proposals undertaken pursuant to paragraph (b). All  
 4089 state trust funds to be expended pursuant to this section must  
 4090 be matched equally with private moneys and shall comprise no  
 4091 more than half of the total moneys expended annually.

4092 Section 69. Section 721.50, Florida Statutes, is amended  
 4093 to read:

4094 721.50 Short title.--This part may be cited as the  
 4095 "McAllister Act" in recognition and appreciation for the years  
 4096 of extraordinary and insightful contributions by Mr. Bryan C.  
 4097 McAllister, Examinations Supervisor of the former, Division of  
 4098 Florida Land Sales, Condominiums, and Mobile Homes.

4099 Section 70. Subsection (1) of section 723.003, Florida  
 4100 Statutes, is amended to read:

4101 723.003 Definitions.--As used in this chapter, the  
 4102 following words and terms have the following meanings unless  
 4103 clearly indicated otherwise:

4104 (1) The term "division" means the Division of Florida ~~Land~~  
 4105 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the  
 4106 Department of Business and Professional Regulation.

4107 Section 71. Paragraph (e) of subsection (5) of section  
 4108 723.006, Florida Statutes, is amended to read:

4109 723.006 Powers and duties of division.--In performing its  
 4110 duties, the division has the following powers and duties:

4111 (5) Notwithstanding any remedies available to mobile home  
 4112 owners, mobile home park owners, and homeowners' associations,  
 4113 if the division has reasonable cause to believe that a violation  
 4114 of any provision of this chapter or related ~~any rule promulgated~~  
 4115 ~~pursuant hereto~~ has occurred, the division may institute  
 4116 enforcement proceedings in its own name against a developer,  
 4117 mobile home park owner, or homeowners' association, or its  
 4118 assignee or agent, as follows:

4119 (e)1. The division may impose a civil penalty against a  
 4120 mobile home park owner or homeowners' association, or its  
 4121 assignee or agent, for any violation of this chapter, a properly  
 4122 adopted ~~promulgated~~ park rule or regulation, or a rule adopted  
 4123 ~~or regulation promulgated~~ pursuant hereto. A penalty may be  
 4124 imposed on the basis of each separate violation and, if the  
 4125 violation is a continuing one, for each day of continuing  
 4126 violation, but in no event may the penalty for each separate  
 4127 violation or for each day of continuing violation exceed \$5,000.  
 4128 All amounts collected shall be deposited with the Chief  
 4129 Financial Officer to the credit of the Division of Florida ~~Land~~  
 4130 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund.

4131 2. If a violator fails to pay the civil penalty, the  
 4132 division shall thereupon issue an order directing that such  
 4133 violator cease and desist from further violation until such time  
 4134 as the civil penalty is paid or may pursue enforcement of the

4135 penalty in a court of competent jurisdiction. If a homeowners'  
 4136 association fails to pay the civil penalty, the division shall  
 4137 thereupon pursue enforcement in a court of competent  
 4138 jurisdiction, and the order imposing the civil penalty or the  
 4139 cease and desist order shall not become effective until 20 days  
 4140 after the date of such order. Any action commenced by the  
 4141 division shall be brought in the county in which the division  
 4142 has its executive offices or in which the violation occurred.

4143 Section 72. Section 723.009, Florida Statutes, is amended  
 4144 to read:

4145 723.009 Division of Florida ~~Land Sales~~, Condominiums,  
 4146 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the  
 4147 fees, penalties, and fines imposed pursuant to this chapter  
 4148 shall be deposited into the Division of Florida ~~Land Sales~~,  
 4149 Condominiums, Timeshares, and Mobile Homes Trust Fund created by  
 4150 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the  
 4151 Legislature pursuant to chapter 216, may be used to defray the  
 4152 expenses incurred by the division in administering the  
 4153 provisions of this chapter.

4154 Section 73. Paragraph (c) of subsection (2) of section  
 4155 723.0611, Florida Statutes, is amended to read:

4156 723.0611 Florida Mobile Home Relocation Corporation.--  
 4157 (2)

4158 (c) The corporation shall, for purposes of s. 768.28, be  
 4159 considered an agency of the state. Agents or employees of the  
 4160 corporation, members of the board of directors of the  
 4161 corporation, or representatives of the Division of Florida ~~Land~~  
 4162 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be

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4163 considered officers, employees, or agents of the state, and  
4164 actions against them and the corporation shall be governed by s.  
4165 768.28.

4166 Section 74. Except as otherwise expressly provided in this  
4167 act, this act shall take effect July 1, 2008.