A bill to be entitled

An act relating to the deregulation of professions and occupations; amending s. 20.165, F.S.; deleting provisions establishing the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation; deleting provisions establishing the Florida Board of Auctioneers, the Board of Employee Leasing Companies, the Board of Landscape Architecture, the Board of Professional Geologists, the home inspection services licensing program, and the mold-related services licensing program within the department's Division of Professions; repealing chapter 326, F.S., relating to the Yacht and Ship Brokers' Act and the licensure of yacht and ship brokers and salespersons; amending ss. 212.06 and 213.053, F.S., to conform; repealing part VI of chapter 468, F.S., relating to the licensure of auctioneers, apprentices, and auction businesses, the Florida Board of Auctioneers, the Auctioneer Recovery Fund, and the conduct of auctions; amending s. 538.03, F.S., to conform; repealing part VII of chapter 468, F.S., relating to the licensure and regulation of talent agencies; repealing part VIII of chapter 468, F.S., relating to the licensure and regulation of community association managers and management firms and the Regulatory Council of Community Association Managers; amending ss. 455.2122, 718.111, 718.501, 719.104, and 721.13, F.S., to conform; repealing part IX of chapter 468, F.S., relating to the licensure

and regulation of athlete agents; repealing part XI of chapter 468, F.S., relating to the licensure and regulation of employee leasing companies and employee leasing company groups and the Board of Employee Leasing Companies; amending s. 212.096, 212.097, 212.098, 220.03, 443.036, 443.101, 448.23, 448.26, 472.003, 626.112, 627.192, 627.3121, and 768.098, F.S., to conform; repealing part XV of chapter 468, F.S., relating to the home inspection services licensing program, the licensure of home inspectors, the certification of corporations and partnerships practicing or offering to practice home inspection services, and the regulation of home inspection services; amending s. 627.0629, F.S., to conform; amending s. 627.711, F.S.; removing licensed home inspectors from list of persons from whom insurers must accept uniform mitigation verification inspection forms, to conform; repealing part XVI of chapter 468, F.S., relating to the mold-related services licensing program, the licensure of mold assessors and remediators, the certification of corporations and partnerships practicing or offering to practice mold assessment or remediation, and the regulation of mold-related services; amending s. 455.2123, F.S., to conform; repealing chapter 472, F.S., relating to the licensure of professional surveyors and mappers, the Board of Professional Surveyors and Mappers, and the practice of land surveying and mapping; amending ss. 161.57, 177.031, 177.36, 177.503, 287.055, 334.044, 348.0008, 373.421, 403.0877, 440.02, 481.329, 492.102,

497.274, 556.108, 718.104, 725.08, and 810.12, F.S., to conform; repealing s. 177.508, F.S., relating to the Florida Public Land Survey Restoration and Perpetuation Act not affecting the actions or practice of land surveyors and mappers regulated under chapter 472, to conform; amending s. 477.0132, F.S.; deleting provisions requiring the registration of persons whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping; providing that the Florida Cosmetology Act does not apply to such persons; amending ss. 477.019, 477.026, 477.0265, and 477.029, F.S., to conform; repealing ss. 481.2131 and 481.2251, F.S., relating to the practice of interior design by registered interior designers and disciplinary proceedings against registered interior designers; deleting provisions relating to the registration of interior designers and the regulation of interior design; amending s. 481.201, F.S.; deleting legislative findings relating to the practice of interior design, to conform; amending s. 481.203, F.S.; revising definitions relating to the practice of architecture and deleting definitions relating to the practice of interior design; specifying that the practice of architecture includes interior design; amending s. 481.205, F.S.; changing the name of the Board of Architecture and Interior Design, to conform; revising membership of the board; conforming provisions; amending ss. 481.207, 481.209, 481.211, 481.213, 481.215, and 481.217, F.S., to conform; amending s. 481.219, F.S.;

deleting provisions permitting the practice of or offer to practice interior design through certain business organizations; deleting provisions requiring certificates of authorization for certain business organizations offering interior design services to the public; conforming provisions; amending ss. 481.221, 481.222, 481.223, 481.229, 481.231, and 553.79, F.S., to conform; amending s. 558.002, F.S.; revising definition of "design professional" for purposes of provisions relating to alternative dispute resolution of construction defects, to conform; repealing part II of chapter 481, F.S., relating to the registration and licensure of landscape architects, the certification of corporations and partnerships practicing or offering to practice landscape architectural services, the Board of Landscape Architecture, and the regulation of landscape architectural services; providing a directive to the Division of Statutory Revision; amending s. 287.055, F.S., to conform; amending s. 339.2405, F.S.; revising qualifications of landscape architect member of the Florida Highway Beautification Council, to conform; amending ss. 373.62, 403.0877, 403.9329, and 479.106, F.S., to conform; amending s. 481.203, F.S.; defining the terms "landscape architect" and "landscape architecture" for purposes of provisions relating to the regulation of architecture and interior design; amending ss. 489.103, 558.002, and 725.08, F.S., to conform; repealing chapter 492, F.S., relating to the licensure of professional geologists, the Board of

Professional Geologists, and the practice of professional geology; amending ss. 373.1175, 376.80, 377.075, 403.087, 403.0877, 469.004, 627.706, 627.707, 627.7072, 627.7073, 627.7074, and 849.0935, F.S., to conform; repealing chapter 496, F.S., relating to the registration of professional fundraising consultants and professional solicitors and the regulation of solicitation of charitable contributions and charitable sales promotions; amending ss. 110.181, 316.2045, 320.023, 322.081, 413.033, 550.0351, 550.1647, 741.0305, 775.0861, 790.166, 843.16, and 849.0935, F.S., to conform; repealing s. 500.459, F.S., relating to the regulation of water vending machines and the permitting of water vending machine operators; amending s. 500.511, F.S.; deleting provisions for the deposit of operator permitting fees, the enforcement of the state's water vending machine regulations, penalties, and the preemption of county and municipal water vending machine regulations, to conform; repealing ss. 501.012-501.019, F.S., relating to the registration of health studios and the regulation of health studio services; amending s. 501.165, F.S., to conform; repealing s. 501.143, F.S., relating to the Dance Studio Act, the registration of ballroom dance studios, and the regulation of dance studio lessons and services; repealing s. 205.1969, F.S., relating to the issuance by counties and municipalities of business tax receipts to health studios and ballroom dance studios, to conform; repealing part IV of chapter 501, F.S., relating to the Florida

Telemarketing Act, the licensure of commercial telephone sellers and salespersons and the regulation of commercial telephone solicitation; repealing s. 205.1973, F.S., relating to the issuance by counties and municipalities of business tax receipts to telemarketing businesses, to conform; amending ss. 501.165, 648.44, 772.102, and 895.02, F.S., to conform; repealing chapter 507, F.S., relating to the registration of movers and moving brokers and the regulation of household moving services; repealing s. 205.1975, F.S., relating to the issuance by counties and municipalities of business tax receipts to movers and moving brokers, to conform; amending s. 509.242, F.S.; revising the license classifications of public lodging establishments for purposes of provisions regulating such establishments; amending s. 509.221, F.S.; conforming a cross-reference; repealing chapter 555, F.S., relating to the regulation of outdoor theaters in which audiences view performances from parked vehicles; repealing part VIII of chapter 559, F.S., relating to the Sale of Business Opportunities Act and the regulation of certain business opportunities; repealing part IX of chapter 559, F.S., relating to the registration of motor vehicle repair shops, the Motor Vehicle Repair Advisory Council, and the regulation of motor vehicle repair; amending ss. 320.27, 445.025, and 713.585, F.S., to conform; repealing part XI of chapter 559, F.S., relating to the Florida Sellers of Travel Act, the registration of sellers of travel, certification of certain business activities, and the

regulation of prearranged travel, tourist-related services, tour-guide services, and vacation certificates; repealing s. 205.1971, F.S., relating to the issuance by counties and municipalities of business tax receipts to sellers of travel, to conform; amending ss. 501.604, 501.608, 636.044, and 721.11, F.S., to conform; repealing s. 686.201, F.S., relating to contracts with sales representatives involving commissions; repealing s. 817.559, F.S., relating to the labeling of television picture tubes; amending ss. 73.072, 192.037, 213.053, 336.125, 475.011, 558.002, 718.103, 718.1085, 718.111, 718.112, 718.202, 718.301, 718.503, 718.504, 719.103, 719.1035, 719.104, 719.1055, 719.106, 719.202, 719.301, 719.503, 719.504, 719.608, 720.301, 720.303, 720.306, 720.311, 720.407, 721.03, 721.05, 721.06, 721.08, 721.09, 721.10, 721.11, 721.111, 721.13, 721.18, 721.20, 721.55, 721,551, 721.552, 721.56, 721.82, 723.002, 723.003, 723.004, 723.031, 723.033, 723.035, 723.037, 723.042, 723.06115, F.S.; repealing ss. 718.1255, 718.501, 718.5011, 718.5012, 718.5014, 718.50151, 718.50152, 718.50153, 718.50154, 718.50155, 718.502, 718.509, 718.621, 719.1255, 719.501, 719.502, 719.508, 719.621, 721.07, 721.071, 721.075, 721.121, 721.26, 721.265, 721.27, 721.28, 721.29, 721.301, 721.53, 721.58, 721.98, 723.005, 723.007, 723.008, 723.009, 723.011, 723.012, 723.013, 723.016, 723.038, 723.0381, F.S., to delete powers and duties of the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business

and Professional Regulation; deleting the division's power to enforce and ensure compliance of certain provisions relating to condominiums, cooperatives, vacation plans and timeshares, and mobile homes; conforming provisions; providing an effective date.

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

Section 1. Subsections (2) and (4) of section 20.165, Florida Statutes, are amended to read:

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

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

(a) Division of Administration.

(b) Division of Alcoholic Beverages and Tobacco.

(c) Division of Certified Public Accounting.

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

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

~~(d) Division of Florida Condominiums, Timeshares, and Mobile Homes.~~

(d) ~~(e)~~ Division of Hotels and Restaurants.

(e) ~~(f)~~ Division of Pari-mutuel Wagering.

(f) ~~(g)~~ Division of Professions.

(g)~~(h)~~ Division of Real Estate.

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

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

(h)~~(i)~~ Division of Regulation.

(i)~~(j)~~ Division of Technology.

(j)~~(k)~~ Division of Service Operations.

(4)(a) The following boards and programs are established within the Division of Professions:

1. Board of Architecture ~~and Interior Design~~, created under part I of chapter 481.

~~2. Florida Board of Auctioneers, created under part VI of chapter 468.~~

2.~~3.~~ Barbers' Board, created under chapter 476.

3.~~4.~~ Florida Building Code Administrators and Inspectors Board, created under part XII of chapter 468.

4.~~5.~~ Construction Industry Licensing Board, created under part I of chapter 489.

5.~~6.~~ Board of Cosmetology, created under chapter 477.

6.~~7.~~ Electrical Contractors' Licensing Board, created under part II of chapter 489.

~~8. Board of Employee Leasing Companies, created under part XI of chapter 468.~~

~~9. Board of Landscape Architecture, created under part II of chapter 481.~~

7.~~10.~~ Board of Pilot Commissioners, created under chapter

310.

8.~~11.~~ Board of Professional Engineers, created under chapter 471.

~~12. Board of Professional Geologists, created under chapter 492.~~

9.~~13.~~ Board of Veterinary Medicine, created under chapter 474.

~~14. Home inspection services licensing program, created under part XV of chapter 468.~~

~~15. Mold-related services licensing program, created under part XVI of chapter 468.~~

(b) The following board and commission are established within the Division of Real Estate:

1. Florida Real Estate Appraisal Board, created under part II of chapter 475.

2. Florida Real Estate Commission, created under part I of chapter 475.

(c) The following board is established within the Division of Certified Public Accounting: Board of Accountancy, created under chapter 473.

Section 2. Chapter 326, Florida Statutes, consisting of sections 326.001, 326.002, 326.003, 326.004, 326.005, and 326.006, is repealed.

Section 3. Paragraph (e) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(e)1. Notwithstanding any other provision of this chapter, tax shall not be imposed on any vessel registered under s. 328.52 by a vessel dealer or vessel manufacturer with respect to a vessel used solely for demonstration, sales promotional, or testing purposes. The term "promotional purposes" shall include, but not be limited to, participation in fishing tournaments. For the purposes of this paragraph, "promotional purposes" means the entry of the vessel in a marine-related event where prospective purchasers would be in attendance, where the vessel is entered in the name of the dealer or manufacturer, and where the vessel is clearly marked as for sale, on which vessel the name of the dealer or manufacturer is clearly displayed, and which vessel has never been transferred into the dealer's or manufacturer's accounting books from an inventory item to a capital asset for depreciation purposes.

2. The provisions of this paragraph do not apply to any vessel when used for transporting persons or goods for compensation; when offered, let, or rented to another for consideration; when offered for rent or hire as a means of transportation for compensation; or when offered or used to provide transportation for persons solicited through personal contact or through advertisement on a "share expense" basis.

3. Notwithstanding any other provision of this chapter, tax may not be imposed on any vessel imported into this state for the sole purpose of being offered for sale at retail by a yacht broker or yacht dealer ~~registered in this state~~ if the vessel remains under the care, custody, and control of the

~~registered~~ broker or dealer and the owner of the vessel does not make personal use of the vessel during that time. The provisions of this chapter govern the taxability of any sale or use of the vessel subsequent to its importation under this provision.

Section 4. Paragraph (i) of subsection (8) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

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

(i) Information relative to chapter ~~chapters~~ 212 and former chapter 326 to the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation in the conduct of its official duties.

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

Section 5. Part VI of chapter 468, Florida Statutes, consisting of sections 468.381, 468.382, 468.383, 468.384, 468.385, 468.3851, 468.3852, 468.3855, 468.386, 468.387, 468.388, 468.389, 468.391, 468.392, 468.393, 468.394, 468.395, 468.396, 468.397, 468.398, and 468.399, is repealed.

Section 6. Paragraphs (m) through (q) of subsection (2) of section 538.03, Florida Statutes, are redesignated as paragraphs

(l) through (p), respectively, and present paragraph (l) of that subsection is amended to read:

538.03 Definitions; applicability.—

(2) This chapter does not apply to:

~~(l) Any auction business as defined in s. 468.382(1).~~

Section 7. Part VII of chapter 468, Florida Statutes, consisting of sections 468.401, 468.402, 468.403, 468.404, 468.405, 468.406, 468.407, 468.408, 468.409, 468.410, 468.411, 468.412, 468.413, 468.414, and 468.415, is repealed.

Section 8. Part VIII of chapter 468, Florida Statutes, consisting of sections 468.431, 468.4315, 468.432, 468.433, 468.4336, 468.4337, 468.4338, 468.435, 468.436, 468.4365, 468.437, and 468.438, is repealed.

Section 9. Section 455.2122, Florida Statutes, is amended to read:

455.2122 Education.—A board, or the department where there is no board, shall approve distance learning courses as an alternative to classroom courses to satisfy prelicensure or postlicensure education requirements provided for in ~~part VIII of chapter 468 or~~ part I of chapter 475. A board, or the department when there is no board, may not require centralized examinations for completion of prelicensure or postlicensure education requirements for those professions licensed under ~~part VIII of chapter 468 or~~ part I of chapter 475.

Section 10. Paragraph (e) of subsection (1), subsection (4), and subsection (10) of section 721.13, Florida Statutes, are amended to read:

721.13 Management.—

(1)

~~(c) Any managing entity performing community association management must comply with part VIII of chapter 468.~~

(4) The managing entity shall maintain among its records and provide to the division upon request a complete list of the names and addresses of all purchasers and owners of timeshare units in the timeshare plan. The managing entity shall update this list no less frequently than quarterly. Pursuant to paragraph (3)(d), the managing entity may not publish this owner's list or provide a copy of it to any purchaser or to any third party other than the division. However, the managing entity shall to those persons listed on the owner's list materials provided by any purchaser, upon the written request of that purchaser, if the purpose of the mailing is to advance legitimate owners' association business, such as a proxy solicitation for any purpose, including the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The use of any proxies solicited in this manner must comply with the provisions of the timeshare instrument and this chapter. A mailing requested for the purpose of advancing legitimate owners' association business shall occur within 30 days after receipt of a request from a purchaser. The board of administration of the owners' association shall be responsible for determining the appropriateness of any mailing requested pursuant to this subsection. The purchaser who requests the mailing must reimburse the owners' association in advance for the owners' association's actual costs in performing the mailing. It shall be a violation of this chapter ~~and, if~~

~~applicable, of part VIII of chapter 468,~~ for the board of administration or the manager or management firm to refuse to mail any material requested by the purchaser to be mailed, provided the sole purpose of the materials is to advance legitimate owners' association business. If the purpose of the mailing is a proxy solicitation to recall one or more board members elected by the owners or to discharge the manager or management firm and the managing entity does not mail the materials within 30 days after receipt of a request from a purchaser, the circuit court in the county where the timeshare plan is located may, upon application from the requesting purchaser, summarily order the mailing of the materials solely related to the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The court shall dispose of an application on an expedited basis. In the event of such an order, the court may order the managing entity to pay the purchaser's costs, including attorney's fees reasonably incurred to enforce the purchaser's rights, unless the managing entity can prove it refused the mailing in good faith because of a reasonable basis for doubt about the legitimacy of the mailing.

(10) Any failure of the managing entity to faithfully discharge the fiduciary duty to purchasers imposed by this section or to otherwise comply with the provisions of this section shall be a violation of this chapter ~~and of part VIII of chapter 468~~.

Section 11. Subsection (14) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(14) COMMINGLING.—All funds collected by an association shall be maintained separately in the association's name. For investment purposes only, reserve funds may be commingled with operating funds of the association. Commingled operating and reserve funds shall be accounted for separately, and a commingled account shall not, at any time, be less than the amount identified as reserve funds. This subsection does not prohibit a multicondominium association from commingling the operating funds of separate condominiums or the reserve funds of separate condominiums. Furthermore, for investment purposes only, a multicondominium association may commingle the operating funds of separate condominiums with the reserve funds of separate condominiums. ~~A manager or business entity required to be licensed or registered under s. 468.432, or~~ An agent, employee, officer, or director of an association~~,~~ may ~~shall~~ not commingle any association funds with his or her funds or with the funds of any other condominium association ~~or the funds of a community association as defined in s. 468.431~~.

Section 12. Paragraph (d) of subsection (1) of section 718.501, Florida Statutes, is amended to read:

718.501 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The division may enforce and ensure compliance with the provisions of this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has complete jurisdiction to

investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and unit owner access to association records pursuant to s. 718.111(12).

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

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

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

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

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

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

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

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

from serving as an officer or on the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before initiating formal agency action under chapter 120, must afford the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the penalty for any offense may not exceed $5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer, bulk assignee, or bulk buyer, or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from

those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer, bulk assignee, or bulk buyer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer, bulk assignee, or bulk buyer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order is not effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has

elapsed since the second request and the association has still failed or refused to provide access to official records as required by this chapter, the division shall issue a subpoena requiring production of the requested records where the records are kept pursuant to s. 718.112.

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

Section 13. Subsection (7) of section 719.104, Florida Statutes, is amended to read:

719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—

(7) COMMINGLING.—All funds shall be maintained separately in the association's name. Reserve and operating funds of the association may ~~shall~~ not be commingled unless combined for investment purposes. This subsection does ~~is~~ not ~~meant to~~ prohibit prudent investment of association funds even if combined with operating or other reserve funds of the same association, but such funds must be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds in the combined account. ~~No manager or business entity required to be licensed or registered under s. 468.432, or~~ An agent, employee, officer,

or director of a cooperative association may not commingle any association funds with his or her own funds or with the funds of any other cooperative association or community association ~~as defined in s. 468.431~~.

Section 14. Part IX of chapter 468, Florida Statutes, consisting of sections 468.451, 468.452, 468.453, 468.4535, 468.4536, 468.454, 468.456, 468.4561, 468.45615, 468.4562, 468.4565, and 468.457, is repealed.

Section 15. Part XI of chapter 468, Florida Statutes, consisting of sections 468.520, 468.521, 468.522, 468.523, 468.524, 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.528, 468.529, 468.530, 468.531, 468.532, 468.533, 468.534, and 468.535, is repealed.

Section 16. Paragraph (d) of subsection (1) of section 212.096, Florida Statutes, is amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.—

(1) For the purposes of the credit provided in this section:

(d) "Job" means a full-time position, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from a business operation in this state. This term may not include a temporary construction job involved with the construction of facilities or any job that has previously been included in any application for tax credits under s. 220.181(1). The term also includes employment of an employee

leased from an employee leasing company as defined in s. 627.192(2)(f) ~~licensed under chapter 468~~ if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36 hours per week each month. The person must be performing such duties at a business site located in the enterprise zone.

Section 17. Paragraph (b) of subsection (1) of section 212.097, Florida Statutes, is amended to read:

212.097 Urban High-Crime Area Job Tax Credit Program.—

(1) As used in this section, the term:

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified high-crime area in which the eligible business is located. An owner or partner of the eligible business is not a qualified employee. The term also includes an employee leased from an employee leasing company as defined in s. 627.192(2)(f) ~~licensed under chapter 468~~, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

Section 18. Paragraph (b) of subsection (1) of section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

(1) As used in this section, the term:

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified county in which the eligible business is located. The term also includes an employee leased from an employee leasing company as defined in s. 627.192(2)(f) ~~licensed under chapter 468~~, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months. An owner or partner of the eligible business is not a qualified employee.

Section 19. Paragraph (ff) of subsection (1) of section 220.03, Florida Statutes, is amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(ff) "Job" means a full-time position, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from business operations in this state. The term may not include a temporary construction job involved with the construction of facilities or any job that has previously been included in any application for tax credits under s.

212.096. The term also includes employment of an employee leased from an employee leasing company as defined in s. 627.192(2)(f) ~~licensed under chapter 468~~ if the employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

Section 20. Subsections (18) of section 443.036, Florida Statutes, is amended, to read:

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

(18) "Employee leasing company" means an employing unit that is an employee leasing company as defined in s. 627.192(2)(f) which ~~that has a valid and active license under chapter 468 and that~~ maintains the records required by s. 443.171(5) and, in addition, is responsible for producing quarterly reports concerning the clients of the employee leasing company and the internal staff of the employee leasing company. As used in this subsection, the term "client" means a party who has contracted with an employee leasing company to provide a worker, or workers, to perform services for the client. Leased employees include employees subsequently placed on the payroll of the employee leasing company on behalf of the client. An employee leasing company must notify the tax collection service provider within 30 days after the initiation or termination of the company's relationship with any client company ~~under chapter 468~~.

Section 21. Paragraph (a) of subsection (10) of section 443.101, Florida Statutes, is amended to read:

443.101 Disqualification for benefits.—An individual shall be disqualified for benefits:

(10) Subject to the requirements of this subsection, if the claim is made based on the loss of employment as a leased employee for an employee leasing company or as a temporary employee for a temporary help firm.

(a) As used in this subsection, the term:

1. "Temporary help firm" means a firm that hires its own employees and assigns them to clients to support or supplement the client's workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects, and includes a labor pool as defined in s. 448.22. The term also includes a firm created by an entity licensed under s. 125.012(6), which hires employees assigned by a union for the purpose of supplementing or supporting the workforce of the temporary help firm's clients. The term does not include an employee leasing company ~~companies regulated under part XI of chapter 468~~.

2. "Temporary employee" means an employee assigned to work for the clients of a temporary help firm. The term also includes a day laborer performing day labor, as defined in s. 448.22, who is employed by a labor pool as defined in s. 448.22.

3. "Leased employee" means an employee assigned to work for the clients of an employee leasing company ~~regulated under part XI of chapter 468.~~

Section 22. Subsection (2) of 448.23, Florida Statutes, is amended, to read:

448.23 Exclusions.—Except as specified in ss. 448.22(1)(c) and 448.26, this part does not apply to:

(2) Employee leasing companies, as defined in s.

627.192(2)(f) ~~s. 468.520~~;

Section 23. Section 448.26, Florida Statutes, is amended to read:

448.26 Application.~~—Nothing in~~ This part does not ~~shall~~ exempt any client of any labor pool or temporary help arrangement entity as described ~~defined~~ in s. 627.192(2)(f)1. ~~s. 468.520(4)(a)~~ or any assigned employee from any other license requirements of state, local, or federal law. Any employee assigned to a client who is licensed, registered, or certified pursuant to law shall be deemed an employee of the client for such licensure purposes but shall remain an employee of the labor pool ~~or temporary help arrangement entity~~ for purposes of chapters 440 and 443.

Section 24. Paragraph (b) of subsection (5) of section 472.003, Florida Statutes, is amended to read:

472.003 Persons not affected by ss. 472.001-472.037.—Sections 472.001-472.037 do not apply to:

(5)

(b) Persons who are employees of any employee leasing company as defined in s. 627.192(2)(f) ~~licensed pursuant to part XI of chapter 468~~ and who work as subordinates of a person in responsible charge registered under this chapter.

Section 25. Subsection (1) of section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.—

(1)(a) A ~~No~~ person may not be, act as, or advertise or

hold himself or herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by the department and appointed by an appropriate appointing entity or person.

(b) Except as provided in subsection (6) or in applicable department rules, and in addition to other conduct described in this chapter with respect to particular types of agents, a license as an insurance agent, service representative, customer representative, or limited customer representative is required in order to engage in the solicitation of insurance. For purposes of this requirement, as applicable to any of the license types described in this section, the solicitation of insurance is the attempt to persuade any person to purchase an insurance product by:

1. Describing the benefits or terms of insurance coverage, including premiums or rates of return;

2. Distributing an invitation to contract to prospective purchasers;

3. Making general or specific recommendations as to insurance products;

4. Completing orders or applications for insurance products;

5. Comparing insurance products, advising as to insurance matters, or interpreting policies or coverages; or

6. Offering or attempting to negotiate on behalf of another person a viatical settlement contract as defined in s. 626.9911.

However, an employee leasing company that ~~licensed pursuant to chapter 468 which~~ is seeking to enter into a contract with an employer that identifies products and services offered to employees may deliver proposals for the purchase of employee leasing services to prospective clients of the employee leasing company setting forth the terms and conditions of doing business; ~~classify employees as permitted by s. 468.529;~~ collect information from prospective clients and other sources as necessary to perform due diligence on the prospective client and to prepare a proposal for services; provide and receive enrollment forms, plans, and other documents; and discuss or explain in general terms the conditions, limitations, options, or exclusions of insurance benefit plans available to the client or employees of the employee leasing company were the client to contract with the employee leasing company. Any advertising materials or other documents describing specific insurance coverages must identify and be from a licensed insurer or its licensed agent or a licensed and appointed agent employed by the employee leasing company. The employee leasing company may not advise or inform the prospective business client or individual employees of specific coverage provisions, exclusions, or limitations of particular plans. An ~~As to clients for which the employee leasing company is providing services pursuant to s. 468.525(4), the~~ employee leasing company may engage in activities permitted by ss. 626.7315, 626.7845, and 626.8305, subject to the restrictions specified in those sections. If a prospective client requests more specific information concerning the insurance provided by the employee leasing company, the

employee leasing company must refer the prospective business client to the insurer or its licensed agent or to a licensed and appointed agent employed by the employee leasing company.

Section 26. Paragraphs (a) through (f) of subsection (2) of section 627.192, Florida Statutes, are redesignated as paragraphs (b) through (g), respectively, present paragraphs (a) and (e) are amended, and a new paragraph (a) is added to that subsection to read:

627.192 Workers' compensation insurance~~; employee leasing arrangements~~.—

(2) For purposes of the Florida Insurance Code:

(a) "Client company" means a person or entity which contracts with an employee leasing company and is provided employees pursuant to that contract.

(b)~~(a)~~ "Employee leasing" means an arrangement whereby an employee leasing company assigns its employees to a client company and allocates the direction of and control over the leased employees between the employee leasing company and the client company. The term does not include the following:

1. A temporary help arrangement, whereby an organization hires its own employees and assigns them to a client to support or supplement the client's workforce in special work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects.

2. An arrangement in which an organization employs only one category of employees and assigns them to a client to perform a function inherent to that category and which function is separate and divisible from the primary business of the

client.

3. A facilities staffing arrangement, whereby an organization assigns its employees to staff, in whole or in part, a specific client function or functions, on an ongoing, indefinite basis, provided that the total number of individuals assigned by that organization under such arrangements comprises no more than 50 percent of the workforce at a client's worksite and provided further that no more than 20 percent of the individuals assigned to staff a particular client function were employed by the client immediately preceding the commencement of the arrangement.

4. An arrangement in which an organization assigns its employees only to a commonly controlled company or group of companies as defined in s. 414 of the Internal Revenue Code and in which the organization does not hold itself out to the public as an employee leasing company.

5. A home health agency licensed under chapter 400, unless otherwise engaged in business as an employee leasing company.

6. A health care services pool licensed under s. 400.980, unless otherwise engaged in business as an employee leasing company ~~shall have the same meaning as set forth in s. 468.520(4)~~.

(f) ~~(e)~~ "Lessor" or "employee leasing company" means a sole proprietorship, partnership, corporation, or other form of business entity ~~an employee leasing company, as set forth in part XI of chapter 468,~~ engaged in the business of or holding itself out as being in the business of employee leasing. ~~A lessor may also be referred to as an employee leasing company.~~

Section 27. Paragraph (i) of subsection (1) of section 627.3121, Florida Statutes, is amended to read:

627.3121 Public records and public meetings exemptions.—

(1) The following records held by the Florida Workers' Compensation Joint Underwriting Association, Inc., are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(i) Information received from the Department of Revenue regarding payroll information and client lists of employee leasing companies obtained pursuant to s. ~~ss.~~ 440.381 and former s. 468.529.

Section 28. Subsection (1) of section 768.098, Florida Statutes, is amended to read:

768.098 Limitation of liability for employee leasing.—

(1) An employer in a joint employment relationship described in s. 627.192(2)(f) is ~~pursuant to s. 468.520 shall~~ not ~~be~~ liable for the tortious actions of another employer in that relationship, or for the tortious actions of any jointly employed employee under that relationship, if ~~provided that~~:

(a) The employer seeking to avoid liability pursuant to this section did not authorize or direct the tortious action;

(b) The employer seeking to avoid liability pursuant to this section did not have actual knowledge of the tortious conduct and fail to take appropriate action;

(c) The employer seeking to avoid liability pursuant to this section did not have actual control over the day-to-day job duties of the jointly employed employee who has committed a tortious act nor actual control over the portion of a job site

at which or from which the tortious conduct arose or at which and from which a jointly employed employee worked, and that said control was assigned to the other employer under the contract;

(d) The employer seeking to avoid liability pursuant to this section is expressly absolved in the written contract forming the joint employment relationship of control over the day-to-day job duties of the jointly employed employee who has committed a tortious act, and actual control over the portion of the job site at which or from which the tortious conduct arose or at which and from which the jointly employed employee worked, and that said control was assigned to the other employer under the contract; and

(e) Complaints, allegations, or incidents of any tortious misconduct or workplace safety violations, regardless of the source, are required to be reported to the employer seeking to avoid liability pursuant to this section by all other joint employers under the written contract forming the joint employment relationship, and that the employer seeking to avoid liability pursuant to this section did not fail to take appropriate action as a result of receiving any such report related to a jointly employed employee who has committed a tortious act.

Section 29. Part XV of chapter 468, Florida Statutes, consisting of sections 468.83, 468.831, 468.8311, 468.8312, 468.8313, 468.8314, 468.8315, 468.8316, 468.8317, 468.8318, 468.8319, 468.832, 468.8321, 468.8322, 468.8323, 468.8324, and 468.8325, is repealed.

Section 30. Paragraphs (a) and (b) of subsection (2) of

section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(2)(a) A rate filing for residential property insurance made on or before the implementation of paragraph (b) may include rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses the risk of wind damage; however, such a rate filing must also provide for variations from such rate factors on an individual basis based on an inspection of a particular structure by a ~~licensed~~ home inspector, which inspection may be at the cost of the insured.

(b) A rate filing for residential property insurance made more than 150 days after approval by the office of a building code rating factor plan submitted by a statewide rating organization shall include positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses risk of wind damage. The rate filing shall include variations from standard rate factors on an individual basis based on inspection of a particular structure by a ~~licensed~~ home inspector. If an inspection is requested by the insured, the insurer may require the insured to pay the reasonable cost of the inspection. This paragraph applies to structures constructed or renovated after the implementation of this paragraph.

Section 31. Paragraph (a) of subsection (2) of section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation; uniform mitigation verification inspection form.—

(2)(a) The Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when submitted by policyholders for the purpose of factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid. An insurer shall accept as valid a uniform mitigation verification form signed by the following authorized mitigation inspectors:

~~1. A home inspector licensed under s. 468.8314 who has completed at least 3 hours of hurricane mitigation training which includes hurricane mitigation techniques and compliance with the uniform mitigation verification form and completion of a proficiency exam. Thereafter, home inspectors licensed under s. 468.8314 must complete at least 2 hours of continuing education, as part of the existing licensure renewal requirements each year, related to mitigation inspection and the uniform mitigation form;~~

1.~~2.~~ A building code inspector certified under s. 468.607;

2.~~3.~~ A general, building, or residential contractor licensed under s. 489.111;

3.~~4.~~ A professional engineer licensed under s. 471.015;

4.~~5.~~ A professional architect licensed under s. 481.213; or

5.~~6.~~ Any other individual or entity recognized by the insurer as possessing the necessary qualifications to properly complete a uniform mitigation verification form.

Section 32. Part XVI of chapter 468, Florida Statutes, consisting of sections 468.84, 468.841, 468.8411, 468.8412, 468.8413, 468.8414, 468.8415, 468.8416, 468.8417, 468.8418, 468.8419, 468.842, 468.8421, 468.8422, 468.8423, and 468.8424, is repealed.

Section 33. Section 455.2123, Florida Statutes, is amended to read:

455.2123 Continuing education.—A board, or the department when there is no board, may provide by rule that distance learning may be used to satisfy continuing education requirements. A board, or the department when there is no board, shall approve distance learning courses as an alternative to classroom courses to satisfy continuing education requirements provided for in ~~part VIII, part XV, or part XVI of chapter 468 or~~ part I or part II of chapter 475 and may not require centralized examinations for completion of continuing education requirements for the professions licensed under ~~part VIII, part XV, or part XVI of chapter 468 or~~ part I or part II of chapter 475.

Section 34. Chapter 472, Florida Statutes, consisting of sections 472.001, 472.003, 472.005, 472.006, 472.007, 472.0075, 472.008, 472.009, 472.0101, 472.011, 472.013, 472.0131, 472.0132, 472.0135, 472.015, 472.016, 472.0165, 472.017, 472.018, 472.019, 472.0201, 472.02011, 472.0202, 472.0203, 472.0204, 472.021, 472.023, 472.025, 472.027, 472.029, 472.031, 472.0335, 472.034, 472.0345, 472.0351, 472.0355, 472.036, 472.0365, and 472.037, Florida Statutes, is repealed.

Section 35. Subsection (3) of section 161.57, Florida Statutes, is amended to read:

161.57 Coastal properties disclosure statement.—

(3) Unless otherwise waived in writing by the purchaser, at or prior to the closing of any transaction where an interest in real property located either partially or totally seaward of the coastal construction control line as defined in s. 161.053 is being transferred, the seller shall provide to the purchaser an affidavit~~,~~ or a certified survey ~~meeting the requirements of chapter 472,~~ delineating the location of the coastal construction control line on the property being transferred.

Section 36. Subsections (10) and (21) of section 177.031, Florida Statutes, are amended to read:

177.031 Definitions.—As used in this part:

(10) "Professional surveyor and mapper" means a surveyor and mapper qualified by education and experience to practice surveying and mapping ~~registered under chapter 472 who is in good standing with the Board of Professional Surveyors and Mappers~~.

(21) "Legal entity" means an entity that provides professional surveying and mapping services ~~holds a certificate of authorization issued under chapter 472~~, whether the entity is a corporation, partnership, association, or person practicing under a fictitious name.

Section 37. Section 177.36, Florida Statutes, is amended to read:

177.36 Work to be performed only by authorized personnel.—The establishment of local tidal datums and the determination of

the location of the mean high-water line or the mean low-water line must be performed by professional ~~qualified personnel licensed by the Board of Professional~~ surveyors and mappers or by representatives of the United States Government when approved by the department.

Section 38. Subsection (1) of section 177.503, Florida Statutes, is amended to read:

177.503 Definitions.—As used in ss. 177.501-177.510, the following words and terms shall have the meanings indicated unless the context clearly indicates a different meaning:

(1) "Professional surveyor and mapper" or "surveyor and mapper" means a person qualified by education and experience ~~authorized~~ to practice surveying and mapping ~~under the provisions of chapter 472~~.

Section 39. Section 177.508, Florida Statutes, is repealed.

Section 40. Paragraph (a) of subsection (2) and subsection (6) of section 287.055, Florida Statutes, are amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(a) "Professional services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or professional ~~registered~~ surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer,

landscape architect, or professional ~~registered~~ surveyor and mapper in connection with his or her professional employment or practice.

(6) PROHIBITION AGAINST CONTINGENT FEES.—

(a) Each contract entered into by the agency for professional services must contain a prohibition against contingent fees as follows: "The architect (or professional ~~registered~~ surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or professional ~~registered~~ surveyor and mapper, or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or professional ~~registered~~ surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(b) Any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for an architect, professional engineer, or professional ~~registered~~ land surveyor and mapper, who offers, agrees, or contracts to

solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(c) Any architect, professional engineer, or professional ~~registered~~ surveyor and mapper, or any group, association, company, corporation, firm, or partnership thereof, who offers to pay, or pays, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction in a state court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(d) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

Section 41. Subsection (9) of section 334.044, Florida Statutes, is amended to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(9) To employ and train staff~~,~~ and to contract with qualified consultants. For the purposes of chapter ~~chapters~~ 471 ~~and 472~~, the department shall be considered a firm.

Section 42. Subsection (2) of section 348.0008, Florida Statutes, is amended to read:

348.0008 Acquisition of lands and property.—

(2) An authority and its authorized agents, contractors, and employees are authorized to enter upon any lands, waters, and premises, upon giving reasonable notice to the landowner, for the purpose of making surveys, soundings, drillings, appraisals, environmental assessments including phase I and phase II environmental surveys, archaeological assessments, and such other examinations as are necessary for the acquisition of private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation by eminent domain proceedings or as are necessary for the authority to perform its duties and functions; and any such entry shall not be deemed a trespass or an entry that would constitute a taking in an eminent domain proceeding. An expressway authority shall make reimbursement for any actual damage to such lands, water, and premises as a result of such activities. ~~Any entry authorized by this subsection shall be in compliance with the premises protections and landowner liability provisions contained in s. 472.029.~~

Section 43. Subsection (6) of section 373.421, Florida Statutes, is amended to read:

373.421 Delineation methods; formal determinations.—

(6) The district or the department may also issue nonbinding informal determinations or otherwise institute determinations on its own initiative as provided by law. A nonbinding informal determination of the extent of surface waters and wetlands issued by the South Florida Water Management District or the Southwest Florida Water Management District, between July 1, 1989, and the effective date of the methodology ratified in s. 373.4211, shall be validated by the district if a petition to validate the nonbinding informal determination is filed with the district on or before October 1, 1994, provided:

(a) The petitioner submits the documentation prepared by the agency, and signed by an agency employee in the course of the employee's official duties, at the time the nonbinding informal determination was issued, showing the boundary of the surface waters or wetlands;

(b) The request is accompanied by the appropriate fee in accordance with the fee schedule established by district rule;

(c) Any supplemental information, such as aerial photographs and soils maps, is provided as necessary to ensure an accurate determination;

(d) District staff verify the delineated surface water or wetland boundary through site inspection; and

(e) Following district verification, and adjustment if necessary, of the boundary of surface waters or wetlands, the petitioner submits a survey certified pursuant to former chapter 472, which depicts the surface water or wetland boundaries. The certified survey shall contain a legal description of, and the

acreage contained within, the boundaries of the property for which the determination is sought. The boundaries must be witnessed to the property boundaries and must be capable of being mathematically reproduced from the survey.

Validated informal nonbinding determinations issued by the South Florida Water Management District and the Southwest Florida Water Management District shall remain valid for a period of 5 years from the date of validation by the district, as long as physical conditions on the property do not change so as to alter the boundaries of surface waters or wetlands. A validation obtained under this section is final agency action. Sections 120.569 and 120.57 apply to validations under this section.

Section 44. Subsection (1) of section 403.0877, Florida Statutes, is amended to read:

403.0877 Certification by professionals regulated by the Department of Business and Professional Regulation.—

(1) ~~Nothing in~~ This section does not authorize ~~shall be construed as specific authority for~~ a water management district or the department to require certification by a professional engineer licensed under chapter 471, a professional landscape architect licensed under part II of chapter 481, or a professional geologist licensed under chapter 492, ~~or a professional surveyor and mapper licensed under chapter 472,~~ for an activity that is not within the definition or scope of practice of the regulated profession.

Section 45. Subsection (30) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(30) "Construction design professional" means an architect, professional engineer, or landscape architect, ~~or surveyor and mapper,~~ or any corporation, professional or general, that has a certificate to practice in the construction design field from the Department of Business and Professional Regulation.

Section 46. Subsection (6) of section 481.329, Florida Statutes, is amended to read:

481.329 Exceptions; exemptions from licensure.—

(6) This part shall not be construed to affect part I of this chapter or~~,~~ chapter 471, ~~or chapter 472, respectively,~~ except that no such person shall use the designation or term "landscape architect," "landscape architectural," "landscape architecture," "L.A.," "landscape engineering," or any description tending to convey the impression that she or he is a landscape architect, unless she or he is registered as provided in this part.

Section 47. Subsection (7) of section 492.102, Florida Statutes, is amended to read:

492.102 Definitions.—For the purposes of this chapter, unless the context clearly requires otherwise:

(7) "Practice of professional geology" means the performance of, or offer to perform, geological services, including, but not limited to, consultation, investigation, evaluation, planning, and geologic mapping~~, but not including~~

~~mapping as prescribed in chapter 472,~~ relating to geological work, except as specifically exempted by this chapter. Any person who practices any specialty branch of the profession of geology, or who by verbal claim, sign, advertisement, letterhead, card, or any other means represents herself or himself to be a professional geologist, or who through the use of some title implies that she or he is a professional geologist or that she or he is licensed under this chapter, or who holds herself or himself out as able to perform or does perform any geological services or work recognized as professional geology, shall be construed to be engaged in the practice of professional geology.

Section 48. Paragraph (a) of subsection (2) of section 497.274, Florida Statutes, is amended to read:

497.274 Standards for grave spaces.—

(2)(a) Prior to the sale of grave spaces in any undeveloped areas of a licensed cemetery, the cemetery company shall prepare a map documenting the establishment of recoverable internal survey reference markers installed by the cemetery company no more than 100 feet apart in the areas planned for development. The internal reference markers shall be established with reference to survey markers that are no more than 200 feet apart which have been set by a professional surveyor and mapper ~~licensed under chapter 472~~ and documented in a certified land survey. Both the map and the certified land survey shall be maintained by the cemetery company and shall be made available upon request to the department or members of the public.

Section 49. Subsection (4) of section 556.108, Florida

Statutes, is amended to read:

556.108 Exemptions.—The notification requirements provided in s. 556.105(1) do not apply to:

(4) Any excavation of 18 inches or less for:

(a) Surveying public or private property by professional surveyors or mappers ~~as defined in chapter 472~~ and services performed by a pest control licensee under chapter 482, excluding marked rights-of-way, marked easements, or permitted uses where marked, if mechanized equipment is not used in the process of such surveying or pest control services and the ~~surveying or~~ pest control services are performed in accordance with the practice rules established under ~~s. 472.027 or~~ s. 482.051, respectively;

(b) Maintenance activities performed by a state agency and its employees when such activities are within the right-of-way of a public road; however, if a member operator has permanently marked facilities on such right-of-way, mechanized equipment may not be used without first providing notification; or

(c) Locating, repairing, connecting, adjusting, or routine maintenance of a private or public underground utility facility by an excavator, if the excavator is performing such work for the current owner or future owner of the underground facility and if mechanized equipment is not used.

Section 50. Paragraph (e) of subsection (4) of section 718.104, Florida Statutes, is amended to read:

718.104 Creation of condominiums; contents of declaration.—Every condominium created in this state shall be created pursuant to this chapter.

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

(e) A certified survey of the land ~~which meets the minimum technical standards set forth by the Board of Professional Surveyors and Mappers, pursuant to s. 472.027,~~ and a graphic description of the improvements in which units are located and a plot plan thereof that, together with the declaration, are in sufficient detail to identify the common elements and each unit and their relative locations and approximate dimensions. Failure of the survey to meet minimum technical standards shall not invalidate an otherwise validly created condominium. The survey, graphic description, and plot plan may be in the form of exhibits consisting of building plans, floor plans, maps, surveys, or sketches. If the construction of the condominium is not substantially completed, there shall be a statement to that effect, and, upon substantial completion of construction, the developer or the association shall amend the declaration to include the certificate described below. The amendment may be accomplished by referring to the recording data of a survey of the condominium that complies with the certificate. A certificate of a professional surveyor and mapper ~~authorized to practice in this state~~ shall be included in or attached to the declaration or the survey or graphic description as recorded under s. 718.105 that the construction of the improvements is substantially complete so that the material, together with the provisions of the declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements and so that the identification,

location, and dimensions of the common elements and of each unit can be determined from these materials. Completed units within each substantially completed building in a condominium development may be conveyed to purchasers, notwithstanding that other buildings in the condominium are not substantially completed, provided that all planned improvements, including, but not limited to, landscaping, utility services and access to the unit, and common-element facilities serving such building, as set forth in the declaration, are first completed and the declaration of condominium is first recorded and provided that as to the units being conveyed there is a certificate of a professional surveyor and mapper ~~as required above~~, including certification that all planned improvements, including, but not limited to, landscaping, utility services and access to the unit, and common-element facilities serving the building in which the units to be conveyed are located have been substantially completed, and such certificate is recorded with the original declaration or as an amendment to such declaration. This section shall not, however, operate to require development of improvements and amenities declared to be included in future phases pursuant to s. 718.403 prior to conveying a unit as provided herein. For the purposes of this section, a "certificate of a professional surveyor and mapper" means certification by a professional surveyor and mapper in the form provided herein and may include, along with certification by a professional surveyor and mapper, when appropriate, certification by an architect or engineer authorized to practice in this state. Notwithstanding the requirements of substantial

completion provided in this section, nothing contained herein shall prohibit or impair the validity of a mortgage encumbering units together with an undivided interest in the common elements as described in a declaration of condominium recorded prior to the recording of a certificate of a surveyor and mapper as provided herein.

Section 51. Subsection (4) of section 725.08, Florida Statutes, is amended to read:

725.08 Design professional contracts; limitation in indemnification.—

(4) "Design professional" means an architect, ~~individual or entity licensed by the state who holds a current certificate of registration under chapter 481 to practice architecture or~~ landscape architect, professional surveyor and mapper, or engineer ~~architecture, under chapter 472 to practice land surveying and mapping, or under chapter 471 to practice engineering, and~~ who enters into a professional services contract.

Section 52. Subsection (5) of section 810.12, Florida Statutes, is amended to read:

810.12 Unauthorized entry on land; prima facie evidence of trespass.—

(5) However, this section shall not apply to any official or employee of the state or a county, municipality, or other governmental agency now authorized by law to enter upon lands or to registered engineers and professional surveyors and mappers authorized to enter lands pursuant to s. ~~ss.~~ 471.027 ~~and 472.029~~. The provisions of this section shall not apply to the

trimming or cutting of trees or timber by municipal or private public utilities, or their employees, contractors, or subcontractors, when such trimming is required for the establishment or maintenance of the service furnished by any such utility.

Section 53. Section 477.0132, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 477.0132, F.S., for present text.)

477.0132 Hair braiding, hair wrapping, and body wrapping registration; application of chapter.—This chapter does not apply to a person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping.

Section 54. Subsection (7) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 16 hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues;

state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.

~~(b) Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.~~

(b) ~~(c)~~ The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.

Section 55. Paragraph (f) of subsection (1) of section 477.026, Florida Statutes, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

~~(f) For hair braiders, hair wrappers, and body wrappers, fees for registration shall not exceed $25.~~

Section 56. Paragraph (g) of subsection (1) of section 477.0265, Florida Statutes, is amended to read:

477.0265 Prohibited acts.—

(1) It is unlawful for any person to:

(g) Advertise or imply that skin care services ~~or body wrapping~~, as performed under this chapter, have any relationship

to the practice of massage therapy as defined in s. 480.033(3), except those practices or activities defined in s. 477.013.

Section 57. Paragraphs (a) of subsection (1) of section 477.029, Florida Statutes, is amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a cosmetologist or~~,~~ specialist, ~~hair wrapper, hair braider, or body wrapper~~ unless duly licensed, ~~or~~ registered, or otherwise authorized~~,~~ as provided in this chapter.

Section 58. Sections 481.2131 and 481.2251, Florida Statutes, are repealed.

Section 59. Section 481.201, Florida Statutes, is amended to read:

481.201 Purpose.—The primary legislative purpose for enacting this part is to ensure that every architect practicing in this state meets minimum requirements for safe practice. It is the legislative intent that architects who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. ~~The Legislature further finds that it is in the interest of the public to limit the practice of interior design to interior designers or architects who have the design education and training required by this part or to persons who are exempted from the provisions of this part.~~

Section 60. Section 481.203, Florida Statutes, is amended to read:

481.203 Definitions.—As used in this part, the term:

(1) ~~(3)~~ "Architect" or "registered architect" means a natural person who is licensed under this part to engage in the practice of architecture.

(2) ~~(6)~~ "Architecture" means the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, ~~and~~ the utilization of space within and surrounding such structures, and interior design. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.

(3) ~~(1)~~ "Board" means the Board of Architecture ~~and Interior Design~~.

(4) ~~(5)~~ "Certificate of authorization" means a certificate issued by the department to a corporation or partnership to practice architecture ~~or interior design~~.

(5) ~~(4)~~ "Certificate of registration" means a license issued by the department to a natural person to engage in the practice of architecture ~~or interior design~~.

(6) ~~(2)~~ "Department" means the Department of Business and Professional Regulation.

(7) ~~(15)~~ "Interior decorator services" includes the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes.

~~(8) "Interior design" means designs, consultations,~~

~~studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements of a building or structure. "Interior design" includes, but is not limited to, reflected ceiling plans, space planning, furnishings, and the fabrication of nonstructural elements within and surrounding interior spaces of buildings. "Interior design" specifically excludes the design of or the responsibility for architectural and engineering work, except for specification of fixtures and their location within interior spaces. As used in this subsection, "architectural and engineering interior construction relating to the building systems" includes, but is not limited to, construction of structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems, or construction which materially affects lifesafety systems pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems.~~

~~(9) "Registered interior designer" or "interior designer" means a natural person who is licensed under this part.~~

~~(10) "Nonstructural element" means an element which does not require structural bracing and which is something other than a load-bearing wall, load-bearing column, or other load-bearing element of a building or structure which is essential to the structural integrity of the building.~~

~~(11) "Reflected ceiling plan" means a ceiling design plan~~

~~which is laid out as if it were projected downward and which may include lighting and other elements.~~

~~(12) "Space planning" means the analysis, programming, or design of spatial requirements, including preliminary space layouts and final planning.~~

~~(13) "Common area" means an area that is held out for use by all tenants or owners in a multiple-unit dwelling, including, but not limited to, a lobby, elevator, hallway, laundry room, clubhouse, or swimming pool.~~

~~(14) "Diversified interior design experience" means experience which substantially encompasses the various elements of interior design services set forth under the definition of "interior design" in subsection (8).~~

(8) ~~(16)~~ "Responsible supervising control" means the exercise of direct personal supervision and control throughout the preparation of documents, instruments of service, or any other work requiring the seal and signature of a licensee under this part.

(9) ~~(12)~~ "Space planning" means the analysis, programming, or design of spatial requirements, including preliminary space layouts and final planning.

(10) ~~(7)~~ "Townhouse" is a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units. Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of

construction and fire protection requirements; or shall be separated by a party wall; or may be separated by a single wall meeting the following requirements:

(a) Such wall shall provide not less than 2 hours of fire resistance. Plumbing, piping, ducts, or electrical or other building services shall not be installed within or through the 2-hour wall unless such materials and methods of penetration have been tested in accordance with the Standard Building Code.

(b) Such wall shall extend from the foundation to the underside of the roof sheathing, and the underside of the roof shall have at least 1 hour of fire resistance for a width not less than 4 feet on each side of the wall.

(c) Each dwelling unit sharing such wall shall be designed and constructed to maintain its structural integrity independent of the unit on the opposite side of the wall.

Section 61. Subsection (1) and paragraph (a) of subsection (3) of section 481.205, Florida Statutes, are amended to read:

481.205 Board of Architecture ~~and Interior Design~~.—

(1) The Board of Architecture ~~and Interior Design~~ is created within the Department of Business and Professional Regulation. The board shall consist of seven ~~11~~ members. Five members must be registered architects who have been engaged in the practice of architecture for at least 5 years~~; three members must be registered interior designers who have been offering interior design services for at least 5 years and who are not also registered architects;~~ and two ~~three~~ members must be laypersons who are not, and have never been, architects~~, interior designers,~~ or members of any closely related profession

or occupation. At least one member of the board must be 60 years of age or older.

(3)(a) Notwithstanding the provisions of ss. 455.225, 455.228, and 455.32, the duties and authority of the department to receive complaints and investigate and discipline persons licensed under this part, including the ability to determine legal sufficiency and probable cause; to initiate proceedings and issue final orders for summary suspension or restriction of a license pursuant to s. 120.60(6); to issue notices of noncompliance, notices to cease and desist, subpoenas, and citations; to retain legal counsel, investigators, or prosecutorial staff in connection with the licensed practice of architecture ~~and interior design~~; and to investigate and deter the unlicensed practice of architecture ~~and interior design~~ as provided in s. 455.228 are delegated to the board. All complaints and any information obtained pursuant to an investigation authorized by the board are confidential and exempt from s. 119.07(1) as provided in s. 455.225(2) and (10).

Section 62. Section 481.207, Florida Statutes, is amended to read:

481.207 Fees.—The board, by rule, may establish separate fees for architects ~~and interior designers~~, to be paid for applications, examination, reexamination, licensing and renewal, delinquency, reinstatement, and recordmaking and recordkeeping. The examination fee shall be in an amount that covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The application fee is nonrefundable. The fee for

initial application and examination for architects ~~and interior designers~~ may not exceed $775 plus the actual per applicant cost to the department for purchase of the examination from the National Council of Architectural Registration Boards ~~or the National Council of Interior Design Qualifications, respectively,~~ or similar national organizations. The biennial renewal fee for architects may not exceed $200. ~~The biennial renewal fee for interior designers may not exceed $500.~~ The delinquency fee may not exceed the biennial renewal fee established by the board for an active license. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of architects ~~and interior designers~~. Fees shall be based on department estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of architects ~~and interior designers~~.

Section 63. Section 481.209, Florida Statutes, is amended to read:

481.209 Examinations.—

~~(1)~~ A person desiring to be licensed as a registered architect shall apply to the department to take the licensure examination. The department shall administer the licensure examination for architects to each applicant who the board certifies:

(1)~~(a)~~ Has completed the application form and remitted a nonrefundable application fee and an examination fee which is refundable if the applicant is found to be ineligible to take

the examination;

(2)(a) ~~(b)1.~~ Is a graduate of a school or college of architecture accredited by the National Architectural Accreditation Board; or

(b) ~~2.~~ Is a graduate of an approved architectural curriculum, evidenced by a degree from an unaccredited school or college of architecture approved by the board. The board shall adopt rules providing for the review and approval of unaccredited schools and colleges of architecture and courses of architectural study based on a review and inspection by the board of the curriculum of accredited schools and colleges of architecture in the United States; and

(3) ~~(c)~~ Has completed, prior to examination, 1 year of the internship experience required by s. 481.211(1).

~~(2) A person desiring to be licensed as a registered interior designer shall apply to the department for licensure. The department shall administer the licensure examination for interior designers to each applicant who has completed the application form and remitted the application and examination fees specified in s. 481.207 and who the board certifies:~~

~~(a) Is a graduate from an interior design program of 5 years or more and has completed 1 year of diversified interior design experience;~~

~~(b) Is a graduate from an interior design program of 4 years or more and has completed 2 years of diversified interior design experience;~~

~~(c) Has completed at least 3 years in an interior design curriculum and has completed 3 years of diversified interior~~

~~design experience; or~~

~~(d) Is a graduate from an interior design program of at least 2 years and has completed 4 years of diversified interior design experience.~~

~~Subsequent to October 1, 2000, for the purpose of having the educational qualification required under this subsection accepted by the board, the applicant must complete his or her education at a program, school, or college of interior design whose curriculum has been approved by the board as of the time of completion. Subsequent to October 1, 2003, all of the required amount of educational credits shall have been obtained in a program, school, or college of interior design whose curriculum has been approved by the board, as of the time each educational credit is gained. The board shall adopt rules providing for the review and approval of programs, schools, and colleges of interior design and courses of interior design study based on a review and inspection by the board of the curriculum of programs, schools, and colleges of interior design in the United States, including those programs, schools, and colleges accredited by the Foundation for Interior Design Education Research. The board shall adopt rules providing for the review and approval of diversified interior design experience required by this subsection.~~

Section 64. Subsection (2) of section 481.211, Florida Statutes, is amended to read:

481.211 Architecture internship required.—

(2) Each applicant for licensure shall complete 1 year of

the internship experience required by this section subsequent to graduation from a school or college of architecture as defined in s. 481.209~~(1)~~.

Section 65. Subsections (1) through (4) of section 481.213, Florida Statutes, are amended to read:

481.213 Licensure.—

(1) The department shall license any applicant who the board certifies is qualified for licensure and who has paid the initial licensure fee. ~~Licensure as an architect under this section shall be deemed to include all the rights and privileges of licensure as an interior designer under this section.~~

(2) The board shall certify for licensure by examination any applicant who passes the prescribed licensure examination and satisfies the requirements of ss. 481.209 and 481.211, for architects~~, or the requirements of s. 481.209, for interior designers~~.

(3) The board shall certify as qualified for a license by endorsement as an architect ~~or as an interior designer~~ an applicant who:

(a) Qualifies to take the prescribed licensure examination, and has passed the prescribed licensure examination or a substantially equivalent examination in another jurisdiction, as set forth in s. 481.209 for architects ~~or interior designers, as applicable~~, and has satisfied the internship requirements set forth in s. 481.211 for architects;

(b) Holds a valid license to practice architecture ~~or interior design~~ issued by another jurisdiction of the United States, if the criteria for issuance of such license were

substantially equivalent to the licensure criteria that existed in this state at the time the license was issued~~; provided, however, that an applicant who has been licensed for use of the title "interior design" rather than licensed to practice interior design shall not qualify hereunder~~; or

(c) Has passed the prescribed licensure examination and holds a valid certificate issued by the National Council of Architectural Registration Boards, and holds a valid license to practice architecture issued by another state or jurisdiction of the United States. For the purposes of this paragraph, any applicant licensed in another state or jurisdiction after June 30, 1984, must also hold a degree in architecture and such degree must be equivalent to that required in s. 481.209(2)~~(1)(b)~~. Also for the purposes of this paragraph, any applicant licensed in another state or jurisdiction after June 30, 1985, must have completed an internship equivalent to that required by s. 481.211 and any rules adopted with respect thereto.

(4) The board may refuse to certify any applicant who has violated any of the provisions of s. 481.223, or s. 481.225, ~~or s. 481.2251,~~ as applicable.

Section 66. Subsections (3) and (5) of section 481.215, Florida Statutes, are amended to read:

481.215 Renewal of license.—

(3) A ~~No~~ license renewal may not ~~shall~~ be issued to an architect ~~or an interior designer~~ by the department until the licensee submits proof satisfactory to the department that, during the 2 years before ~~prior to~~ application for renewal, the

licensee participated per biennium in not less than 20 hours of at least 50 minutes each per biennium of continuing education approved by the board. The board shall approve only continuing education that builds upon the basic knowledge of architecture ~~or interior design~~. The board may make exception from the requirements of continuing education in emergency or hardship cases.

(5) The board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, a specified number of hours in specialized or advanced courses, approved by the Florida Building Commission, on any portion of the Florida Building Code, adopted pursuant to part IV of chapter 553, relating to the licensee's ~~respective~~ area of practice.

Section 67. Subsection (1) of section 481.217, Florida Statutes, is amended to read:

481.217 Inactive status.—

(1) The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license for a registered architect may not exceed 12 contact hours for each year the license was inactive. ~~The minimum continuing education requirement for reactivating a license for a registered interior designer shall be those of the most recent biennium plus one-half of the requirements in s. 481.215 for each year or part thereof during which the license was inactive. The board shall only approve continuing education that builds upon the basic knowledge of interior design.~~

Section 68. Section 481.219, Florida Statutes, is amended

to read:

481.219 Certification of partnerships, limited liability companies, and corporations.—

(1) The practice of or the offer to practice architecture ~~or interior design~~ by licensees through a corporation, limited liability company, or partnership offering architectural ~~or interior design~~ services to the public, or by a corporation, limited liability company, or partnership offering architectural ~~or interior design~~ services to the public through licensees under this part as agents, employees, officers, or partners, is permitted, subject to ~~the provisions of~~ this section.

(2) For the purposes of this section, a certificate of authorization is ~~shall be~~ required for a corporation, limited liability company, partnership, or person practicing under a fictitious name, offering architectural services to the public jointly or separately. However, when an individual is practicing architecture in her or his own name, she or he is ~~shall~~ not ~~be~~ required to be certified under this section. ~~Certification under this subsection to offer architectural services shall include all the rights and privileges of certification under subsection (3) to offer interior design services.~~

~~(3) For the purposes of this section, a certificate of authorization shall be required for a corporation, limited liability company, partnership, or person operating under a fictitious name, offering interior design services to the public jointly or separately. However, when an individual is practicing interior design in her or his own name, she or he shall not be required to be certified under this section.~~

(3)~~(4)~~ All final construction documents and instruments of service which include drawings, specifications, plans, reports, or other papers or documents involving the practice of architecture which are prepared or approved for the use of the corporation, limited liability company, or partnership and filed for public record within the state shall bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.

~~(5) All drawings, specifications, plans, reports, or other papers or documents prepared or approved for the use of the corporation, limited liability company, or partnership by an interior designer in her or his professional capacity and filed for public record within the state shall bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.~~

(4)~~(6)~~ The department shall issue a certificate of authorization to any applicant who the board certifies as qualified for a certificate of authorization and who has paid the fee set in s. 481.207.

(5)~~(7)~~ The board shall certify an applicant as qualified for a certificate of authorization to offer architectural ~~or interior design~~ services, provided that~~:~~

~~(a)~~ one or more of the principal officers of the corporation or limited liability company, or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as architects, are registered as provided by this part~~; or~~

~~(b) One or more of the principal officers of the corporation or one or more partners of the partnership, and all personnel of the corporation, limited liability company, or partnership who act in its behalf in this state as interior designers, are registered as provided by this part~~.

(6)~~(8)~~ The department shall adopt rules establishing a procedure for the biennial renewal of certificates of authorization.

(7)~~(9)~~ The department shall renew a certificate of authorization upon receipt of the renewal application and biennial renewal fee.

(8)~~(10)~~ Each partnership, limited liability company, and corporation certified under this section shall notify the department within 30 days of any change in the information contained in the application upon which the certification is based. Any registered architect ~~or interior designer~~ who qualifies the corporation, limited liability company, or partnership as provided in subsection (6) ~~(7)~~ shall be responsible for ensuring responsible supervising control of projects of the entity and upon termination of her or his employment with a partnership, limited liability company, or corporation certified under this section shall notify the department of the termination within 30 days.

(9)~~(11)~~ A ~~No~~ corporation, limited liability company, or partnership may not ~~shall~~ be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section. However, the architect who signs and seals the construction documents and instruments of

service is ~~shall be~~ liable for the professional services performed~~, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be liable for the professional services performed~~.

(10) ~~(12)~~ Disciplinary action against a corporation, limited liability company, or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered architect ~~or interior designer, respectively~~.

(11) ~~(13)~~ ~~Nothing in~~ This section does not ~~shall be construed to~~ mean that a certificate of registration to practice architecture ~~or interior design~~ shall be held by a corporation, limited liability company, or partnership. ~~Nothing in~~ This section does not prohibit ~~prohibits~~ corporations, limited liability companies, and partnerships from joining together to offer architectural, engineering, ~~interior design,~~ surveying and mapping, and landscape architectural services, or any combination of such services, to the public, provided that each corporation, limited liability company, or partnership otherwise meets the requirements of law.

~~(14) Corporations, limited liability companies, or partnerships holding a valid certificate of authorization to practice architecture shall be permitted to use in their title the term "interior designer" or "registered interior designer."~~

Section 69. Section 481.221, Florida Statutes, is amended to read:

481.221 Seals; display of certificate number.—

(1) The board shall prescribe, by rule, one or more forms

of seals to be used by registered architects holding valid certificates of registration.

(2) Each registered architect shall obtain one seal in a form approved by rule of the board and may, in addition, register her or his seal electronically in accordance with ss. 668.001-668.006. All final construction documents and instruments of service which include drawings, plans, specifications, or reports prepared or issued by the registered architect and being filed for public record shall bear the signature and seal of the registered architect who prepared or approved the document and the date on which they were sealed. The signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Final plans, specifications, or reports prepared or issued by a registered architect may be transmitted electronically and may be signed by the registered architect, dated, and sealed electronically with the seal in accordance with ss. 668.001-668.006.

~~(3) The board shall adopt a rule prescribing the distinctly different seals to be used by registered interior designers holding valid certificates of registration. Each registered interior designer shall obtain a seal as prescribed by the board, and all drawings, plans, specifications, or reports prepared or issued by the registered interior designer and being filed for public record shall bear the signature and seal of the registered interior designer who prepared or approved the document and the date on which they were sealed. The signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Final plans,~~

~~specifications, or reports prepared or issued by a registered interior designer may be transmitted electronically and may be signed by the registered interior designer, dated, and sealed electronically with the seal in accordance with ss. 668.001-668.006.~~

(3) ~~(4)~~ No registered architect shall affix, or permit to be affixed, her or his seal or signature to any final construction document or instrument of service which includes any plan, specification, drawing, or other document which depicts work which she or he is not competent to perform.

~~(5) No registered interior designer shall affix, or permit to be affixed, her or his seal or signature to any plan, specification, drawing, or other document which depicts work which she or he is not competent or licensed to perform.~~

~~(7) No registered interior designer shall affix her or his signature or seal to any plans, specifications, or other documents which were not prepared by her or him or under her or his responsible supervising control or by another registered interior designer and reviewed, approved, or modified and adopted by her or him as her or his own work according to rules adopted by the board.~~

~~(9) Studies, drawings, specifications, and other related documents prepared by a registered interior designer in providing interior design services shall be of a sufficiently high standard to clearly and accurately indicate all essential parts of the work to which they refer.~~

(4) ~~(10)~~ Each registered architect and each ~~or interior designer~~, ~~and each~~ corporation, limited liability company, or

partnership holding a certificate of authorization, shall include its certificate number in any newspaper, telephone directory, or other advertising medium used by the registered architect, ~~interior designer,~~ corporation, limited liability company, or partnership. A corporation, limited liability company, or partnership is not required to display the certificate number of individual registered architects ~~or interior designers~~ employed by or working within the corporation, limited liability company, or partnership.

(5)~~(11)~~ When the certificate of registration of a registered architect ~~or interior designer~~ has been revoked or suspended by the board, the registered architect ~~or interior designer~~ shall surrender her or his seal to the secretary of the board within a period of 30 days after the revocation or suspension has become effective. If the certificate of the registered architect ~~or interior designer~~ has been suspended for a period of time, her or his seal shall be returned to her or him upon expiration of the suspension period.

(6)~~(12)~~ A person may not sign and seal by any means any final plan, specification, or report after her or his certificate of registration has expired or is suspended or revoked. A registered architect ~~or interior designer~~ whose certificate of registration is suspended or revoked shall, within 30 days after the effective date of the suspension or revocation, surrender her or his seal to the executive director of the board and confirm in writing to the executive director the cancellation of the registered architect's ~~or interior designer's~~ electronic signature in accordance with ss. 668.001-

668.006. When a registered architect's ~~or interior designer's~~ certificate of registration is suspended for a period of time, her or his seal shall be returned upon expiration of the period of suspension.

Section 70. Section 481.222, Florida Statutes, is amended to read:

481.222 Architects performing building code inspection services.—Notwithstanding any other provision of law, a person who is currently licensed to practice as an architect under this part may provide building code inspection services described in s. 468.603(6) and (7) to a local government or state agency upon its request, without being certified by the Florida Building Code Administrators and Inspectors Board under part XII of chapter 468. With respect to the performance of such building code inspection services, the architect is subject to the disciplinary guidelines of this part and s. 468.621(1)(c)-(h). Any complaint processing, investigation, and discipline that arise out of an architect's performance of building code inspection services shall be conducted by the Board of Architecture ~~and Interior Design~~ rather than the Florida Building Code Administrators and Inspectors Board. An architect may not perform plans review as an employee of a local government upon any job that the architect or the architect's company designed.

Section 71. Section 481.223, Florida Statutes, are amended to read:

481.223 Prohibitions; penalties; injunctive relief.—

(1) A person may not knowingly:

(a) Practice architecture unless the person is an architect or a registered architect; however, a licensed architect who has been licensed by the board and who chooses to relinquish or not to renew his or her license may use the title "Architect, Retired" but may not otherwise render any architectural services.

~~(b) Practice interior design unless the person is a registered interior designer unless otherwise exempted herein; however, an interior designer who has been licensed by the board and who chooses to relinquish or not to renew his or her license may use the title "Interior Designer, Retired" but may not otherwise render any interior design services.~~

(b) ~~(c)~~ Use the name or title "architect" or "registered architect," ~~or "interior designer" or "registered interior designer,"~~ or words to that effect, when the person is not then the holder of a valid license issued pursuant to this part.

(c) ~~(d)~~ Present as his or her own the license of another.

(d) ~~(e)~~ Give false or forged evidence to the board or a member thereof.

(e) ~~(f)~~ Use or attempt to use an architect ~~or interior designer~~ license that has been suspended, revoked, or placed on inactive or delinquent status.

(f) ~~(g)~~ Employ unlicensed persons to practice architecture ~~or interior design~~.

(g) ~~(h)~~ Conceal information relative to violations of this part.

(2) Any person who violates any provision of subsection (1) commits a misdemeanor of the first degree, punishable as

provided in s. 775.082 or s. 775.083.

(3)(a) Notwithstanding chapter 455 or any other law to the contrary, an affected person may maintain an action for injunctive relief to restrain or prevent a person from violating paragraph (1)(a)~~, paragraph (1)(b),~~ or paragraph (1)(b)~~(c)~~. The prevailing party is entitled to actual costs and attorney's fees.

(b) For purposes of this subsection, the term "affected person" means a person directly affected by the actions of a person suspected of violating paragraph (1)(a)~~, paragraph (1)(b),~~ or paragraph (1)(b)~~(c)~~ and includes, but is not limited to, the department, any person who received services from the alleged violator, or any private association composed primarily of members of the profession the alleged violator is practicing or offering to practice or holding himself or herself out as qualified to practice.

Section 72. Subsections (5) through (8) of section 481.229, Florida Statutes, are amended to read:

481.229 Exceptions; exemptions from licensure.—

~~(5)(a) Nothing contained in this part shall prevent a registered architect or a partnership, limited liability company, or corporation holding a valid certificate of authorization to provide architectural services from performing any interior design service or from using the title "interior designer" or "registered interior designer.~~"

~~(b) Notwithstanding any other provision of this part, all persons licensed as architects under this part shall be qualified for interior design licensure upon submission of a~~

~~completed application for such license and a fee not to exceed $30. Such persons shall be exempt from the requirements of s. 481.209(2). For architects licensed as interior designers, satisfaction of the requirements for renewal of licensure as an architect under s. 481.215 shall be deemed to satisfy the requirements for renewal of licensure as an interior designer under that section. Complaint processing, investigation, or other discipline-related legal costs related to persons licensed as interior designers under this paragraph shall be assessed against the architects' account of the Regulatory Trust Fund.~~

~~(c) Notwithstanding any other provision of this part, any corporation, partnership, or person operating under a fictitious name which holds a certificate of authorization to provide architectural services shall be qualified, without fee, for a certificate of authorization to provide interior design services upon submission of a completed application therefor. For corporations, partnerships, and persons operating under a fictitious name which hold a certificate of authorization to provide interior design services, satisfaction of the requirements for renewal of the certificate of authorization to provide architectural services under s. 481.219 shall be deemed to satisfy the requirements for renewal of the certificate of authorization to provide interior design services under that section.~~

~~(6) This part shall not apply to:~~

~~(a) A person who performs interior design services or interior decorator services for any residential application, provided that such person does not advertise as, or represent~~

~~himself or herself as, an interior designer. For purposes of this paragraph, "residential applications" includes all types of residences, including, but not limited to, residence buildings, single-family homes, multifamily homes, townhouses, apartments, condominiums, and domestic outbuildings appurtenant to one-family or two-family residences. However, "residential applications" does not include common areas associated with instances of multiple-unit dwelling applications.~~

~~(b) An employee of a retail establishment providing "interior decorator services" on the premises of the retail establishment or in the furtherance of a retail sale or prospective retail sale, provided that such employee does not advertise as, or represent himself or herself as, an interior designer.~~

~~(7) Nothing in this part shall be construed as authorizing or permitting an interior designer to engage in the business of, or to act as, a contractor within the meaning of chapter 489, unless registered or certified as a contractor pursuant to chapter 489.~~

(5)~~(8)~~ A manufacturer of commercial food service equipment or the manufacturer's representative, distributor, or dealer or an employee thereof, who prepares designs, specifications, or layouts for the sale or installation of such equipment is exempt from licensure as an architect ~~or interior designer~~, if:

(a) The designs, specifications, or layouts are not used for construction or installation that may affect structural, mechanical, plumbing, heating, air conditioning, ventilating, electrical, or vertical transportation systems.

(b) The designs, specifications, or layouts do not materially affect lifesafety systems pertaining to firesafety protection, smoke evacuation and compartmentalization, and emergency ingress or egress systems.

(c) Each design, specification, or layout document prepared by a person or entity exempt under this subsection contains a statement on each page of the document that the designs, specifications, or layouts are not architectural~~, interior design,~~ or engineering designs, specifications, or layouts and not used for construction unless reviewed and approved by a licensed architect or engineer.

Section 73. Subsection (1) of section 481.231, Florida Statutes, is amended to read:

481.231 Effect of part locally.—

(1) ~~Nothing in~~ This part does not ~~shall be construed to~~ repeal, amend, limit, or otherwise affect any specific provision of any local building code or zoning law or ordinance that has been duly adopted, now or hereafter enacted, which is more restrictive, with respect to the services of registered architects ~~or registered interior designers,~~ than ~~the provisions of~~ this part~~; provided, however, that a licensed architect shall be deemed licensed as an interior designer for purposes of offering or rendering interior design services to a county, municipality, or other local government or political subdivision~~.

Section 74. Paragraph (c) of subsection (5) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

(5)

(c) The architect or engineer of record may act as the special inspector provided she or he is on the Board of Professional Engineers' or the Board of Architecture's ~~Architecture and Interior Design's~~ list of persons qualified to be special inspectors. School boards may utilize employees as special inspectors provided such employees are on one of the professional licensing board's list of persons qualified to be special inspectors.

Section 75. Subsection (7) of section 558.002, Florida Statutes, is amended to read:

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

(7) "Design professional" means a person, as defined in s. 1.01, who is ~~licensed in this state as~~ an architect, interior designer, landscape architect, engineer, or surveyor.

Section 76. (1) Part II of chapter 481, Florida Statutes, consisting of sections 481.301, 481.303, 481.305, 481.306, 481.307, 481.309, 481.310, 481.311, 481.313, 481.315, 481.317, 481.319, 481.321, 481.323, 481.325, and 481.329, is repealed.

(2) The Division of Statutory Revision of the Office of Legislative Services is directed to prepare a reviser's bill for introduction at a subsequent session of the Legislature to redesignate part I of chapter 481, Florida Statutes, as chapter 481, Florida Statutes, to change references to that "part" as references to that "chapter," and conform any corresponding cross-references.

Section 77. Paragraphs (h) and (k) of subsection (2) of section 287.055, Florida Statutes, are amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(h) A "design-build firm" means a partnership, corporation, or other legal entity that:

1. Is certified under s. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

2. Is certified under s. 471.023 to practice or to offer to practice engineering; certified under s. 481.219 to practice or to offer to practice architecture; or practices ~~certified under s. 481.319 to practice or to offer to practice~~ landscape architecture.

(k) A "design criteria professional" means a firm who holds a current certificate of registration under chapter 481 to practice architecture, ~~or landscape architecture or~~ a firm who holds a current certificate as a registered engineer under chapter 471 to practice engineering, or a firm who practices landscape architecture and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

Section 78. Subsection (1) of section 339.2405, Florida Statutes, is amended to read:

339.2405 Florida Highway Beautification Council.—

(1) There is created within the Department of Transportation the Florida Highway Beautification Council. It shall consist of seven members appointed by the Governor. All appointed members must be residents of this state. One member must be a ~~licensed~~ landscape architect, one member must be a representative of the Florida Federation of Garden Clubs, Inc., one member must be a representative of the Florida Nurserymen and Growers Association, one member must be a representative of the department as designated by the head of the department, one member must be a representative of the Department of Agriculture and Consumer Services, and two members must be private citizens. The members of the council shall serve at the pleasure of the Governor.

Section 79. Paragraph (d) of subsection (7) of section 373.62, Florida Statutes, is amended to read:

373.62 Water conservation; automatic sprinkler systems.—

(7)

(d) Upon installation of a soil moisture sensor control system, the licensed contractor shall certify to the monitoring entity that subparagraphs (c)1. and (c)2. have been met.

1. The monitoring entity shall post the notice required by subparagraph (c)5. on the user's property and update the Internet listing of users of active soil moisture sensor control systems to include the new user.

2. On an annual basis a professional engineer licensed under chapter 471 or a ~~professional~~ landscape architect ~~licensed under chapter 481~~ shall perform an annual maintenance review of

all soil moisture sensor control systems within the monitoring entity's jurisdiction and certify to the monitoring entity which systems are properly operating and in compliance with paragraph (c). The monitoring entity shall update its Internet listing of users of active soil moisture sensor control systems based on the certification.

Section 80. Subsection (1) of section 403.0877, Florida Statutes, is amended to read:

403.0877 Certification by professionals regulated by the Department of Business and Professional Regulation.—

(1) ~~Nothing in~~ This section does not authorize ~~shall be construed as specific authority for~~ a water management district or the department to require certification by a professional engineer licensed under chapter 471, ~~a professional landscape architect licensed under part II of chapter 481,~~ a professional geologist licensed under chapter 492, or a professional surveyor and mapper licensed under chapter 472, for an activity that is not within the definition or scope of practice of the regulated profession.

Section 81. Paragraphs (f) and (g) of subsection (1) of section 403.9329, Florida Statutes, are redesignated as paragraphs (e) and (f), respectively, and paragraph (e) of subsection (1) and paragraph (d) of subsection (7) of that section are amended, to read:

403.9329 Professional mangrove trimmers.—

(1) For purposes of ss. 403.9321-403.9333, the following persons are considered professional mangrove trimmers:

~~(e) Persons licensed under part II of chapter 481. The~~

~~Board of Landscape Architecture shall establish appropriate standards and continuing legal education requirements to assure the competence of licensees to conduct the activities authorized under ss. 403.9321-403.9333. Trimming by landscape architects as professional mangrove trimmers is not allowed until the establishment of standards by the board. The board shall also establish penalties for violating ss. 403.9321-403.9333. Only those landscape architects who are certified in the state may qualify as professional mangrove trimmers under ss. 403.9321-403.9333, notwithstanding any reciprocity agreements that may exist between this state and other states;~~

(7)

(d) Any person who qualifies as a professional mangrove trimmer under this subsection may conduct trimming activities within the jurisdiction of a delegated local government if the person registers and pays any appropriate fee required by a delegated local government. A delegated local government that wishes to discipline persons ~~licensed under part II of chapter 481~~ for mangrove-trimming or alteration activities ~~may file a complaint against the licensee as provided for by chapter 481 and~~ may take appropriate local disciplinary action. Any local disciplinary action imposed against a licensee is subject to administrative and judicial review.

Section 82. Paragraph (c) of subsection (6) of section 479.106, Florida Statutes, is amended to read:

479.106 Vegetation management.—

(6) Beautification projects, trees, or other vegetation shall not be planted or located in the view zone of legally

erected and permitted outdoor advertising signs which have been permitted prior to the date of the beautification project or other planting, where such planting will, at the time of planting or after future growth, screen such sign from view.

(c) If a sign owner alleges any governmental entity or other party has violated this subsection, the sign owner must provide 90 days' written notice to the governmental entity or other party allegedly violating this subsection. If the alleged violation is not cured by the governmental entity or other party within the 90-day period, the sign owner may file a claim in the circuit court where the sign is located. A copy of such complaint shall be served contemporaneously upon the governmental entity or other party. If the circuit court determines a violation of this subsection has occurred, the court shall award a claim for compensation equal to the lesser of the revenue from the sign lost during the time of screening or the fair market value of the sign, and the governmental entity or other party shall pay the award of compensation subject to available appeal. Any modification or removal of material within a beautification project or other planting by the governmental entity or other party to cure an alleged violation shall not require the issuance of a permit from the Department of Transportation provided not less than 48 hours' notice is provided to the department of the modification or removal of the material. A natural person, private corporation, or private partnership ~~licensed under part II of chapter 481~~ providing design services for beautification or other projects is ~~shall~~ not ~~be~~ subject to a claim of compensation

under this section when the initial project design meets the requirements of this section.

Section 83. Section 481.203, Florida Statutes, is amended to read:

481.203 Definitions.—As used in this part, the term:

(1) ~~(3)~~ "Architect" or "registered architect" means a natural person who is licensed under this part to engage in the practice of architecture.

(2) ~~(6)~~ "Architecture" means the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.

(3) ~~(1)~~ "Board" means the Board of Architecture and Interior Design.

(4) ~~(5)~~ "Certificate of authorization" means a certificate issued by the department to a corporation or partnership to practice architecture or interior design.

(5) ~~(4)~~ "Certificate of registration" means a license issued by the department to a natural person to engage in the practice of architecture or interior design.

(6) ~~(13)~~ "Common area" means an area that is held out for use by all tenants or owners in a multiple-unit dwelling, including, but not limited to, a lobby, elevator, hallway, laundry room, clubhouse, or swimming pool.

(7)~~(2)~~ "Department" means the Department of Business and Professional Regulation.

(8)~~(14)~~ "Diversified interior design experience" means experience which substantially encompasses the various elements of interior design services set forth under the definition of "interior design" in subsection (10) ~~(8)~~.

(9)~~(15)~~ "Interior decorator services" includes the selection or assistance in selection of surface materials, window treatments, wallcoverings, paint, floor coverings, surface-mounted lighting, surface-mounted fixtures, and loose furnishings not subject to regulation under applicable building codes.

(10)~~(8)~~ "Interior design" means designs, consultations, studies, drawings, specifications, and administration of design construction contracts relating to nonstructural interior elements of a building or structure. "Interior design" includes, but is not limited to, reflected ceiling plans, space planning, furnishings, and the fabrication of nonstructural elements within and surrounding interior spaces of buildings. "Interior design" specifically excludes the design of or the responsibility for architectural and engineering work, except for specification of fixtures and their location within interior spaces. As used in this subsection, "architectural and engineering interior construction relating to the building systems" includes, but is not limited to, construction of structural, mechanical, plumbing, heating, air-conditioning, ventilating, electrical, or vertical transportation systems, or construction which materially affects lifesafety systems

pertaining to firesafety protection such as fire-rated separations between interior spaces, fire-rated vertical shafts in multistory structures, fire-rated protection of structural elements, smoke evacuation and compartmentalization, emergency ingress or egress systems, and emergency alarm systems.

(11) "Landscape architect" means a person qualified by education and experience to practice landscape architecture.

(12) "Landscape architecture" means professional services, including, but not limited to, the following:

(a) Consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas, including the use of Florida-friendly landscaping as defined in s. 373.185, where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values;

(b) The determination of settings, grounds, and approaches for and the siting of buildings and structures, outdoor areas, or other improvements;

(c) The setting of grades, shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems where such systems are necessary to the purposes described in this subsection; and

(d) The design of such tangible objects and features as are necessary to the purposes described in this subsection.

(13) ~~(10)~~ "Nonstructural element" means an element which does not require structural bracing and which is something other than a load-bearing wall, load-bearing column, or other load-bearing element of a building or structure which is essential to the structural integrity of the building.

(14) ~~(11)~~ "Reflected ceiling plan" means a ceiling design plan which is laid out as if it were projected downward and which may include lighting and other elements.

(15) ~~(9)~~ "Registered interior designer" or "interior designer" means a natural person who is licensed under this part.

(16) "Responsible supervising control" means the exercise of direct personal supervision and control throughout the preparation of documents, instruments of service, or any other work requiring the seal and signature of a licensee under this part.

(17) ~~(12)~~ "Space planning" means the analysis, programming, or design of spatial requirements, including preliminary space layouts and final planning.

(18) ~~(7)~~ "Townhouse" is a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units. Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of

construction and fire protection requirements; or shall be separated by a party wall; or may be separated by a single wall meeting the following requirements:

(a) Such wall shall provide not less than 2 hours of fire resistance. Plumbing, piping, ducts, or electrical or other building services shall not be installed within or through the 2-hour wall unless such materials and methods of penetration have been tested in accordance with the Standard Building Code.

(b) Such wall shall extend from the foundation to the underside of the roof sheathing, and the underside of the roof shall have at least 1 hour of fire resistance for a width not less than 4 feet on each side of the wall.

(c) Each dwelling unit sharing such wall shall be designed and constructed to maintain its structural integrity independent of the unit on the opposite side of the wall.

Section 84. Subsection (16) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(16) An architect ~~or landscape architect~~ licensed pursuant to chapter 481 or an engineer licensed pursuant to chapter 471 who offers or renders design-build services which may require the services of a contractor certified or registered pursuant to the provisions of this chapter, as long as the contractor services to be performed under the terms of the design-build contract are offered and rendered by a certified or registered general contractor in accordance with this chapter.

Section 85. Subsection (7) of section 558.002, Florida Statutes, is amended to read:

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

(7) "Design professional" means a person, as defined in s. 1.01, who is ~~licensed in this state as~~ an architect, interior designer, landscape architect, engineer, or surveyor.

Section 86. Subsection (4) of section 725.08, Florida Statutes, is amended to read:

725.08 Design professional contracts; limitation in indemnification.—

(4) "Design professional" means an ~~individual or entity licensed by the state who holds a current certificate of registration under chapter 481 to practice architecture or landscape architecture,~~ architect, landscape architect, professional surveyor and mapper, or engineer ~~under chapter 472 to practice land surveying and mapping, or under chapter 471 to practice engineering, and~~ who enters into a professional services contract.

Section 87. Chapter 492, Florida Statutes, consisting of sections 492.101, 492.102, 492.103, 492.104, 492.105, 492.106, 492.107, 492.108, 492.109, 492.1101, 492.111, 492.112, 492.113, 492.114, 492.115, 492.116, and 492.1165, is repealed.

Section 88. Section 373.1175, Florida Statutes, is amended to read:

373.1175 Signing and sealing by ~~professional~~ geologists.—

(1) If an application for a permit or license, or the performance of an activity regulated under this chapter, requires the services of a ~~professional~~ geologist ~~as provided for in chapter 492~~, the department or governing board of a water management district may require that a ~~professional~~ geologist

~~licensed under chapter 492~~ sign and seal any documents and reports submitted in connection with the permit application or regulated activity.

(2) The cost of such signing and sealing by a ~~professional~~ geologist shall be borne by the permit applicant or permittee.

(3) ~~Nothing in~~ This section does not ~~shall be construed to~~ prevent or prohibit the practice by professional engineers pursuant to chapter 471.

Section 89. Paragraph (b) of subsection (5) of section 376.80, Florida Statutes, is amended to read:

376.80 Brownfield program administration process.—

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers ~~or geologists~~ who are registered in accordance with the requirements of chapter 471 or geologists ~~chapter 492, respectively~~. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a ~~professional~~ geologist ~~registered under chapter 492~~, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter

471 or a ~~professional~~ geologist ~~registered under chapter 492~~ to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

Section 90. Subsection (3) of section 377.075, Florida Statutes, is amended to read:

377.075 Division of Technical Services; geological functions.—

(3) STATE GEOLOGIST.—The geological functions of the division shall be under the direction of a full-time ~~professional~~ geologist ~~who is registered in this state,~~ who shall be of established reputation~~,~~ and who shall be known as the State Geologist.

Section 91. Paragraph (a) of subsection (6) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(6)(a) The department shall require a processing fee in an amount sufficient, to the greatest extent possible, to cover the costs of reviewing and acting upon any application for a permit or request for site-specific alternative criteria or for an exemption from water quality criteria and to cover the costs of surveillance and other field services and related support activities associated with any permit or plan approval issued pursuant to this chapter. The department shall review the fees authorized under this chapter at least once every 5 years and shall adjust the fees upward, as necessary, within the fee caps established in this paragraph to reflect changes in the Consumer

Price Index or similar inflation indicator. The department shall establish by rule the inflation index to be used for this purpose. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. However, when an application is received without the required fee, the department shall acknowledge receipt of the application and shall immediately return the unprocessed application to the applicant and shall take no further action until the application is received with the appropriate fee. The department shall adopt a schedule of fees by rule, subject to the following limitations:

1. The fee for any of the following may not exceed $32,500:

a. Hazardous waste, construction permit.

b. Hazardous waste, operation permit.

c. Hazardous waste, postclosure permit, or clean closure plan approval.

d. Hazardous waste, corrective action permit.

2. The permit fee for a drinking water construction or operation permit, not including the operation license fee required under s. 403.861(7), shall be at least $500 and may not exceed $15,000.

3. The permit fee for a Class I injection well construction permit may not exceed $12,500.

4. The permit fee for any of the following permits may not exceed $10,000:

a. Solid waste, construction permit.

b. Solid waste, operation permit.

c. Class I injection well, operation permit.

5. The permit fee for any of the following permits may not exceed $7,500:

a. Air pollution, construction permit.

b. Solid waste, closure permit.

c. Domestic waste residuals, construction or operation permit.

d. Industrial waste, operation permit.

e. Industrial waste, construction permit.

6. The permit fee for any of the following permits may not exceed $5,000:

a. Domestic waste, operation permit.

b. Domestic waste, construction permit.

7. The permit fee for any of the following permits may not exceed $4,000:

a. Wetlands resource management—(dredge and fill and mangrove alteration).

b. Hazardous waste, research and development permit.

c. Air pollution, operation permit, for sources not subject to s. 403.0872.

d. Class III injection well, construction, operation, or abandonment permits.

8. The permit fee for a drinking water distribution system permit, including a general permit, shall be at least $500 and may not exceed $1,000.

9. The permit fee for Class V injection wells,

construction, operation, and abandonment permits may not exceed $750.

10. The permit fee for domestic waste collection system permits may not exceed $500.

11. The permit fee for stormwater operation permits may not exceed $100.

12. Except as provided in subparagraph 8., the general permit fees for permits that require certification by a registered professional engineer or a ~~professional~~ geologist may not exceed $500, and the general permit fee for other permit types may not exceed $100.

13. The fee for a permit issued pursuant to s. 403.816 is $5,000, and the fee for any modification of such permit requested by the applicant is $1,000.

14. The regulatory program and surveillance fees for facilities permitted pursuant to s. 403.088 or s. 403.0885, or for facilities permitted pursuant to s. 402 of the Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the department has been granted administrative authority, shall be limited as follows:

a. The fees for domestic wastewater facilities shall not exceed $7,500 annually. The department shall establish a sliding scale of fees based on the permitted capacity and shall ensure smaller domestic waste dischargers do not bear an inordinate share of costs of the program.

b. The annual fees for industrial waste facilities shall not exceed $11,500. The department shall establish a sliding scale of fees based upon the volume, concentration, or nature of

the industrial waste discharge and shall ensure smaller industrial waste dischargers do not bear an inordinate share of costs of the program.

c. The department may establish a fee, not to exceed the amounts in subparagraphs 5. and 6., to cover additional costs of review required for permit modification or construction engineering plans.

Section 92. Subsection (1) of section 403.0877, Florida Statutes, is amended to read:

403.0877 Certification by professionals regulated by the Department of Business and Professional Regulation.—

(1) ~~Nothing in~~ This section does not authorize ~~shall be construed as specific authority for~~ a water management district or the department to require certification by a professional engineer licensed under chapter 471, a professional landscape architect licensed under part II of chapter 481, ~~a professional geologist licensed under chapter 492,~~ or a professional surveyor and mapper licensed under chapter 472, for an activity that is not within the definition or scope of practice of the regulated profession.

Section 93. Subsection (1) of section 469.004, Florida Statutes, is amended to read:

469.004 License; asbestos consultant; asbestos contractor.—

(1) All asbestos consultants must be licensed by the department. An asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect issued under chapter 481; holds a current, valid,

active license as a professional engineer issued under chapter 471; ~~holds a current, valid, active license as a professional geologist issued under chapter 492;~~ is a diplomat of the American Board of Industrial Hygiene; or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

Section 94. Subsection (2) of section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; catastrophic ground cover collapse; definitions.—

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for a catastrophic ground cover collapse or for sinkhole losses:

(a) "Catastrophic ground cover collapse" means geological activity that results in all the following:

1. The abrupt collapse of the ground cover;

2. A depression in the ground cover clearly visible to the naked eye;

3. Structural damage to the building, including the foundation; and

4. The insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.

Contents coverage applies if there is a loss resulting from a catastrophic ground cover collapse. Structural damage consisting merely of the settling or cracking of a foundation, structure, or building does not constitute a loss resulting from a

catastrophic ground cover collapse.

(b) ~~(f)~~ "~~Professional~~ Geologist" means a person~~, as defined by s. 492.102,~~ who has a bachelor's degree or higher in geology or related earth science with expertise in the geology of Florida. A ~~professional~~ geologist must have geological experience and expertise in the identification of sinkhole activity as well as other potential geologic causes of damage to the structure.

(c) ~~(e)~~ "Professional engineer" means a person, as defined in s. 471.005, who has a bachelor's degree or higher in engineering with a specialty in the geotechnical engineering field. A professional engineer must have geotechnical experience and expertise in the identification of sinkhole activity as well as other potential causes of damage to the structure.

(d) ~~(b)~~ "Sinkhole" means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole may form by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.

(e) ~~(d)~~ "Sinkhole activity" means settlement or systematic weakening of the earth supporting such property only when such settlement or systematic weakening results from movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.

(f) ~~(c)~~ "Sinkhole loss" means structural damage to the building, including the foundation, caused by sinkhole activity. Contents coverage shall apply only if there is structural damage

to the building caused by sinkhole activity.

Section 95. Subsections (2), (3), and (6) of section 627.707, Florida Statutes, are amended to read:

627.707 Standards for investigation of sinkhole claims by insurers; nonrenewals.—Upon receipt of a claim for a sinkhole loss, an insurer must meet the following standards in investigating a claim:

(2) Following the insurer's initial inspection, the insurer shall engage a professional engineer or a ~~professional~~ geologist to conduct testing as provided in s. 627.7072 to determine the cause of the loss within a reasonable professional probability and issue a report as provided in s. 627.7073, if:

(a) The insurer is unable to identify a valid cause of the damage or discovers damage to the structure which is consistent with sinkhole loss; or

(b) The policyholder demands testing in accordance with this section or s. 627.7072.

(3) Following the initial inspection of the insured premises, the insurer shall provide written notice to the policyholder disclosing the following information:

(a) What the insurer has determined to be the cause of damage, if the insurer has made such a determination.

(b) A statement of the circumstances under which the insurer is required to engage a professional engineer or a ~~professional~~ geologist to verify or eliminate sinkhole loss and to engage a professional engineer to make recommendations regarding land and building stabilization and foundation repair.

(c) A statement regarding the right of the policyholder to

request testing by a professional engineer or a ~~professional~~ geologist and the circumstances under which the policyholder may demand certain testing.

(6) Except as provided in subsection (7), the fees and costs of the professional engineer or the ~~professional~~ geologist shall be paid by the insurer.

Section 96. Section 627.7072, Florida Statutes, is amended to read:

627.7072 Testing standards for sinkholes.—The professional engineer and the ~~professional~~ geologist shall perform such tests as sufficient, in their professional opinion, to determine the presence or absence of sinkhole loss or other cause of damage within reasonable professional probability and for the professional engineer to make recommendations regarding necessary building stabilization and foundation repair.

Section 97. Subsection (1) of section 627.7073, Florida Statutes, is amended to read:

627.7073 Sinkhole reports.—

(1) Upon completion of testing as provided in s. 627.7072, the professional engineer or the ~~professional~~ geologist shall issue a report and certification to the insurer and the policyholder as provided in this section.

(a) Sinkhole loss is verified if, based upon tests performed in accordance with s. 627.7072, a professional engineer or a ~~professional~~ geologist issues a written report and certification stating:

1. That the cause of the actual physical and structural damage is sinkhole activity within a reasonable professional

probability.

2. That the analyses conducted were of sufficient scope to identify sinkhole activity as the cause of damage within a reasonable professional probability.

3. A description of the tests performed.

4. A recommendation by the professional engineer of methods for stabilizing the land and building and for making repairs to the foundation.

(b) If sinkhole activity is eliminated as the cause of damage to the structure, the professional engineer or the ~~professional~~ geologist shall issue a written report and certification to the policyholder and the insurer stating:

1. That the cause of the damage is not sinkhole activity within a reasonable professional probability.

2. That the analyses and tests conducted were of sufficient scope to eliminate sinkhole activity as the cause of damage within a reasonable professional probability.

3. A statement of the cause of the damage within a reasonable professional probability.

4. A description of the tests performed.

(c) The respective findings, opinions, and recommendations of the professional engineer or the ~~professional~~ geologist as to the cause of distress to the property and the findings, opinions, and recommendations of the professional engineer as to land and building stabilization and foundation repair shall be presumed correct.

Section 98. Paragraph (b) of subsection (1) of section 627.7074, Florida Statutes, is amended to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

(1) As used in this section, the term:

(b) "Neutral evaluator" means a professional engineer or a ~~professional~~ geologist who has completed a course of study in alternative dispute resolution designed or approved by the department for use in the neutral evaluation process, who is determined to be fair and impartial.

Section 99. Subsection (2) of section 849.0935, Florida Statutes, is amended to read:

849.0935 Charitable, nonprofit organizations; drawings by chance; required disclosures; unlawful acts and practices; penalties.—

(2) Section ~~The provisions of s.~~ 849.09 does ~~shall~~ not ~~be construed to~~ prohibit an organization qualified under 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19) from conducting drawings by chance pursuant to the authority granted by this section~~, provided the organization has complied with all applicable provisions of chapter 496~~.

Section 100. Chapter 496, Florida Statutes, consisting of sections 496.401, 496.402, 496.403, 496.404, 496.405, 496.406, 496.407, 496.409, 496.410, 496.411, 496.412, 496.413, 496.414, 496.415, 496.416, 496.417, 496.418, 496.419, 496.420, 496.421, 496.422, 496.423, 496.424, 496.425, 496.4255, and 496.426, is repealed.

Section 101. Paragraph (b) of subsection (3) of section 110.181, Florida Statutes, is amended to read:

110.181 Florida State Employees' Charitable Campaign.—

(3) RULEMAKING AUTHORITY; ADMINISTRATIVE REVIEW.—

(b) Department action which adversely affects the substantial interests of a party may be subject to a hearing. The proceeding shall be conducted in accordance with chapter 120~~, except that the time limits set forth in s. 496.405(7) shall prevail to the extent of any conflict~~.

Section 102. Subsections (2) and (3) of section 316.2045, Florida Statutes, are amended to read:

316.2045 Obstruction of public streets, highways, and roads.—

(2) It is unlawful, without proper authorization or a lawful permit, for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by any of the means specified in subsection (1) in order to solicit. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Organizations qualified under s. 501(c)(3) of the Internal Revenue Code ~~and registered pursuant to chapter 496~~, or persons or organizations acting on their behalf are exempted from the provisions of this subsection for activities on streets or roads not maintained by the state. Permits for the use of any portion of a state-maintained road or right-of-way shall be required only for those purposes and in the manner set out in s. 337.406.

(3) Permits for the use of any street, road, or right-of-way not maintained by the state may be issued by the appropriate local government. An organization that is qualified under s. 501(c)(3) of the Internal Revenue Code ~~and registered under~~

~~chapter 496~~, or a person or organization acting on behalf of that organization, is exempt from local requirements for a permit issued under this subsection for charitable solicitation activities on or along streets or roads that are not maintained by the state under the following conditions:

(a) The organization, or the person or organization acting on behalf of the organization, must provide all of the following to the local government:

1. No fewer than 14 calendar days prior to the proposed solicitation, the name and address of the person or organization that will perform the solicitation and the name and address of the organization that will receive funds from the solicitation.

2. For review and comment, a plan for the safety of all persons participating in the solicitation, as well as the motoring public, at the locations where the solicitation will take place.

3. Specific details of the location or locations of the proposed solicitation and the hours during which the solicitation activities will occur.

4. Proof of commercial general liability insurance against claims for bodily injury and property damage occurring on streets, roads, or rights-of-way or arising from the solicitor's activities or use of the streets, roads, or rights-of-way by the solicitor or the solicitor's agents, contractors, or employees. The insurance shall have a limit of not less than $1 million per occurrence for the general aggregate. The certificate of insurance shall name the local government as an additional insured and shall be filed with the local government no later

than 72 hours before the date of the solicitation.

~~5. Proof of registration with the Department of Agriculture and Consumer Services pursuant to s. 496.405 or proof that the soliciting organization is exempt from the registration requirement.~~

(b) Organizations or persons meeting the requirements of subparagraphs (a)1.-5. may solicit for a period not to exceed 10 cumulative days within 1 calendar year.

(c) All solicitation shall occur during daylight hours only.

(d) Solicitation activities shall not interfere with the safe and efficient movement of traffic and shall not cause danger to the participants or the public.

(e) No person engaging in solicitation activities shall persist after solicitation has been denied, act in a demanding or harassing manner, or use any sound or voice-amplifying apparatus or device.

(f) All persons participating in the solicitation shall be at least 18 years of age and shall possess picture identification.

(g) Signage providing notice of the solicitation shall be posted at least 500 feet before the site of the solicitation.

(h) The local government may stop solicitation activities if any conditions or requirements of this subsection are not met.

Section 103. Subsection (8) of section 320.023, Florida Statutes, is amended to read:

320.023 Requests to establish voluntary checkoff on motor

vehicle registration application.—

~~(8) All organizations seeking to establish a voluntary contribution on a motor vehicle registration application that are required to operate under the Solicitation of Contributions Act, as provided in chapter 496, must do so before funds may be distributed.~~

Section 104. Subsection (8) of section 322.081, Florida Statutes, is amended to read:

322.081 Requests to establish voluntary checkoff on driver's license application.—

~~(8) All organizations seeking to establish a voluntary contribution on a driver's license application that are required to operate under the Solicitation of Contributions Act, as provided in chapter 496, must do so before funds may be distributed.~~

Section 105. Paragraph (d) of subsection (3) and paragraph (d) of subsection (4) of section 413.033, Florida Statutes, are amended to read:

413.033 Definitions.—As used in ss. 413.032-413.037:

(3) "Qualified nonprofit agency for the blind" means an agency:

(d) Which meets the criteria for determining nonprofit status under the provisions of s. 196.195 ~~and is registered and in good standing as a charitable organization with the Department of Agriculture and Consumer Services under the provisions of chapter 496~~.

(4) "Qualified nonprofit agency for other severely handicapped" means an agency:

(d) Which meets the criteria for determining nonprofit status under the provisions of s. 196.195 ~~and is registered and in good standing as a charitable organization with the Department of Agriculture and Consumer Services under the provisions of chapter 496~~.

Section 106. Subsection (2) of section 550.0351, Florida Statutes, is amended to read:

550.0351 Charity racing days.—

(2) The proceeds of charity performances shall be paid to qualified beneficiaries selected by the permitholders from an authorized list of charities on file with the division. Eligible charities include any charity that provides ~~evidence of compliance with the provisions of chapter 496 and~~ evidence of possession of a valid exemption from federal taxation issued by the Internal Revenue Service. In addition, the authorized list must include the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning, and Florida community colleges.

Section 107. Section 550.1647, Florida Statutes, is amended to read:

550.1647 Greyhound permitholders; unclaimed tickets; breaks.—All money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any permitholder authorized to conduct greyhound racing pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owner or owners thereof have made no claim or demand for such money or other

property within that period of time, shall, with respect to live races conducted by the permitholder, be remitted to the state pursuant to s. 550.1645; however, such permitholder shall be entitled to a credit in each state fiscal year in an amount equal to the actual amount remitted in the prior state fiscal year which may be applied against any taxes imposed pursuant to this chapter. In addition, each permitholder shall pay, from any source, including the proceeds from performances conducted pursuant to s. 550.0351, an amount not less than 10 percent of the amount of the credit provided by this section to any bona fide organization that promotes or encourages the adoption of greyhounds. As used in this chapter, the term "bona fide organization that promotes or encourages the adoption of greyhounds" means any organization that ~~provides evidence of compliance with chapter 496 and~~ possesses a valid exemption from federal taxation issued by the Internal Revenue Service. Such bona fide organization, as a condition of adoption, must provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of adoption.

Section 108. Paragraph (a) of subsection (3) of section 741.0305, Florida Statutes, is amended to read:

741.0305 Marriage fee reduction for completion of premarital preparation course.—

(3)(a) All individuals electing to participate in a premarital preparation course shall choose from the following list of qualified instructors:

1. A psychologist licensed under chapter 490.

2. A clinical social worker licensed under chapter 491.

3. A marriage and family therapist licensed under chapter 491.

4. A mental health counselor licensed under chapter 491.

5. An official representative of a religious institution ~~which is recognized under s. 496.404(19)~~, if the representative has relevant training.

6. Any other provider designated by a judicial circuit, including, but not limited to, school counselors who are certified to offer such courses. Each judicial circuit may establish a roster of area course providers, including those who offer the course on a sliding fee scale or for free.

Section 109. Paragraph (a) of subsection (1) of section 775.0861, Florida Statutes, is amended to read:

775.0861 Offenses against persons on the grounds of religious institutions; reclassification.—

(1) For purposes of this section, the term:

(a) "Religious institution" means any church, ecclesiastical or denominational organization, or established physical place for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on, and includes those bona fide religious groups which do not maintain specific places of worship. The term includes any separate group or corporation which forms an integral part of a religious institution which is exempt from federal income tax under the provisions of s. 501(c)(3) of the Internal Revenue Code, and which is not primarily supported by funds solicited outside its own membership or congregation ~~is as defined in s.~~

~~496.404~~.

Section 110. Paragraph (a) of subsection (8) of section 790.166, Florida Statutes, is amended to read:

790.166 Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction prohibited; definitions; penalties.—

(8) For purposes of this section, the term "weapon of mass destruction" does not include:

(a) A device or instrument that emits or discharges smoke or an offensive, noxious, or irritant liquid, powder, gas, or chemical for the purpose of immobilizing, incapacitating, or thwarting an attack by a person or animal and that is lawfully possessed or used by a person for the purpose of self-protection or, as provided in subsection (7), is lawfully possessed or used by any member or employee of the Armed Forces of the United States, a federal or state governmental agency, or a private entity. A member or employee of a federal or state governmental agency includes, but is not limited to, a law enforcement officer, as defined in s. 784.07; a federal law enforcement officer, as defined in s. 901.1505; a firefighter, as defined in s. 633.30; and an ambulance driver, emergency medical technician, or paramedic, as defined in s. 401.23 ~~emergency service employee, as defined in s. 496.404~~.

Section 111. Paragraph (d) of subsection (3) of section 843.16, Florida Statutes, is amended to read:

843.16 Unlawful to install or transport radio equipment using assigned frequency of state or law enforcement officers;

definitions; exceptions; penalties.—

(3) This section does not apply to the following:

(d) Any sworn law enforcement officer as defined in s. 943.10; a firefighter, as defined in s. 633.30; or an ambulance driver, emergency medical technician, or paramedic, as defined in s. 401.23 ~~or emergency service employee as defined in s. 496.404~~ while using personal transportation to and from work.

Section 112. Section 500.459, Florida Statutes, is repealed.

Section 113. Section 500.511, Florida Statutes, is amended to read:

500.511 Bottled water plants; packed ice plants; ~~Fees; enforcement;~~ preemption.—

~~(1) FEES.—All fees collected under s. 500.459 shall be deposited into the General Inspection Trust Fund and shall be accounted for separately and used for the sole purpose of administering the provisions of such section.~~

~~(2) ENFORCEMENT AND PENALTIES.—In addition to the provisions contained in s. 500.459, the department may enforce s. 500.459 in the manner provided in s. 500.121. Any person who violates a provision of s. 500.459 or any rule adopted under such section shall be punished as provided in such section. However, criminal penalties may not be imposed against any person who violates a rule.~~

~~(3) PREEMPTION OF AUTHORITY TO REGULATE.—~~Regulation of bottled water plants~~, water vending machines, water vending machine operators,~~ and packaged ice plants is preempted by the state. No county or municipality may adopt or enforce any

ordinance that regulates the licensure or operation of bottled water plants~~, water vending machines,~~ or packaged ice plants, unless it is determined that unique conditions exist within the county which require the county to regulate such entities in order to protect the public health. This subsection does not prohibit a county or municipality from requiring a business tax pursuant to chapter 205.

Section 114. Sections 501.012, 501.0125, 501.013, 501.014, 501.015, 501.016, 501.017, 501.018, and 501.019, Florida Statutes, are repealed.

Section 115. Paragraph (d) of subsection (2) of section 501.165, Florida Statutes, is amended to read:

501.165 Automatic renewal of service contracts.—

(2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS.—

(d) This subsection does not apply to:

1. A financial institution as defined in s. 655.005(1)(h) or any depository institution as defined in 12 U.S.C. s. 1813(c)(2).

2. A foreign bank maintaining a branch or agency licensed under the laws of any state of the United States.

3. Any subsidiary or affiliate of an entity described in subparagraph 1. or subparagraph 2.

~~4. A health studio as defined in s. 501.0125(1).~~

4.~~5.~~ Any entity licensed under chapter 624, chapter 627, chapter 634, chapter 636, or chapter 641.

5.~~6.~~ Any electric utility as defined in s. 366.02(2).

6.~~7.~~ Any private company as defined in s. 180.05 providing services described in chapter 180 that is competing against a

governmental entity or has a governmental entity providing billing services on its behalf.

Section 116. Section 501.143, Florida Statutes, is repealed.

Section 117. Section 205.1969, Florida Statutes, is repealed.

Section 118. Part IV of chapter 501, Florida Statutes, consisting of sections 501.601, 501.602, 501.603, 501.604, 501.605, 501.606, 501.607, 501.608, 501.609, 501.611, 501.612, 501.613, 501.614, 501.615, 501.616, 501.617, 501.618, 501.619, 501.621, 501.622, 501.623, 501.624, 501.625, and 501.626, is repealed.

Section 119. Section 205.1973, Florida Statutes, is repealed.

Section 120. Paragraph (b) of subsection (1) of section 501.165, Florida Statutes, is amended to read:

501.165 Automatic renewal of service contracts.—

(1) DEFINITIONS.—As used in this section:

(b) "Consumer" means a natural person ~~an individual, as defined in s. 501.603,~~ receiving service, maintenance, or repair under a service contract. The term does not include an individual engaged in business or employed by or otherwise acting on behalf of a governmental entity if the individual enters into the service contract as part of or ancillary to the individual's business activities or on behalf of the business or governmental entity.

Section 121. Paragraph (c) of subsection (1) of section 648.44, Florida Statutes, is amended to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or temporary bail bond agent may not:

(c) Initiate in-person or telephone solicitation after 9:00 p.m. or before 8:00 a.m., in the case of domestic violence cases, at the residence of the detainee or the detainee's family. Any solicitation not prohibited by this chapter must comply with the telephone solicitation requirements in s. ~~ss.~~ 501.059(2) and (4)~~, 501.613, and 501.616(6)~~.

Section 122. Paragraph (a) of subsection (1) of section 772.102, Florida Statutes, is amended to read:

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

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 414.39, relating to public assistance fraud.

3. Section 440.105 or s. 440.106, relating to workers' compensation.

~~4. Part IV of chapter 501, relating to telemarketing.~~

4.~~5.~~ Chapter 517, relating to securities transactions.

5.~~6.~~ Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

6.7. Chapter 550, relating to jai alai frontons.

7.~~8.~~ Chapter 552, relating to the manufacture,

distribution, and use of explosives.

8.~~9.~~ Chapter 562, relating to beverage law enforcement.

9.~~10.~~ Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

10.~~11.~~ Chapter 687, relating to interest and usurious practices.

11.~~12.~~ Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

12.~~13.~~ Chapter 782, relating to homicide.

13.~~14.~~ Chapter 784, relating to assault and battery.

14.~~15.~~ Chapter 787, relating to kidnapping or human trafficking.

15.~~16.~~ Chapter 790, relating to weapons and firearms.

16.~~17.~~ Section 796.03, s. 796.04, s. 796.045, s. 796.05, or s. 796.07, relating to prostitution.

17.~~18.~~ Chapter 806, relating to arson.

18.~~19.~~ Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.

19.~~20.~~ Chapter 812, relating to theft, robbery, and related crimes.

20.~~21.~~ Chapter 815, relating to computer-related crimes.

21.~~22.~~ Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

22.~~23.~~ Section 827.071, relating to commercial sexual exploitation of children.

23.~~24.~~ Chapter 831, relating to forgery and counterfeiting.

24.~~25.~~ Chapter 832, relating to issuance of worthless checks and drafts.

25.~~26.~~ Section 836.05, relating to extortion.

26.~~27.~~ Chapter 837, relating to perjury.

27.~~28.~~ Chapter 838, relating to bribery and misuse of public office.

28.~~29.~~ Chapter 843, relating to obstruction of justice.

29.~~30.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

30.~~31.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

31.~~32.~~ Chapter 893, relating to drug abuse prevention and control.

32.~~33.~~ Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.

33.~~34.~~ Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

Section 123. Paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida

Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.

3. Section 403.727(3)(b), relating to environmental control.

4. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

5. Section 414.39, relating to public assistance fraud.

6. Section 440.105 or s. 440.106, relating to workers' compensation.

7. Section 443.071(4), relating to creation of a fictitious employer scheme to commit unemployment compensation fraud.

8. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

9. Section 499.0051, relating to crimes involving contraband and adulterated drugs.

~~10. Part IV of chapter 501, relating to telemarketing.~~

10.~~11.~~ Chapter 517, relating to sale of securities and investor protection.

11.~~12.~~ Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

12.~~13.~~ Chapter 550, relating to jai alai frontons.

13.~~14.~~ Section 551.109, relating to slot machine gaming.

14.~~15.~~ Chapter 552, relating to the manufacture,

distribution, and use of explosives.

15.~~16.~~ Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

16.~~17.~~ Chapter 562, relating to beverage law enforcement.

17.~~18.~~ Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

18.~~19.~~ Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

19.~~20.~~ Chapter 687, relating to interest and usurious practices.

20.~~21.~~ Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

21.~~22.~~ Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

22.~~23.~~ Section 777.03, relating to commission of crimes by accessories after the fact.

23.~~24.~~ Chapter 782, relating to homicide.

24.~~25.~~ Chapter 784, relating to assault and battery.

25.~~26.~~ Chapter 787, relating to kidnapping or human trafficking.

26.~~27.~~ Chapter 790, relating to weapons and firearms.

27.~~28.~~ Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote,

or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member's own standing or position within a criminal gang.

28.~~29.~~ Section 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.

29.~~30.~~ Chapter 806, relating to arson and criminal mischief.

30.~~31.~~ Chapter 810, relating to burglary and trespass.

31.~~32.~~ Chapter 812, relating to theft, robbery, and related crimes.

32.~~33.~~ Chapter 815, relating to computer-related crimes.

33.~~34.~~ Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

34.~~35.~~ Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

35.~~36.~~ Section 827.071, relating to commercial sexual exploitation of children.

36.~~37.~~ Chapter 831, relating to forgery and counterfeiting.

37.~~38.~~ Chapter 832, relating to issuance of worthless checks and drafts.

38.~~39.~~ Section 836.05, relating to extortion.

39.~~40.~~ Chapter 837, relating to perjury.

40.~~41.~~ Chapter 838, relating to bribery and misuse of public office.

41.~~42.~~ Chapter 843, relating to obstruction of justice.

42.~~43.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,

or s. 847.07, relating to obscene literature and profanity.

43.~~44.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

44.~~45.~~ Chapter 874, relating to criminal gangs.

45.~~46.~~ Chapter 893, relating to drug abuse prevention and control.

46.~~47.~~ Chapter 896, relating to offenses related to financial transactions.

47.~~48.~~ Sections 914.22 and 914.23, relating to tampering with or harassing a witness, victim, or informant, and retaliation against a witness, victim, or informant.

48.~~49.~~ Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Section 124. Chapter 507, Florida Statutes, consisting of sections 507.01, 507.02, 507.03, 507.04, 507.05, 507.06, 507.07, 507.08, 507.09, 507.10, 507.11, 507.12, and 507.13, is repealed.

Section 125. Section 205.1975, Florida Statutes, is repealed.

Section 126. Subsection (1) of section 509.242, Florida Statutes, is amended to read:

509.242 Public lodging establishments; classifications.—

(1) A public lodging establishment shall be classified as a hotel, motel, resort condominium, nontransient apartment, transient apartment, ~~roominghouse,~~ bed and breakfast inn, or resort dwelling if the establishment satisfies the following criteria:

(a) Hotel.—A hotel is any public lodging establishment containing sleeping room accommodations for 25 or more guests

and providing the services generally provided by a hotel and recognized as a hotel in the community in which it is situated or by the industry.

(b) Motel.—A motel is any public lodging establishment which offers rental units with an exit to the outside of each rental unit, daily or weekly rates, offstreet parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit, and at least six rental units, and which is recognized as a motel in the community in which it is situated or by the industry.

(c) Resort condominium.—A resort condominium is any unit or group of units in a condominium, cooperative, or timeshare plan which is rented more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented for periods of less than 30 days or 1 calendar month, whichever is less.

(d) Nontransient apartment ~~or roominghouse~~.—A nontransient apartment ~~or roominghouse~~ is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.

(e) Transient apartment ~~or roominghouse~~.—A transient apartment ~~or roominghouse~~ is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.

~~(f) Roominghouse.—A roominghouse is any public lodging establishment that may not be classified as a hotel, motel,~~

~~resort condominium, nontransient apartment, bed and breakfast inn, or transient apartment under this section. A roominghouse includes, but is not limited to, a boardinghouse.~~

(f) ~~(g)~~ Resort dwelling.—A resort dwelling is any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit which is rented more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented for periods of less than 30 days or 1 calendar month, whichever is less.

(g) ~~(h)~~ Bed and breakfast inn.—A bed and breakfast inn is a family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a bed and breakfast inn, and which is recognized as a bed and breakfast inn in the community in which it is situated or by the hospitality industry.

Section 127. Subsection (9) of section 509.221, Florida Statutes, is amended to read:

509.221 Sanitary regulations.—

(9) Subsections (2), (5), and (6) do not apply to any facility or unit classified as a resort condominium, nontransient apartment, or resort dwelling as described in s. 509.242(1)(c), (d), and (f) ~~(g)~~.

Section 128. Chapter 555, Florida Statutes, consisting of sections 555.01, 555.02, 555.03, 555.04, 555.05, 555.07, and 555.08, is repealed.

Section 129. Part VIII of chapter 559, Florida Statutes, consisting of sections 559.80, 559.801, 559.802, 559.803, 559.805, 559.807, 559.809, 559.811, 559.813, and 559.815, is repealed.

Section 130. Part IX of chapter 559, Florida Statutes, consisting of sections 559.901, 559.902, 559.903, 559.904, 559.905, 559.907, 559.909, 559.911, 559.915, 559.916, 559.917, 559.919, 559.920, 559.921, 559.9215, 559.922, 559.92201, and 559.9221, is repealed.

Section 131. Paragraph (a) of subsection (9) of section 320.27, Florida Statutes, is amended to read:

320.27 Motor vehicle dealers.—

(9) DENIAL, SUSPENSION, OR REVOCATION.—

(a) The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771 upon proof that an applicant or a licensee has:

1. Committed fraud or willful misrepresentation in application for or in obtaining a license.

2. Been convicted of a felony.

3. Failed to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another motor vehicle dealer within 10 days after notification that the bank draft or check has been dishonored. ~~If the transaction is disputed, the maker of the bank draft or check shall post a bond in accordance with the provisions of s. 559.917, and no proceeding for revocation or suspension shall be commenced until the dispute is resolved.~~

4.a. Failed to provide payment within 10 business days to

the department for a check payable to the department that was dishonored due to insufficient funds in the amount due plus any statutorily authorized fee for uttering a worthless check. The department shall notify an applicant or licensee when the applicant or licensee makes payment to the department by a check that is subsequently dishonored by the bank due to insufficient funds. The applicant or licensee shall, within 10 business days after receiving the notice, provide payment to the department in the form of cash in the amount due plus any statutorily authorized fee. If the applicant or licensee fails to make such payment within 10 business days, the department may deny, suspend, or revoke the applicant's or licensee's motor vehicle dealer license.

b. Stopped payment on a check payable to the department, issued a check payable to the department from an account that has been closed, or charged back a credit card transaction to the department. If an applicant or licensee commits any such act, the department may deny, suspend, or revoke the applicant's or licensee's motor vehicle dealer license.

Section 132. Paragraph (a) of subsection (1) of section 445.025, Florida Statutes, is amended to read:

445.025 Other support services.—Support services shall be provided, if resources permit, to assist participants in complying with work activity requirements outlined in s. 445.024. If resources do not permit the provision of needed support services, the regional workforce board may prioritize or otherwise limit provision of support services. This section does not constitute an entitlement to support services. Lack of

provision of support services may be considered as a factor in determining whether good cause exists for failing to comply with work activity requirements but does not automatically constitute good cause for failing to comply with work activity requirements, and does not affect any applicable time limit on the receipt of temporary cash assistance or the provision of services under chapter 414. Support services shall include, but need not be limited to:

(1) TRANSPORTATION.—Transportation expenses may be provided to any participant when the assistance is needed to comply with work activity requirements or employment requirements, including transportation to and from a child care provider. Payment may be made in cash or tokens in advance or through reimbursement paid against receipts or invoices. Transportation services may include, but are not limited to, cooperative arrangements with the following: public transit providers; community transportation coordinators designated under chapter 427; school districts; churches and community centers; donated motor vehicle programs, van pools, and ridesharing programs; small enterprise developments and entrepreneurial programs that encourage participants to become transportation providers; public and private transportation partnerships; and other innovative strategies to expand transportation options available to program participants.

(a) Regional workforce boards may provide payment for vehicle operational and repair expenses, including repair expenditures necessary to make a vehicle functional; vehicle registration fees; driver's license fees; and liability

insurance for the vehicle for a period of up to 6 months. Request for vehicle repairs must be accompanied by an estimate of the cost prepared by a repair facility ~~registered under s. 559.904~~.

Section 133. Paragraph (i) of subsection (1) of section 713.585, Florida Statutes, is redesignated as paragraph (h), subsections (12) and (13) of that section are renumbered as subsections (11) and (12), respectively, and present paragraph (h) of subsection (1) and present subsection (11) of that section is amended, to read:

713.585 Enforcement of lien by sale of motor vehicle.—A person claiming a lien under s. 713.58 for performing labor or services on a motor vehicle may enforce such lien by sale of the vehicle in accordance with the following procedures:

(1) The lienor must give notice, by certified mail, return receipt requested, within 15 business days, excluding Saturday and Sunday, from the beginning date of the assessment of storage charges on said motor vehicle, to the registered owner of the vehicle, to the customer as indicated on the order for repair, and to all other persons claiming an interest in or lien thereon, as disclosed by the records of the Department of Highway Safety and Motor Vehicles or of a corresponding agency of any other state in which the vehicle appears registered. Such notice must contain:

~~(h) Notice that the owner of the vehicle has a right to recover possession of the vehicle without instituting judicial proceedings by posting bond in accordance with the provisions of s. 559.917.~~

~~(11) Nothing in this section shall operate in derogation of the rights and remedies established by s. 559.917.~~

Section 134. Part XI of chapter 559, Florida Statutes, consisting of sections 559.926, 559.927, 559.928, 559.9285, 559.929, 559.9295, 559.931, 559.932, 559.933, 559.9335, 559.934, 559.935, 559.9355, 559.936, 559.937, 559.938, and 559.939, is repealed.

Section 135. Section 205.1971, Florida Statutes, is repealed.

Section 136. Subsections (21) through (28) of section 501.604, Florida Statutes, are renumbered as subsections (20) through (28), respectively, and present subsection (20) of that section is amended to read:

501.604 Exemptions.—The provisions of this part, except ss. 501.608 and 501.616(6) and (7), do not apply to:

~~(20) A person who is registered pursuant to part XI of chapter 559 and who is soliciting within the scope of the registration.~~

Section 137. Paragraph (b) of subsection (1) of section 501.608, Florida Statutes, is amended to read:

501.608 License or affidavit of exemption; occupational license.—

(1)

(b) Any commercial telephone seller claiming to be exempt from the act under s. 501.604(2), (3), (5), (6), (9), (10), (11), (12), (17), (20) ~~(21)~~, (21) ~~(22)~~, (23) ~~(24)~~, or (25) ~~(26)~~ must file with the department a notarized affidavit of exemption. The affidavit of exemption must be on forms

prescribed by the department and must require the name of the commercial telephone seller, the name of the business, and the business address. Any commercial telephone seller maintaining more than one business may file a single notarized affidavit of exemption that clearly indicates the location of each place of business. If a change of ownership occurs, the commercial telephone seller must notify the department.

Section 138. Subsection (5) of section 636.044, Florida Statutes, is amended to read:

636.044 Agent licensing.—

~~(5) A person registered as a seller of travel under s. 559.928 is not required to be licensed under this section in order to sell prepaid limited health service contracts that cover the cost of transportation provided by an air ambulance service licensed pursuant to s. 401.251. The prepaid limited health service contract for such coverage is, however, subject to all applicable provisions of this chapter.~~

Section 139. Paragraph (d) of subsection (3) of section 721.11, Florida Statutes, is amended to read:

721.11 Advertising materials; oral statements.—

(3) The term "advertising material" does not include:

(d) Any audio, written, or visual publication or material relating to the promotion of the availability of any accommodations or facilities, or both, for transient rental, ~~including any arrangement governed by part XI of chapter 559,~~ so long as a mandatory tour of a timeshare plan or attendance at a mandatory sales presentation is not a term or condition of the availability of such accommodations or facilities, or both, and

so long as the failure of any transient renter to take a tour of a timeshare plan or attend a sales presentation does not result in the transient renter receiving less than what was promised to the transient renter in such materials.

Section 140. Section 686.201, Florida Statutes, is repealed.

Section 141. Section 817.559, Florida Statutes, is repealed.

Section 142. Subsection (1) of section 73.072, Florida Statutes, is amended to read:

73.072 Mobile home parks; compensation for permanent improvements by mobile home owners.—

(1) When all or a portion of a mobile home park as defined in s. 723.003~~(6)~~ is appropriated under this chapter, the condemning authority shall separately determine the compensation for any permanent improvements made to each site. This compensation shall be awarded to the mobile home owner leasing the site if:

(a) The effect of the taking includes a requirement that the mobile home owner remove or relocate his or her mobile home from the site;

(b) The mobile home owner currently leasing the site has paid for the permanent improvements to the site; and

(c) The value of the permanent improvements on the site exceeds $1,000 as of the date of taking.

Section 143. Paragraph (e) of subsection (6) of section 192.037, Florida Statutes, is amended to read:

192.037 Fee timeshare real property; taxes and

assessments; escrow.—

(6)

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

Section 144. Paragraph (i) of subsection (8) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

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

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

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

Section 145. Paragraph (a) of subsection (1) of section 336.125, Florida Statutes, is amended to read:

336.125 Closing and abandonment of roads; optional conveyance to homeowners' association; traffic control jurisdiction.—

(1)(a) In addition to the authority provided in s. 336.12, the governing body of the county may abandon the roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously convey the county's interest in such roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision, if the following conditions have been met:

1. The homeowners' association has requested the abandonment and conveyance in writing for the purpose of converting the subdivision to a gated neighborhood with restricted public access.

2. No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the homeowners' association.

3. The homeowners' association is both a corporation not for profit organized and in good standing under chapter 617, and a "homeowners' association" as defined in s. 720.301~~(9)~~ with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks, and pavement in the subdivision.

4. The homeowners' association has entered into and executed such agreements, covenants, warranties, and other instruments; has provided, or has provided assurance of, such funds, reserve funds, and funding sources; and has satisfied

such other requirements and conditions as may be established or imposed by the county with respect to the ongoing operation, maintenance, and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting, and sidewalks in the subdivision after the abandonment by the county.

Section 146. Paragraph (b) of subsection (8) of section 475.011, Florida Statutes, is amended to read:

475.011 Exemptions.—This part does not apply to:

(8)

(b) An exchange company, as that term is defined by s. 721.05(14) ~~(15)~~, but only to the extent that the exchange company is engaged in exchange program activities as described in and is in compliance with s. 721.18.

Section 147. Subsection (2) of section 558.002, Florida Statutes, is amended to read:

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

(2) "Association" has the same meaning as in s. 718.103(2), s. 719.103(2), s. 720.301 ~~(9)~~, or s. 723.075.

Section 148. Subsections (18) through (30) of section 718.103, Florida Statutes, are renumbered as subsections (17) through (29), respectively, and subsection (17) of that section is amended to read:

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

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

Section 149. Subsection (2) of section 718.1085, Florida Statutes, is amended to read:

718.1085 Certain regulations not to be retroactively applied.—Notwithstanding the provisions of chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation thereof, an association, condominium, or unit owner is not obligated to retrofit the common elements or units of a residential condominium that meets the definition of "housing for older persons" in s. 760.29(4)(b)3. to comply with requirements relating to handrails and guardrails if the unit owners have voted to forego such retrofitting by the affirmative vote of two-thirds of all voting interests in the affected condominium. However, a condominium association may not vote to forego the retrofitting in common areas in a high-rise building. For the purposes of this section, the term "high-rise building" means a building that is greater than 75 feet in height where the building height is measured from the lowest level of fire department access to the floor of the highest occupiable level. For the purposes of this section, the term "common areas" means stairwells and exposed, outdoor walkways and corridors. In no event shall the local authority having jurisdiction require retrofitting of common areas with handrails and guardrails before the end of 2014.

(2) As part of the information collected annually from condominiums, ~~the division shall require~~ condominium associations must ~~to~~ report the membership vote and recording of a certificate under this subsection and, if retrofitting has been undertaken, the per-unit cost of such work~~. The division~~

~~shall annually report~~ to the Division of State Fire Marshal of the Department of Financial Services ~~the number of condominiums that have elected to forego retrofitting~~.

Section 150. Paragraph (a) of subsection (1), paragraph (b) of subsection (7), paragraphs (a) and (c) of subsection (12), and subsection (13) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(1) CORPORATE ENTITY.—

(a) The operation of the condominium shall be by the association, which must be a Florida corporation for profit or a Florida corporation not for profit. However, any association which was in existence on January 1, 1977, need not be incorporated. The owners of units shall be shareholders or members of the association. The officers and directors of the association have a fiduciary relationship to the unit owners. It is the intent of the Legislature that nothing in this paragraph shall be construed as providing for or removing a requirement of a fiduciary relationship between any manager employed by the association and the unit owners. An officer, director, or manager may not solicit, offer to accept, or accept any thing or service of value for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association. ~~Any such officer, director, or manager who knowingly so solicits, offers to accept, or accepts any thing or service of value is subject to a civil penalty pursuant to s. 718.501(1)(d).~~ However, this paragraph does not

prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs. An association may operate more than one condominium.

(7) TITLE TO PROPERTY.—

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

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which shall constitute the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer pursuant to s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and of each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and of each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and of each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books which contain the minutes of all meetings of the association, of the board of administration, and

of unit owners, which minutes must be retained for at least 7 years.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the electronic mailing addresses and the numbers designated by unit owners for receiving notice sent by electronic transmission of those unit owners consenting to receive notice by electronic transmission. The electronic mailing addresses and telephone numbers must be removed from association records if consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium which the association operates. All accounting records shall be maintained for at least 7 years. ~~Any person who knowingly or intentionally defaces or destroys accounting records required to be created and maintained by this chapter during the period for which such~~

~~records are required to be maintained, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d).~~ The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

d. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association.

12. Ballots, sign-in sheets, voting proxies, and all other papers relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).

13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

15. All other records of the association not specifically

included in the foregoing which are related to the operation of the association.

16. A copy of the inspection report as provided in s. 718.301(4)(p).

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages shall be $50 per calendar day up to 10 days, the calculation to begin on the 11th working day after receipt of the written request. The failure to permit inspection of the association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. ~~Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to~~

~~create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d).~~ The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet provided for in s. 718.504 and year-end financial information required in this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. Notwithstanding the provisions of this paragraph, the following records are not accessible to unit owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502; and any record protected by the work-product privilege, including any record prepared by an association attorney or prepared at the attorney's express direction; which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

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

unit.

3. Personnel records of association employees, including, but not limited to, disciplinary, payroll, health, and insurance records.

4. Medical records of unit owners.

5. Social security numbers, driver's license numbers, credit card numbers, e-mail addresses, telephone numbers, emergency contact information, any addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, and property address.

6. Any electronic security measure that is used by the association to safeguard data, including passwords.

7. The software and operating system used by the association which allows manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver

to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner. ~~The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and addressing the financial reporting requirements for multicondominium associations. The rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. This disclosure is not applicable to reserves funded via the pooling method. In adopting such rules, the division shall consider the number of members and annual revenues of an association.~~ Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements must be based upon the association's total annual revenues, as follows:

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

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

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

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

2. An association that operates fewer than 75 units, regardless of the association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a).

3. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures, deferred maintenance, and any other category for which the association maintains reserves.

(c) An association may prepare, without a meeting of or approval by the unit owners:

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

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

statements; or

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

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare:

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

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

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

Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that the approval may also be effective for the following fiscal year. With respect to an association to which the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of financial reports for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the declaration is recorded. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer. Any audit or review prepared under this section shall be paid for by the developer

if done before turnover of control of the association. An association may not waive the financial reporting requirements of this section for more than 3 consecutive years.

Section 151. Paragraphs (l) through (o) of subsection (2) of section 718.112, Florida Statutes, are redesignated as paragraphs (k) through (n), respectively, and paragraphs (a) through (d), (j), and (k) of that subsection are amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(a) Administration.—

1. The form of administration of the association shall be described indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of a condominium which has five or fewer units, in which case in a not-for-profit corporation the board shall consist of not fewer than three members. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided

in the bylaws, the officers shall serve without compensation and at the pleasure of the board of administration. Unless otherwise provided in the bylaws, the members of the board shall serve without compensation.

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

(b) Quorum; voting requirements; proxies.—

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

2. Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies ~~substantially conforming to a limited proxy form adopted by the division~~. No voting interest or consent right allocated to a unit owned by the association shall be exercised or considered for any purpose, whether for a quorum, an election, or otherwise. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (f)2.; for votes taken to waive the financial reporting requirements of s. 718.111(13); for votes taken to amend the declaration pursuant to s. 718.110; for votes taken to amend the articles of incorporation or bylaws pursuant to this section; and for any other matter for which this chapter requires or permits a vote of the unit owners. Except as provided in paragraph (d), after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is

required and given. Notwithstanding the provisions of this subparagraph, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare condominium association.

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

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

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

(c) Board of administration meetings.—Meetings of the board of administration at which a quorum of the members is

present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. ~~The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting.~~ The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least 48 continuous hours preceding the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board shall at its next regular board meeting or at a special meeting of the board, but not later than 60 days after the receipt of the petition, place the item on the agenda. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. Upon notice

to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of board meetings shall be posted. If there is no condominium property or association property upon which notices can be posted, notices of board meetings shall be mailed, delivered, or electronically transmitted at least 14 days before the meeting to the owner of each unit. In lieu of or in addition to the physical posting of notice of any meeting of the board of administration on the condominium property, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Notice of any meeting in which regular or special assessments against unit owners are to be considered for any reason shall specifically state that assessments will be considered and the nature, estimated cost, and description of the purposes for such assessments. Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association

budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association. Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners is inapplicable to meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice.

(d) Unit owner meetings.—

1. An annual meeting of the unit owners shall be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting shall be held within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term shall be filled by electing a new board member, and the election must be by secret ballot. However, if the number of vacancies equals or exceeds the number of candidates, an election is not required. Except in a timeshare condominium, the terms of all members of the board expire at the annual meeting and such board members may stand for reelection unless otherwise permitted by the bylaws. If the bylaws permit staggered terms of no more than 2 years and upon approval of a majority of the total voting interests, the association board members may serve

2-year staggered terms. If the number of board members whose terms have expired exceeds the number of eligible members showing interest in or demonstrating an intention to run for the vacant positions, each board member whose term has expired is eligible for reappointment to the board of administration and need not stand for reelection. In a condominium association of more than 10 units or in a condominium association that does not include timeshare units or timeshare interests, coowners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Any unit owner desiring to be a candidate for board membership must comply with sub-subparagraph 3.a. A person ~~who has been suspended or removed by the division under this chapter, or who~~ is delinquent in the payment of any fee, fine, or special or regular assessment as provided in paragraph (m) ~~(n)~~, is not eligible for board membership. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction that would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date on which such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a member of the board is ineligible for board membership due to having been convicted of a felony.

2. The bylaws must provide the method of calling meetings

of unit owners, including annual meetings. Written notice, which must include an agenda, shall be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting and must be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted. However, if there is no condominium property or association property upon which notices can be posted, this requirement does not apply. In lieu of or in addition to the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other

purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision.

3. The members of the board shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, whether by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a

candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 2., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. ~~The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots.~~ Elections shall be decided by a plurality of those ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board. A unit owner may not permit any other person to vote his or her ballot, and any ballots improperly cast are invalid, provided any unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular

election must occur on the date of the annual meeting. This sub-subparagraph does not apply to timeshare condominium associations. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. Within 90 days after being elected or appointed to the board, each newly elected or appointed director shall certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members. ~~In lieu of this written certification, the newly elected or appointed director may submit a certificate of satisfactory completion of the educational curriculum administered by a division-approved condominium education provider.~~ A director who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause the association to retain a director's written certification or educational certificate for inspection by the members for 5 years after a director's election. Failure to have such written certification or educational certificate on file does not affect the validity of any action.

4. Any approval by unit owners called for by this chapter

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

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

6. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

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

8. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining

directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of sub-subparagraph 3.a. unless the association governs 10 units or fewer and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) ~~and rules adopted by the division~~.

Notwithstanding subparagraph (b)2. and sub-subparagraph (d)3.a., an association of 10 or fewer units may, by affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(j) Recall of board members.—Subject to the provisions of s. 718.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests. A special meeting of the unit owners to recall a member or members of the board of administration may be called by 10 percent of the voting interests giving notice of the

meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for this purpose.

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

2. If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing or a copy thereof shall be served on the association by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure. The board of administration shall duly notice and hold a meeting of the board within 5 full business days after receipt of the agreement in writing. At the meeting, the board shall ~~either~~ certify the written agreement to recall a member or members of the board, in which case such member or members shall be recalled effective immediately and shall turn over to the board within 5 full business days any and all records and property of the association in their possession~~, or proceed as described in~~

~~subparagraph 3~~.

~~3. If the board determines not to certify the written agreement to recall a member or members of the board, or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the meeting, file with the division a petition for arbitration pursuant to the procedures in s. 718.1255. For the purposes of this section, the unit owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member or members of the board, the recall will be effective upon mailing of the final order of arbitration to the association. If the association fails to comply with the order of the arbitrator, the division may take action pursuant to s. 718.501. Any member or members so recalled shall deliver to the board any and all records of the association in their possession within 5 full business days of the effective date of the recall.~~

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

4.~~5.~~ If a vacancy occurs on the board as a result of a recall or removal and less than a majority of the board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any

provision to the contrary contained in this subsection. ~~If vacancies occur on the board as a result of a recall and a majority or more of the board members are removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the division, which rules need not be consistent with this subsection. The rules must provide procedures governing the conduct of the recall election as well as the operation of the association during the period after a recall but prior to the recall election.~~

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

Section 152. Section 718.1255, Florida Statutes, is repealed.

Section 153. Subsection (11) of section 718.202, Florida Statutes, is renumbered as subsection (10) and subsections (1), (8), and (10) of that section are amended to read:

718.202 Sales or reservation deposits prior to closing.—

(1) If a developer contracts to sell a condominium parcel and the construction, furnishing, and landscaping of the property submitted or proposed to be submitted to condominium ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, the developer shall pay into an escrow account all payments up to 10 percent of the sale price received by the developer from the buyer towards the sale price. The escrow agent shall give to the purchaser a receipt for the deposit, upon request. ~~In lieu of the foregoing, the division director has the discretion to~~

~~accept other assurances, including, but not limited to, a surety bond or an irrevocable letter of credit in an amount equal to the escrow requirements of this section.~~ Default determinations and refund of deposits shall be governed by the escrow release provision of this subsection. Funds shall be released from escrow as follows:

(a) If a buyer properly terminates the contract pursuant to its terms or pursuant to this chapter, the funds shall be paid to the buyer together with any interest earned.

(b) If the buyer defaults in the performance of his or her obligations under the contract of purchase and sale, the funds shall be paid to the developer together with any interest earned.

(c) If the contract does not provide for the payment of any interest earned on the escrowed funds, interest shall be paid to the developer at the closing of the transaction.

(d) If the funds of a buyer have not been previously disbursed in accordance with the provisions of this subsection, they may be disbursed to the developer by the escrow agent at the closing of the transaction, unless prior to the disbursement the escrow agent receives from the buyer written notice of a dispute between the buyer and developer.

(8) Every escrow account required by this section shall be established with a bank; a savings and loan association; an attorney who is a member of The Florida Bar; a real estate broker registered under chapter 475; a title insurer authorized to do business in this state, acting through either its employees or a title insurance agent licensed under chapter 626;

or any financial lending institution having a net worth in excess of $5 million. The escrow agent shall not be located outside the state unless, pursuant to the escrow agreement, the escrow agent submits to the jurisdiction of ~~the division and~~ the courts of this state for any cause of action arising from the escrow. Every escrow agent shall be independent of the developer, and no developer or any officer, director, affiliate, subsidiary, or employee of a developer may serve as escrow agent. Escrow funds may be invested only in securities of the United States or an agency thereof or in accounts in institutions the deposits of which are insured by an agency of the United States.

~~(10) Nothing in this section shall be construed to require any filing with the division in the case of condominiums other than residential condominiums.~~

Section 154. Subsections (2) and (8) of section 718.301, Florida Statutes, are amended to read:

718.301 Transfer of association control; claims of defect by association.—

(2) Within 75 days after the unit owners other than the developer are entitled to elect a member or members of the board of administration of an association, the association shall call, and give not less than 60 days' notice of an election for the members of the board of administration. The election shall proceed as provided in s. 718.112(2)(d). The notice may be given by any unit owner if the association fails to do so. ~~Upon election of the first unit owner other than the developer to the board of administration, the developer shall forward to the~~

~~division the name and mailing address of the unit owner board member.~~

~~(8) The division has authority to adopt rules pursuant to the Administrative Procedure Act to ensure the efficient and effective transition from developer control of a condominium to the establishment of a unit-owner controlled association.~~

Section 155. Sections 718.501, 718.5011, 718.5012, 718.5014, 718.50151, 718.50152, 718.50153, 718.50154, 718.50155, and 718.502 are repealed.

Section 156. Paragraphs (b) and (c) of subsection (1) and paragraph (a) of subsection (2) of section 718.503, Florida Statutes, are amended to read:

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

(1) DEVELOPER DISCLOSURE.—

(b) Copies of documents to be furnished to prospective buyer or lessee.—Until such time as the developer has furnished the documents listed below to a person who has entered into a contract to purchase a residential unit or lease it for more than 5 years, the contract may be voided by that person, entitling the person to a refund of any deposit together with interest thereon as provided in s. 718.202. The contract may be terminated by written notice from the proposed buyer or lessee delivered to the developer within 15 days after the buyer or lessee receives all of the documents required by this section. The developer may not close for 15 days following the execution of the agreement and delivery of the documents to the buyer as evidenced by a signed receipt for documents unless the buyer is

informed in the 15-day voidability period and agrees to close prior to the expiration of the 15 days. The developer shall retain in his or her records a separate agreement signed by the buyer as proof of the buyer's agreement to close prior to the expiration of said voidability period. Said proof shall be retained for a period of 5 years after the date of the closing of the transaction. The documents to be delivered to the prospective buyer are the prospectus or disclosure statement with all exhibits, if the development is subject to the provisions of s. 718.504, or, if not, then copies of the following which are applicable:

1. The question and answer sheet described in s. 718.504, and declaration of condominium, or the proposed declaration if the declaration has not been recorded, which shall include the certificate of a surveyor approximately representing the locations required by s. 718.104.

2. The documents creating the association.

3. The bylaws.

4. The ground lease or other underlying lease of the condominium.

5. The management contract, maintenance contract, and other contracts for management of the association and operation of the condominium and facilities used by the unit owners having a service term in excess of 1 year, and any management contracts that are renewable.

6. The estimated operating budget for the condominium and a schedule of expenses for each type of unit, including fees assessed pursuant to s. 718.113(1) for the maintenance of

limited common elements where such costs are shared only by those entitled to use the limited common elements.

7. The lease of recreational and other facilities that will be used only by unit owners of the subject condominium.

8. The lease of recreational and other common facilities that will be used by unit owners in common with unit owners of other condominiums.

9. The form of unit lease if the offer is of a leasehold.

10. Any declaration of servitude of properties serving the condominium but not owned by unit owners or leased to them or the association.

11. If the development is to be built in phases or if the association is to manage more than one condominium, a description of the plan of phase development or the arrangements for the association to manage two or more condominiums.

12. If the condominium is a conversion of existing improvements, the statements and disclosure required by s. 718.616.

13. The form of agreement for sale or lease of units.

14. A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

15. A copy of all covenants and restrictions which will affect the use of the property and which are not contained in the foregoing.

16. If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facilities intended to serve the condominium, ~~a copy of~~

~~any such acceptance or approval acquired by the time of filing with the division under s. 718.502(1), or~~ a statement that such acceptance or approval has not been acquired or received.

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

(c) Subsequent estimates; when provided.~~—If the closing on a contract occurs more than 12 months after the filing of the offering circular with the division,~~ The developer shall provide a copy of the current estimated operating budget of the association to the buyer at closing, which shall not be considered an amendment that modifies the offering provided any changes to the association's budget from the budget given to the buyer at the time of contract signing were the result of matters beyond the developer's control. Changes in budgets of any master association, recreation association, or club and similar budgets for entities other than the association shall likewise not be considered amendments that modify the offering. It is the intent of this paragraph to clarify existing law.

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter shall comply with the provisions of this subsection prior to the sale of his or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller's expense, to a current copy of the declaration of condominium, articles of incorporation of the association, bylaws and rules of the association, financial information required by s. 718.111, and

the document entitled "Frequently Asked Questions and Answers" required by s. 718.504. On and after January 1, 2009, the prospective purchaser shall also be entitled to receive from the seller a copy of a governance form. ~~Such form shall be provided by the division summarizing governance of condominium associations. In addition to such other information as the division considers helpful to a prospective purchaser in understanding association governance,~~ The governance form shall address the following subjects:

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

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

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

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

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

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

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

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

management.

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

10. The voting rights of owners.

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

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

Section 157. Section 718.504, Florida Statutes, is amended to read:

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

~~Division of Florida Condominiums, Timeshares, and Mobile Homes~~ prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers~~,~~" ~~which shall be in accordance with a format approved by the division~~ and a copy of the financial information required by s. 718.111. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. ~~The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all~~

~~such units are being offered for sale as of the date of the prospectus or offering circular.~~ The prospectus or offering circular must contain the following information:

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

(a) The name of the condominium.

(b) The following statements in conspicuous type:

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

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

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

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

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

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

(a) Its name and location.

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

1. The number of buildings, the number of units in each

building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the condominium is not a phase condominium, or the maximum number of buildings that may be contained within the condominium, the minimum and maximum numbers of units in each building, the minimum and maximum numbers of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium, if the condominium is a phase condominium.

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

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

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

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

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

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

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

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

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

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

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

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

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

or the association;

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

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

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

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

(7) A description of the recreational and other facilities that will be used in common with other condominiums, community associations, or planned developments which require the payment of the maintenance and expenses of such facilities, directly or

indirectly, by the unit owners. The description shall include, but not be limited to, the following:

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

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

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

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

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

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

Descriptions shall include location, areas, capacities, numbers,

volumes, or sizes and may be stated as approximations or minimums.

(8) Recreation lease or associated club membership:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

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

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

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

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

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

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

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

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

(c) A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the condominium. If the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement,

the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

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

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

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

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

(c) A statement of the minimum and maximum number of condominiums, and the minimum and maximum number of units in

each of those condominiums, which will or may be operated by the association, and the latest date by which the exact number will be finally determined.

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

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

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

(a) The information required by s. 718.616.

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

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

(18) If there is any land that is offered by the developer for use by the unit owners and that is neither owned by them nor leased to them, the association, or any entity controlled by unit owners and other persons having the use rights to such

land, a statement shall be made as to how such land will serve the condominium. If any part of such land will serve the condominium, the statement shall describe the land and the nature and term of service, and the declaration or other instrument creating such servitude shall be included as an exhibit.

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

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

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

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

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

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

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

1. Expenses for the association and condominium:

a. Administration of the association.

b. Management fees.

c. Maintenance.

d. Rent for recreational and other commonly used facilities.

e. Taxes upon association property.

f. Taxes upon leased areas.

g. Insurance.

h. Security provisions.

i. Other expenses.

j. Operating capital.

k. Reserves.

~~l. Fees payable to the division.~~

2. Expenses for a unit owner:

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

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

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

(e) Each budget for an association prepared by a developer consistent with this subsection shall be prepared in good faith and shall reflect accurate estimated amounts for the required items in paragraph (c) ~~at the time of the filing of the offering circular with the division~~, and subsequent increased amounts of any item included in the association's estimated budget that are beyond the control of the developer shall not be considered an amendment that would give rise to rescission rights set forth in

s. 718.503(1)(a) or (b), nor shall such increases modify, void, or otherwise affect any guarantee of the developer contained in the offering circular or any purchase contract. It is the intent of this paragraph to clarify existing law.

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

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

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

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

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

(b) The articles of incorporation creating the association.

(c) The bylaws of the association.

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

(e) The management agreement and all maintenance and other contracts for management of the association and operation of the

condominium and facilities used by the unit owners having a service term in excess of 1 year.

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

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

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

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

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

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

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

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

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

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

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

(25) Any prospectus or offering circular complying, prior to the effective date of this act, with the provisions of former

ss. 711.69 and 711.802 may continue to be used without amendment or may be amended to comply with this chapter.

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

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

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

Section 158. Section 718.509, Florida Statutes, is repealed.

Section 159. Section 718.621, Florida Statutes, is repealed.

Section 160. Subsections (18) through (28) of section 719.103, Florida Statutes, are renumbered as subsections (17) through (27), respectively, and subsection (17) is amended to read:

719.103 Definitions.—As used in this chapter:

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

Section 161. Subsection (1) of section 719.1035, Florida Statutes, is amended to read:

719.1035 Creation of cooperatives.—

(1) The date when cooperative existence shall commence is upon commencement of corporate existence of the cooperative association as provided in s. 607.0203. The cooperative documents must be recorded in the county in which the cooperative is located before property may be conveyed or transferred to the cooperative. All persons who have any record interest in any mortgage encumbering the interest in the land being submitted to cooperative ownership must either join in the execution of the cooperative documents or execute, with the requirements for deed, and record, a consent to the cooperative documents or an agreement subordinating their mortgage interest to the cooperative documents. ~~Upon creation of a cooperative, the developer or association shall file the recording information with the division within 30 working days on a form prescribed by the division.~~

Section 162. Subsection (4), paragraph (a) of subsection (8), and subsection (11) of section 719.104, Florida Statutes, are amended to read:

719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—

(4) FINANCIAL REPORT.—

~~(a)~~ Within 60 days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the association, the board of administration of the association shall mail or furnish by personal delivery to

each unit owner a complete financial report of actual receipts and expenditures for the previous 12 months, or a complete set of financial statements for the preceding fiscal year prepared in accordance with generally accepted accounting procedures. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to, the following:

1. Costs for security;

2. Professional and management fees and expenses;

3. Taxes;

4. Costs for recreation facilities;

5. Expenses for refuse collection and utility services;

6. Expenses for lawn care;

7. Costs for building maintenance and repair;

8. Insurance costs;

9. Administrative and salary expenses; and

10. Reserves for capital expenditures, deferred maintenance, and any other category for which the association maintains a reserve account or accounts.

~~(b) The division shall adopt rules that may require that the association deliver to the unit owners, in lieu of the financial report required by this section, a complete set of financial statements for the preceding fiscal year. The financial statements shall be delivered within 90 days following the end of the previous fiscal year or annually on such other date as provided in the bylaws. The rules of the division may require that the financial statements be compiled, reviewed, or~~

~~audited, and the rules shall take into consideration the criteria set forth in s. 719.501(1)(j). The requirement to have the financial statements compiled, reviewed, or audited does not apply to associations if a majority of the voting interests of the association present at a duly called meeting of the association have determined for a fiscal year to waive this requirement. In an association in which turnover of control by the developer has not occurred, the developer may vote to waive the audit requirement for the first 2 years of the operation of the association, after which time waiver of an applicable audit requirement shall be by a majority of voting interests other than the developer. The meeting shall be held prior to the end of the fiscal year, and the waiver shall be effective for only one fiscal year. This subsection does not apply to a cooperative that consists of 50 or fewer units.~~

(8) CORPORATE ENTITY.—

(a) The officers and directors of the association have a fiduciary relationship to the unit owners. An officer, director, or manager may not solicit, offer to accept, or accept any thing or service of value for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association. ~~Any such officer, director, or manager who knowingly solicits, offers to accept, or accepts any thing or service of value is subject to a civil penalty pursuant to s. 719.501(1)(d).~~ However, this paragraph does not prohibit an officer, director, or manager from accepting services or items received in connection with trade

fairs or education programs.

~~(11) NOTIFICATION OF DIVISION.—When the board of directors intends to dissolve or merge the cooperative association, the board shall so notify the division before taking any action to dissolve or merge the cooperative association.~~

Section 163. Paragraph (c) of subsection (5) and paragraph (b) of subsection (6) of section 719.1055, Florida Statutes, are amended to read:

719.1055 Amendment of cooperative documents; alteration and acquisition of property.—

(5) The bylaws must include a provision whereby a certificate of compliance from a licensed electrical contractor or electrician may be accepted by the association's board as evidence of compliance of the cooperative units with the applicable fire and life safety code.

(c) As part of the information collected annually from cooperatives, ~~the division shall require~~ associations must ~~to~~ report the membership vote and recording of a certificate under this subsection and, if retrofitting has been undertaken, the per-unit cost of such work~~. The division shall annually report~~ to the Division of State Fire Marshal of the Department of Financial Services ~~the number of cooperatives that have elected to forego retrofitting~~.

(6) Notwithstanding the provisions of chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation thereof, a cooperative or unit owner is not obligated to retrofit the common elements or units of a residential cooperative that meets the definition of

"housing for older persons" in s. 760.29(4)(b)3. to comply with requirements relating to handrails and guardrails in a building that has been certified for occupancy by the applicable governmental entity, if the unit owners have voted to forego such retrofitting by the affirmative vote of two-thirds of all voting interests in the affected cooperative. However, a cooperative may not forego the retrofitting in common areas in a high-rise building. For purposes of this subsection, the term "high-rise building" means a building that is greater than 75 feet in height where the building height is measured from the lowest level of fire department access to the floor of the highest occupiable story. For purposes of this subsection, the term "common areas" means stairwells and exposed, outdoor walkways and corridors. In no event shall the local authority having jurisdiction require completion of retrofitting of common areas with handrails and guardrails before the end of 2014.

(b) As part of the information collected annually from cooperatives, ~~the division shall require~~ associations must ~~to~~ report the membership vote and recording of a certificate under this subsection and, if retrofitting has been undertaken, the per-unit cost of such work~~. The division shall annually report~~ to the Division of State Fire Marshal of the Department of Financial Services ~~the number of cooperatives that have elected to forego retrofitting~~.

Section 164. Paragraphs (a), (b), (c), (d), (f) and (l) of subsection (1) of section 719.106, Florida Statutes, are amended to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(a) Administration.—

1. The form of administration of the association shall be described, indicating the titles of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and board members. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of cooperatives having five or fewer units, in which case in not-for-profit corporations, the board shall consist of not fewer than three members. In the absence of provisions to the contrary, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of those offices customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them those duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board. Unless otherwise provided in the bylaws, the members of the board shall serve without compensation.

2. When a unit owner files a written inquiry by certified mail with the board of administration, the board shall respond in writing to the unit owner within 30 days of receipt of the inquiry. The board's response shall either give a substantive response to the inquirer or~~,~~ notify the inquirer that a legal opinion has been requested~~, or notify the inquirer that advice~~

~~has been requested from the division~~. ~~If the board requests advice from the division, the board shall, within 10 days of its receipt of the advice, provide in writing a substantive response to the inquirer.~~ If a legal opinion is requested, the board shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. The association may, through its board of administration, adopt reasonable rules and regulations regarding the frequency and manner of responding to the unit owners' inquiries, one of which may be that the association is obligated to respond to only one written inquiry per unit in any given 30-day period. In such case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable.

(b) Quorum; voting requirements; proxies.—

1. Unless otherwise provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be a majority of voting interests, and decisions shall be made by owners of a majority of the voting interests. Unless otherwise provided in this chapter, or in the articles of incorporation, bylaws, or other cooperative documents, and except as provided in subparagraph (d)1., decisions shall be made by owners of a majority of the voting interests represented at a meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, after

January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies ~~substantially conforming to a limited proxy form adopted by the division~~. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (j)2., ~~for votes taken to waive the financial reporting requirements of s. 719.104(4)(b),~~ for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and for any other matter for which this chapter requires or permits a vote of the unit owners. Except as provided in paragraph (d), after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this section, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare cooperative.

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

4. A member of the board of administration or a committee

may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

5. When some or all of the board or committee members meet by telephone conference, those board or committee members attending by telephone conference may be counted toward obtaining a quorum and may vote by telephone. A telephone speaker shall be utilized so that the conversation of those board or committee members attending by telephone may be heard by the board or committee members attending in person, as well as by unit owners present at a meeting.

(c) Board of administration meetings.—Meetings of the board of administration at which a quorum of the members is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. ~~The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting.~~ The association may adopt reasonable written rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all meetings shall be posted in a conspicuous place upon the cooperative property at least 48 continuous hours preceding the meeting, except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such

emergency action shall be noticed and ratified at the next regular meeting of the board. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the cooperative property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the cooperative property upon which all notices of board meetings shall be posted. In lieu of or in addition to the physical posting of notice of any meeting of the board of administration on the cooperative property, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the cooperative association. However, if broadcast notice is used in lieu of a notice posted physically on the cooperative property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Notice of any meeting in which regular assessments against unit owners are to be

considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a committee to take final action on behalf of the board or to make recommendations to the board regarding the association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association. Notwithstanding any other law to the contrary, the requirement that board meetings and committee meetings be open to the unit owners is inapplicable to meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice.

(d) Shareholder meetings.—There shall be an annual meeting of the shareholders. All members of the board of administration shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. Any unit owner desiring to be a candidate for board membership must comply with subparagraph 1. The bylaws must provide the method for calling meetings, including annual meetings. Written notice, which must incorporate an identification of agenda items, shall be given to each unit owner at least 14 days before the annual meeting and posted in a conspicuous place on the cooperative property at least 14 continuous days preceding the annual meeting. Upon notice to the

unit owners, the board must by duly adopted rule designate a specific location on the cooperative property upon which all notice of unit owner meetings are posted. In lieu of or in addition to the physical posting of the meeting notice, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the cooperative association. However, if broadcast notice is used in lieu of a posted notice, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Unless a unit owner waives in writing the right to receive notice of the annual meeting, the notice of the annual meeting must be sent by mail, hand delivered, or electronically transmitted to each unit owner. An officer of the association must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association, affirming that notices of the association meeting were mailed, hand delivered, or electronically transmitted, in accordance with this provision, to each unit owner at the address last furnished to the association.

1. The board of administration shall be elected by written ballot or voting machine. A proxy may not be used in electing the board of administration in general elections or elections to

fill vacancies caused by recall, resignation, or otherwise unless otherwise provided in this chapter. At least 60 days before a scheduled election, the association shall mail, deliver, or transmit, whether by separate association mailing, delivery, or electronic transmission or included in another association mailing, delivery, or electronic transmission, including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in this section, the association shall mail, deliver, or electronically transmit a second notice of election to all unit owners entitled to vote, together with a ballot which lists all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, to be included with the mailing, delivery, or electronic transmission of the ballot, with the costs of mailing, delivery, or transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets provided by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. ~~The division shall by rule establish voting procedures consistent with this subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the~~

~~secrecy of ballots.~~ Elections shall be decided by a plurality of those ballots cast. There is no quorum requirement. However, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not permit any other person to vote his or her ballot, and any such ballots improperly cast are invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 719.303. The regular election must occur on the date of the annual meeting. This subparagraph does not apply to timeshare cooperatives. Notwithstanding this subparagraph, an election and balloting are not required unless more candidates file a notice of intent to run or are nominated than vacancies exist on the board.

2. Any approval by unit owners called for by this chapter, or the applicable cooperative documents, must be made at a duly noticed meeting of unit owners and is subject to this chapter or the applicable cooperative documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable cooperative documents or law which provides for the unit owner action.

3. Unit owners may waive notice of specific meetings if allowed by the applicable cooperative documents or law. If authorized by the bylaws, notice of meetings of the board of administration, shareholder meetings, except shareholder

meetings called to recall board members under paragraph (f), and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission.

4. Unit owners have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

5. Any unit owner may tape record or videotape meetings of the unit owners ~~subject to reasonable rules adopted by the division~~.

6. Unless otherwise provided in the bylaws, a vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 1. unless the association has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this subparagraph shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (f) ~~and rules adopted by the division~~.

Notwithstanding subparagraphs (b)2. and (d)1., an association may, by the affirmative vote of a majority of the total voting

interests, provide for a different voting and election procedure in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(f) Recall of board members.—Subject to the provisions of s. 719.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests. A special meeting of the voting interests to recall any member of the board of administration may be called by 10 percent of the unit owners giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for this purpose.

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

2. If the proposed recall is by an agreement in writing by

a majority of all voting interests, the agreement in writing or a copy thereof shall be served on the association by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure. The board of administration shall duly notice and hold a meeting of the board within 5 full business days after receipt of the agreement in writing. At the meeting, the board shall ~~either~~ certify the written agreement to recall members of the board, in which case such members shall be recalled effective immediately and shall turn over to the board, within 5 full business days, any and all records and property of the association in their possession~~, or proceed as described in subparagraph 3~~.

~~3. If the board determines not to certify the written agreement to recall members of the board, or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the board meeting, file with the division a petition for binding arbitration pursuant to the procedures of s. 719.1255. For purposes of this paragraph, the unit owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member of the board, the recall shall be effective upon mailing of the final order of arbitration to the association. If the association fails to comply with the order of the arbitrator, the division may take action pursuant to s. 719.501. Any member so recalled shall deliver to the board any and all records and property of the association in the member's possession within 5 full business days of the effective date of~~

~~the recall.~~

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

4.~~5.~~ If a vacancy occurs on the board as a result of a recall and less than a majority of the board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this chapter. ~~If vacancies occur on the board as a result of a recall and a majority or more of the board members are removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the division, which rules need not be consistent with this chapter. The rules must provide procedures governing the conduct of the recall election as well as the operation of the association during the period after a recall but prior to the recall election.~~

~~(l) Arbitration.—There shall be a provision for mandatory nonbinding arbitration of internal disputes arising from the operation of the cooperative in accordance with s. 719.1255.~~

Section 165. Section 719.1255, Florida Statutes, is repealed.

Section 166. Subsections (1) and (8) of section 719.202, Florida Statutes, are amended to read:

719.202 Sales or reservation deposits prior to closing.—

(1) If a developer contracts to sell a cooperative parcel and the construction, furnishing, and landscaping of the property submitted or proposed to be submitted to cooperative ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, the developer shall pay into an escrow account all payments up to 10 percent of the sale price received by the developer from the buyer towards the sale price. The escrow agent shall give to the purchaser a receipt for the deposit, upon request. ~~In lieu of the foregoing, the division director shall have the discretion to accept other assurances, including, but not limited to, a surety bond or an irrevocable letter of credit in an amount equal to the escrow requirements of this section.~~ Default determinations and refund of deposits shall be governed by the escrow release provision of this subsection. Funds shall be released from the escrow as follows:

(a) If a buyer properly terminates the contract pursuant to its terms or pursuant to this chapter, the funds shall be paid to the buyer together with any interest earned.

(b) If the buyer defaults in the performance of his or her obligations under the contract of purchase and sale, the funds shall be paid to the developer together with any interest earned.

(c) If the contract does not provide for the payment of any interest earned on the escrowed funds, interest shall be paid to the developer at the closing of the transaction.

(d) If the funds of a buyer have not been previously disbursed in accordance with the provisions of this subsection, they may be disbursed to the developer by the escrow agent at the closing of the transaction, unless prior to the disbursement the escrow agent receives from the buyer written notice of a dispute between the buyer and developer.

(8) Each escrow account required by this section shall be established with a bank, a savings and loan association, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, or any financial lending institution having a net worth in excess of $5 million. The escrow agent shall not be located outside the state unless, pursuant to the escrow agreement, the escrow agent submits to the jurisdiction of ~~the division and~~ the courts of this state for any cause of action arising from the escrow. Each escrow agent shall be independent of the developer, and no developer or any officer, director, affiliate, subsidiary, or employee thereof may serve as escrow agent. Escrow funds may be invested only in securities of the United States or any agency thereof or in accounts in institutions the deposits of which are insured by an agency of the United States.

Section 167. Subsections (2) and (6) of section 719.301, Florida Statutes, are amended to read:

719.301 Transfer of association control.—

(2) Within 75 days after the unit owners other than the developer are entitled to elect a member or members of the board of administration of an association, the association shall call, and give not less than 60 days' notice of, an election for the

members of the board of administration. The election shall proceed as provided in s. 719.106(1)(d). The notice may be given by any unit owner if the association fails to do so. ~~Upon election of the first unit owner other than the developer to the board of administration, the developer shall forward to the division the name and mailing address of the unit owner board member.~~

~~(6) The division may adopt rules administering the provisions of this section.~~

Section 168. Section 719.501, Florida Statutes, is repealed.

Section 169. Section 719.502, Florida Statutes, is repealed.

Section 170. Paragraphs (b) and (c) of subsection (1) of section 719.503, Florida Statutes, are amended to read:

719.503 Disclosure prior to sale.—

(1) DEVELOPER DISCLOSURE.—

(b) Copies of documents to be furnished to prospective buyer or lessee.—Until such time as the developer has furnished the documents listed below to a person who has entered into a contract to purchase a unit or lease it for more than 5 years, the contract may be voided by that person, entitling the person to a refund of any deposit together with interest thereon as provided in s. 719.202. The contract may be terminated by written notice from the proposed buyer or lessee delivered to the developer within 15 days after the buyer or lessee receives all of the documents required by this section. The developer shall not close for 15 days following the execution of the

agreement and delivery of the documents to the buyer as evidenced by a receipt for documents signed by the buyer unless the buyer is informed in the 15-day voidability period and agrees to close prior to the expiration of the 15 days. The developer shall retain in his or her records a separate signed agreement as proof of the buyer's agreement to close prior to the expiration of said voidability period. Said proof shall be retained for a period of 5 years after the date of the closing transaction. The documents to be delivered to the prospective buyer are the prospectus or disclosure statement with all exhibits, if the development is subject to the provisions of s. 719.504, or, if not, then copies of the following which are applicable:

1. The question and answer sheet described in s. 719.504, and cooperative documents, or the proposed cooperative documents if the documents have not been recorded, which shall include the certificate of a surveyor approximately representing the locations required by s. 719.104.

2. The documents creating the association.

3. The bylaws.

4. The ground lease or other underlying lease of the cooperative.

5. The management contract, maintenance contract, and other contracts for management of the association and operation of the cooperative and facilities used by the unit owners having a service term in excess of 1 year, and any management contracts that are renewable.

6. The estimated operating budget for the cooperative and

a schedule of expenses for each type of unit, including fees assessed to a shareholder who has exclusive use of limited common areas, where such costs are shared only by those entitled to use such limited common areas.

7. The lease of recreational and other facilities that will be used only by unit owners of the subject cooperative.

8. The lease of recreational and other common areas that will be used by unit owners in common with unit owners of other cooperatives.

9. The form of unit lease if the offer is of a leasehold.

10. Any declaration of servitude of properties serving the cooperative but not owned by unit owners or leased to them or the association.

11. If the development is to be built in phases or if the association is to manage more than one cooperative, a description of the plan of phase development or the arrangements for the association to manage two or more cooperatives.

12. If the cooperative is a conversion of existing improvements, the statements and disclosure required by s. 719.616.

13. The form of agreement for sale or lease of units.

14. A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

15. A copy of all covenants and restrictions which will affect the use of the property and which are not contained in the foregoing.

16. If the developer is required by state or local

authorities to obtain acceptance or approval of any dock or marina facilities intended to serve the cooperative, ~~a copy of any such acceptance or approval acquired by the time of filing with the division pursuant to s. 719.502(1) or~~ a statement that such acceptance or approval has not been acquired or received.

17. Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed.

(c) Subsequent estimates; when provided.—~~If the closing on a contract occurs more than 12 months after the filing of the offering circular with the division,~~ The developer shall provide a copy of the current estimated operating budget of the association to the buyer at closing, which shall not be considered an amendment that modifies the offering, provided any changes to the association's budget from the budget given to the buyer at the time of contract signing were the result of matters beyond the developer's control. Changes in budgets of any master association, recreation association, or club and similar budgets for entities other than the association shall likewise not be considered amendments that modify the offering. It is the intent of this paragraph to clarify existing law.

Section 171. Section 719.504, Florida Statutes, is amended to read:

719.504 Prospectus or offering circular.—Every developer of a residential cooperative which contains more than 20 residential units, or which is part of a group of residential cooperatives which will be served by property to be used in common by unit owners of more than 20 residential units, shall

prepare a prospectus or offering circular ~~and file it with the Division of Florida Condominiums, Timeshares, and Mobile Homes~~ prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers" ~~Answers," which must be in accordance with a format approved by the division~~. This page must, in readable language: inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which identifies the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and state whether membership in a recreational facilities association is mandatory and, if so, identify the fees currently charged per unit type. ~~The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers.~~ The prospectus or offering circular may include more than one cooperative, although not all such units are being

offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

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

(a) The name of the cooperative.

(b) The following statements in conspicuous type:

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

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

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

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

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

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

(a) Its name and location.

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

1. The number of buildings, the number of units in each

building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the cooperative is not a phase cooperative; or, if the cooperative is a phase cooperative, the maximum number of buildings that may be contained within the cooperative, the minimum and maximum number of units in each building, the minimum and maximum number of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the cooperative.

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

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

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

(5)(a) A statement in conspicuous type describing whether the cooperative is created and being sold as fee simple interests or as leasehold interests. If the cooperative is created or being sold on a leasehold, the location of the lease

in the disclosure materials shall be stated.

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

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

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

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

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

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

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

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

2. A reference to the location in the disclosure materials

of the lease or other agreements providing for the use of those facilities; and

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

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

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

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

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

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

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

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

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

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

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

(8) Recreation lease or associated club membership:

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

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

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

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

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

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

Immediately following the applicable statement, the location in the disclosure materials where the development is described in

detail shall be stated.

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

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

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

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

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

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

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

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

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

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

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

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

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

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

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

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

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

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

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

differ is described shall be stated.

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

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

(a) The information required by s. 719.616.

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

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

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

other instrument creating such servitude shall be included as an exhibit.

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

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

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

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

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

to each unit owner for utility services to his or her unit; insurance premiums other than those incurred for policies obtained by the cooperative; and similar personal expenses of the unit owner. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

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

1. Expenses for the association and cooperative:

a. Administration of the association.

b. Management fees.

c. Maintenance.

d. Rent for recreational and other commonly used areas.

e. Taxes upon association property.

f. Taxes upon leased areas.

g. Insurance.

h. Security provisions.

i. Other expenses.

j. Operating capital.

k. Reserves.

~~l. Fee payable to the division.~~

2. Expenses for a unit owner:

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

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

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

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

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

(f) The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time unit owners other than the developer elect a

majority of the board of administration and the period after that date.

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

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

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

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

(b) The articles of incorporation creating the association.

(c) The bylaws of the association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(26) If the developer is required by state or local

authorities to obtain acceptance or approval of any dock or marina facility intended to serve the cooperative, ~~a copy of such acceptance or approval acquired by the time of filing with the division pursuant to s. 719.502 or~~ a statement that such acceptance has not been acquired or received.

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

Section 172. Section 719.508, Florida Statutes, is repealed.

Section 173. Paragraph (a) of subsection (2) and subsections (4) and (5) of section 719.608, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. If you have any questions regarding this conversion or the Cooperative Act, you may contact the developer ~~or the state agency which regulates cooperatives: The Division of Florida Condominiums, Timeshares, and Mobile Homes, ...(Tallahassee~~

~~address and telephone number of division)...~~.

~~(4) Upon the request of a developer and payment of a fee prescribed by the rules of the division not to exceed $50, the division may verify to a developer that a notice complies with this section.~~

~~(5) Prior to delivering a notice of intended conversion to tenants of existing improvements being converted to a residential cooperative, each developer shall file with the division a copy of the notice of intended conversion. Upon filing, each developer shall pay to the division a filing fee of $100.~~

Section 174. Section 719.621, Florida Statutes, is repealed.

Section 175. Subsections (8) through (13) of section 720.301, Florida Statutes, are renumbered as subsections (7) through (12), respectively, and present subsection (7) is amended to read:

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

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

Section 176. Paragraphs (d) and (e) of subsection (10) of section 720.303, Florida Statutes, are amended to read:

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

(10) RECALL OF DIRECTORS.—

(d) If the board determines not to certify the written

agreement or written ballots to recall a director or directors of the board or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the meeting, file with the department a petition for binding arbitration ~~pursuant to the applicable procedures in ss. 718.112(2)(j) and 718.1255 and the rules adopted thereunder~~. For the purposes of this section, the members who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any director or directors of the board, the recall will be effective upon mailing of the final order of arbitration to the association. The director or directors so recalled shall deliver to the board any and all records of the association in their possession within 5 full business days after the effective date of the recall.

(e) If a vacancy occurs on the board as a result of a recall and less than a majority of the board directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this subsection or in the association documents. If vacancies occur on the board as a result of a recall and a majority or more of the board directors are removed, the vacancies shall be filled by members voting in favor of the recall; if removal is at a meeting, any vacancies shall be filled by the members at the meeting. If the recall occurred by agreement in writing or by written ballot, members may vote for replacement directors in the same instrument ~~in accordance with procedural rules adopted by the division, which~~

~~rules need not be consistent with this subsection~~.

Section 177. Subsection (9) of section 720.306, Florida Statutes, is amended to read:

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

(9) ELECTIONS AND BOARD VACANCIES.—Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association are eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held or, if the election process allows voting by absentee ballot, in advance of the balloting. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters. ~~Any election dispute between a member and an association must be submitted to mandatory binding arbitration with the division. Such proceedings must be conducted in the manner provided by s. 718.1255 and the procedural rules adopted by the division.~~ Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by an affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of the governing documents. Unless otherwise provided in the bylaws, a board member appointed or elected under this section is appointed for

the unexpired term of the seat being filled. Filling vacancies created by recall is governed by s. 720.303(10) ~~and rules adopted by the division~~.

Section 178. Subsection (1) and paragraph (c) of subsection (2) of section 720.311, Florida Statutes, are amended to read:

720.311 Dispute resolution.—

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for arbitration or the serving of a demand for presuit mediation as provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the department pursuant to s. 720.303(10) shall be conducted by the department ~~in accordance with the provisions of ss. 718.112(2)(j) and 718.1255 and the rules adopted by the division~~. In addition, the department shall conduct mandatory binding arbitration of election disputes between a member and an association ~~pursuant to s. 718.1255 and rules adopted by the division~~. Neither election disputes nor recall disputes are eligible for presuit mediation; these disputes shall be arbitrated by the department. At the conclusion of the proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least $200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration

proceeding, and the prevailing party in an arbitration proceeding shall recover its reasonable costs and attorney's fees in an amount found reasonable by the arbitrator. The department shall adopt rules to effectuate the purposes of this section.

(2)

(c) If presuit mediation as described in paragraph (a) is not successful in resolving all issues between the parties, the parties may file the unresolved dispute in a court of competent jurisdiction or elect to enter into binding or nonbinding arbitration ~~pursuant to the procedures set forth in s. 718.1255 and rules adopted by the division~~, with the arbitration proceeding to be conducted by a department arbitrator or by a private arbitrator certified by the department. If all parties do not agree to arbitration proceedings following an unsuccessful presuit mediation, any party may file the dispute in court. A final order resulting from nonbinding arbitration is final and enforceable in the courts if a complaint for trial de novo is not filed in a court of competent jurisdiction within 30 days after entry of the order. As to any issue or dispute that is not resolved at presuit mediation, and as to any issue that is settled at presuit mediation but is thereafter subject to an action seeking enforcement of the mediation settlement, the prevailing party in any subsequent arbitration or litigation proceeding shall be entitled to seek recovery of all costs and attorney's fees incurred in the presuit mediation process.

Section 179. Subsections (1) and (2) of section 720.407, Florida Statutes, are amended to read:

720.407 Recording; notice of recording; applicability and effective date.—

(1) No later than 30 days after receiving approval from the department, the organizing committee shall file the articles of incorporation of the association with the Division of Corporations of the Department of State if the articles have not been previously filed with the Division of Corporations.

(2) No later than 30 days after receiving approval from the department ~~division~~, the president and secretary of the association shall execute the revived declaration and other governing documents ~~approved by the department~~ in the name of the association and have the documents recorded with the clerk of the circuit court in the county where the affected parcels are located.

Section 180. Subsections (1) through (3), subsection (8), and subsection (11) of section 721.03, Florida Statutes, are amended to read:

721.03 Scope of chapter.—

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

(a) With respect to a timeshare plan containing accommodations or facilities located in this state ~~which has previously been filed with and approved by the division and~~ which is offered for sale in other jurisdictions within the jurisdictional limits of the United States, the offering or sale

of the timeshare plan in such jurisdictions is ~~shall~~ not ~~be~~ subject to ~~the provisions of~~ this chapter.

(b) With respect to a timeshare plan containing accommodations or facilities located in this state which is offered for sale outside the jurisdictional limits of the United States, such offer or sale is ~~shall be~~ exempt from ~~the requirements of~~ this chapter~~, provided that the developer shall either file the timeshare plan with the division for approval pursuant to this chapter, or pay an exemption registration fee of $100 and file the following minimum information pertaining to the timeshare plan with the division for approval:~~

~~1. The name and address of the timeshare plan.~~

~~2. The name and address of the developer and seller, if any.~~

~~3. The location and a brief description of the accommodations and facilities, if any, that are located in this state.~~

~~4. The number of timeshare interests and timeshare periods to be offered.~~

~~5. The term of the timeshare plan.~~

~~6. A copy of the timeshare instrument relating to the management and operation of accommodations and facilities, if any, that are located in this state.~~

~~7. A copy of the budget required by s. 721.07(5)(t) or s. 721.55(4)(h)5., as applicable.~~

~~8. A copy of the management agreement and any other contracts regarding management or operation of the accommodations and facilities, if any, that are located in this~~

~~state, and which have terms in excess of 1 year.~~

~~9. A copy of the provision of the purchase contract to be utilized in offering the timeshare plan containing the following disclosure in conspicuous type immediately above the space provided for the purchaser's signature:~~

~~The offering of this timeshare plan outside the jurisdictional limits of the United States of America is exempt from regulation under Florida law, and any such purchase is not protected by the State of Florida. However, the management and operation of any accommodations or facilities located in Florida is subject to Florida law and may give rise to enforcement action regardless of the location of any offer~~.

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

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

~~2. The division shall not require a developer of timeshare accommodations or facilities located outside of this state to make changes in any timeshare instrument to conform to the provisions of s. 721.07 or s. 721.55. The division shall have the power to require disclosure of those provisions of the timeshare instrument that do not conform to s. 721.07 or s. 721.55 as the director determines is necessary to fairly,~~

~~meaningfully, and effectively disclose all aspects of the timeshare plan.~~

~~3. Except as provided in this subparagraph, the division shall have no authority to determine whether any person has complied with another state's laws or to disapprove any filing out-of-state, timeshare instrument, or component site document, based solely upon the lack or degree of timeshare regulation in another state. The division may require a developer to obtain and provide to the division existing documentation relating to an out-of-state filing, timeshare instrument, or component site document and prove compliance of same with the laws of that state. In this regard, the division may accept any evidence of the approval or acceptance of any out-of-state filing, timeshare instrument, or component site document by another state in lieu of requiring a developer to file the out-of-state filing, timeshare instrument, or component site document with the division pursuant to this section, or the division may accept an opinion letter from an attorney or law firm opining as to the compliance of such out-of-state filing, timeshare instrument, or component site document with the laws of another state. The division may refuse to approve the inclusion of any out-of-state filing, timeshare instrument, or component site document as part of a public offering statement based upon the inability of the developer to establish the compliance of same with the laws of another state.~~

~~4. The division is authorized to enter into an agreement with another state for the purpose of facilitating the processing of out-of-state timeshare instruments or other~~

~~component site documents pursuant to this chapter and for the purpose of facilitating the referral of consumer complaints to the appropriate state.~~

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

(2) When a timeshare plan is subject to both the provisions of this chapter and the provisions of chapter 718 or chapter 719, the plan shall meet the requirements of both chapters unless exempted as provided in this section. ~~The division shall have the authority to adopt rules differentiating between timeshare condominiums and nontimeshare condominiums, and between timeshare cooperatives and nontimeshare cooperatives, in the interpretation and implementation of chapters 718 and 719, respectively.~~ In the event of a conflict between the provisions of this chapter and the provisions of chapter 718 or chapter 719, the provisions of this chapter shall prevail.

(3) A timeshare plan which is subject to the provisions of chapter 718 or chapter 719, if fully in compliance with the provisions of this chapter, is exempt from the following:

(a) Sections 718.202 and 719.202, relating to sales or reservation deposits prior to closing.

~~(b) Sections 718.502 and 719.502, relating to filing prior to sale or lease.~~

(b)~~(c)~~ Sections 718.503 and 719.503, relating to disclosure prior to sale.

(c)~~(d)~~ Sections 718.504 and 719.504, relating to prospectus or offering circular.

(d)~~(e)~~ Part VI of chapter 718 and part VI of chapter 719, relating to conversion of existing improvements to the condominium or cooperative form of ownership, respectively, provided that a developer converting existing improvements to a timeshare condominium or timeshare cooperative must comply with ss. 718.606, 718.608, 718.61, and 718.62, or ss. 719.606, 719.608, 719.61, and 719.62, if applicable, and, if the existing improvements received a certificate of occupancy more than 18 months before such conversion, one of the following:

1. The accommodations and facilities shall be renovated and improved to a condition such that the remaining useful life in years of the roof, plumbing, air-conditioning, and any component of the structure which has a useful life less than the useful life of the overall structure is equal to the useful life of accommodations or facilities that would exist if such accommodations and facilities were newly constructed and not previously occupied.

2. The developer shall fund reserve accounts for capital expenditures and deferred maintenance for the roof, plumbing, air-conditioning, and any component of the structure the useful life of which is less than the useful life of the overall structure. The reserve accounts shall be funded for each

component in an amount equal to the product of the estimated current replacement cost of such component as of the date of such conversion (as disclosed and substantiated by a certificate under the seal of an architect or engineer authorized to practice in this state) multiplied by a fraction, the numerator of which shall be the age of the component in years (as disclosed and substantiated by a certificate under the seal of an architect or engineer authorized to practice in this state) and the denominator of which shall be the total useful life of the component in years (as disclosed and substantiated by a certificate under the seal of an architect or engineer authorized to practice in this state). Alternatively, the reserve accounts may be funded for each component in an amount equal to the amount that, except for the application of this subsection, would be required to be maintained pursuant to s. 718.618(1) or s. 719.618(1). The developer shall fund the reserve accounts contemplated in this subparagraph out of the proceeds of each sale of a timeshare interest, on a pro rata basis, in an amount not less than a percentage of the total amount to be deposited in the reserve account equal to the percentage of ownership allocable to the timeshare interest sold. When an owners' association makes an expenditure of reserve account funds before the developer has initially sold all timeshare interests, the developer shall make a deposit in the reserve account if the reserve account is insufficient to pay the expenditure. Such deposit shall be at least equal to that portion of the expenditure which would be charged against the reserve account deposit that would have been made for any

such timeshare interest had the timeshare interest been initially sold. When a developer deposits amounts in excess of the minimum reserve account funding, later deposits may be reduced to the extent of the excess funding.

3. The developer shall provide each purchaser with a warranty of fitness and merchantability pursuant to s. 718.618(6) or s. 719.618(6).

(8) With respect to any personal property timeshare plan,~~:~~

~~(a)~~ this chapter applies only to personal property timeshare plans that are offered in this state.

~~(b) The division shall have the authority to adopt rules interpreting and implementing the provisions of this chapter as they apply to any personal property timeshare plan or any accommodation or facility that is part of a personal property timeshare plan offered in this state, or as the provisions of this chapter apply to any other laws of this state, of the several states, of the United States, or of any other jurisdiction, with respect to any personal property timeshare plan or any accommodation or facility that is part of a personal property timeshare plan offered in this state.~~

~~(c) Any developer and any managing entity of a personal property timeshare plan must submit to personal jurisdiction in this state in a form satisfactory to the division at the time of filing a public offering statement.~~

(11)(a) A seller may offer timeshare interests in a real property timeshare plan located outside of this state without filing a public offering statement for such out-of-state real property timeshare plan pursuant to ~~s. 721.07 or~~ s. 721.55,

provided all of the following criteria have been satisfied:

1. The seller shall provide a disclosure statement to each prospective purchaser of such out-of-state timeshare plan. ~~The disclosure statement for a single-site timeshare plan shall contain information otherwise required under s. 721.07(5)(c)-(cc) and the exhibits required by s. 721.07(5)(ff)1., 2., 3., 4., 5., 7., 8., and 20.~~ The disclosure statement for a multisite timeshare plan shall contain information otherwise required under s. 721.55(4) ~~and (5)~~ and the exhibits required under s. 721.55(6) ~~(7)~~. If a developer has, in good faith, attempted to comply with the requirements of this subsection and if the developer has substantially complied with the disclosure requirements of this subsection, nonmaterial errors or omissions shall not be actionable. With respect to any offer for an out-of-state timeshare plan made pursuant to this subsection, the delivery by the seller to a prospective purchaser of the disclosure statement required by this subparagraph shall be deemed to satisfy any requirement of this chapter regarding a public offering statement.

2. The seller shall utilize and furnish to each purchaser of an out-of-state timeshare plan offered under this subsection a fully completed and executed copy of a purchase contract that contains the statement set forth in s. 721.065(2)(c) in conspicuous type located immediately prior to the space in the contract reserved for the purchaser's signature. The purchase contract shall also contain the initial purchase price and any additional charges to which the purchaser may be subject in connection with the purchase of the timeshare plan, such as

financing, or that will be collected from the purchaser on or before closing, such as the current year's annual assessment for common expenses.

3. All purchase contracts for out-of-state timeshare plans offered under this subsection must also contain the following statements in conspicuous type:

This timeshare plan has not been reviewed or approved by the State of Florida.

The timeshare interest you are purchasing requires certain procedures to be followed in order for you to use your interest. These procedures may be different from those followed in other timeshare plans. You should read and understand these procedures prior to purchasing.

4.a. An out-of-state timeshare plan may only be offered pursuant to this subsection by the seller on behalf of:

(I) The developer of a timeshare plan ~~that has been approved by the division~~ within the preceding 7 years pursuant to ~~s. 721.07 or~~ s. 721.55, or concerning which an amendment by the developer has been approved by the division within the preceding 7 years, which timeshare plan has been neither terminated nor withdrawn; or

(II) A developer under common ownership or control with a developer described in sub-sub-subparagraph (I), provided that any common ownership shall constitute at least a 50-percent ownership interest.

b. An out-of-state timeshare plan may only be offered pursuant to this subsection to a person who already owns a timeshare interest in a timeshare plan filed by a developer

described in sub-subparagraph a.

5. Any seller of an out-of-state timeshare plan offered pursuant to this subsection shall be required to provide notice of such plan to the division on a form prescribed by the division, along with payment of a one-time fee not to exceed $1,000 per filing.

(b) Timeshare plans offered pursuant to this subsection shall be exempt from the requirements of ss. 721.06, 721.065, ~~721.07, 721.27,~~ and 721.55~~, and 721.58~~ in addition to the exemptions otherwise applicable to accommodations and facilities located outside of the state pursuant to subparagraph (1)(c)1.

(c) Any escrow account required to be established by s. 721.08 for any out-of-state timeshare plan offered under this subsection may be maintained in the situs jurisdiction ~~provided the escrow agent submits to personal jurisdiction in this state in a form satisfactory to the division~~.

Section 181. Subsections (12) through (17) of section 721.05, Florida Statutes, are renumbered as subsections (11) through (16), respectively, subsections (19) through (44) of that section are renumbered as subsections (17) through (42), respectively, and present subsection (8), paragraph (e) of subsection (10), and subsections (11), (18), (19), (29), and (31) of that section are amended to read:

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

(8) "Conspicuous type" means:

(a) Type in upper and lower case letters two point sizes larger than the largest nonconspicuous type, exclusive of headings, on the page on which it appears but in at least 10-

point type; or

(b) Where the use of 10-point type would be impractical or impossible with respect to a particular piece of written advertising material, a different style of type or print may be used, so long as the print remains conspicuous under the circumstances.

Where conspicuous type is required, it must be separated on all sides from other type and print. Conspicuous type may be utilized in contracts for purchase or public offering statements only where required by law ~~or as authorized by the division~~.

(10) "Developer" includes:

(e) A successor or concurrent developer shall be exempt from any liability inuring to a predecessor or concurrent developer of the same timeshare plan, except as provided in s. 721.15(7), provided that this exemption shall not apply to any of the successor or concurrent developer's responsibilities, duties, or liabilities with respect to the timeshare plan that accrue after the date the successor or concurrent developer became a successor or concurrent developer, and provided that such transfer does not constitute a fraudulent transfer. In addition to other provisions of law, a transfer by a predecessor developer to a successor or concurrent developer shall be deemed fraudulent if the predecessor developer made the transfer:

1. With actual intent to hinder, delay, or defraud any purchaser ~~or the division~~; or

2. To a person that would constitute an insider under s. 726.102(7).

~~The provisions of~~ This paragraph does ~~shall~~ not ~~be construed to~~ relieve any successor or concurrent developer from the obligation to comply with the provisions of any applicable timeshare instrument.

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

~~(18) "Filed public offering statement" means a public offering statement that has been filed with the division pursuant to s. 721.07(5) or s. 721.55.~~

(17)~~(19)~~ "Incidental benefit" means an accommodation, product, service, discount, or other benefit which is offered to a prospective purchaser of a timeshare plan or to a purchaser of a timeshare plan prior to the expiration of his or her initial 10-day voidability period pursuant to s. 721.10; which is not an exchange program as defined in subsection (15)~~(16); and which complies with the provisions of s. 721.075~~. The term shall not include an offer of the use of the accommodations and facilities of the timeshare plan on a free or discounted one-time basis.

(27)~~(29)~~ "Public offering statement" means the written materials describing a single-site timeshare plan or a multisite timeshare plan, including a text and any exhibits attached thereto as required by ss. ~~721.07,~~ 721.55~~,~~ and 721.551. The term "public offering statement" shall refer to both a filed public offering statement and a purchaser public offering statement.

(29)~~(31)~~ "Purchaser public offering statement" means that portion of the filed public offering statement which must be

delivered to purchasers pursuant to ~~s. 721.07(6) or~~ s. 721.551.

Section 182. Paragraphs (g) and (l) of subsection (1) and subsection (2) of section 721.06, Florida Statutes, are amended to read:

721.06 Contracts for purchase of timeshare interests.—

(1) Each seller shall utilize and furnish each purchaser a fully completed and executed copy of a contract pertaining to the sale, which contract shall include the following information:

(g) Immediately prior to the space reserved in the contract for the signature of the purchaser, in conspicuous type, substantially the following statements:

1. If the purchaser will receive a personal property timeshare interest: This personal property timeshare plan is governed only by limited sections of the timeshare management provisions of Florida law.

2. If the accommodations or facilities are located on or in a documented vessel or foreign vessel as provided in s. 721.08(2)(c)3.e., the disclosure required by s. 721.08(2)(c)3.e.(IV).

3. You may cancel this contract without any penalty or obligation within 10 calendar days after the date you sign this contract or the date on which you receive the last of all documents required to be given to you ~~pursuant to section 721.07(6), Florida Statutes~~, whichever is later. If you decide to cancel this contract, you must notify the seller in writing of your intent to cancel. Your notice of cancellation shall be effective upon the date sent and shall be sent to ...(Name of

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

(l) If the purchaser will receive an interest in a multisite timeshare plan pursuant to part II, a statement shall be provided in conspicuous type in substantially the following form:

The developer is required to provide the managing entity of the multisite timeshare plan with a copy of the approved public offering statement text and exhibits ~~filed with the division~~ and any approved amendments thereto, and any other component site documents as described in ~~section 721.07 or~~ section 721.55, Florida Statutes, ~~that are not required to be filed with the division,~~ to be maintained by the managing entity for inspection as part of the books and records of the plan.

(2)(a) An agreement for deed shall be recorded by the developer within 30 days after the day it is executed by the purchaser. The developer shall pay all recording costs associated therewith. ~~A form copy of such instrument must be filed with the division for review pursuant to s. 721.07.~~

(b) An agreement for transfer shall be filed with the appropriate official responsible for maintaining such records in the appropriate jurisdiction within 30 days after the day it is

executed by the purchaser. The developer shall pay all filing costs associated therewith. ~~A form copy of such instrument must be filed with the division for review pursuant to s. 721.07.~~

Section 183. Sections 721.07, 721.071, and 721.075, Florida Statutes, are repealed.

Section 184. Subsections (6) through (10) of section 721.08, Florida Statutes, are renumbered as subsections (4) through (8), respectively, and present subsections (1), (2), (4), (5), and (8) of that section are amended, to read:

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

(1) ~~Prior to the filing of a public offering statement with the division,~~ All developers shall establish an escrow account with an escrow agent for the purpose of protecting the funds or other property of purchasers required to be escrowed by this section. An escrow agent shall maintain the accounts called for in this section only in such a manner as to be under the direct supervision and control of the escrow agent. The escrow agent shall have a fiduciary duty to each purchaser to maintain the escrow accounts in accordance with good accounting practices and to release the purchaser's funds or other property from escrow only in accordance with this chapter. The escrow agent shall retain all affidavits received pursuant to this section for a period of 5 years. If ~~Should~~ the escrow agent receives ~~receive~~ conflicting demands for funds or other property held in escrow, the escrow agent shall ~~immediately notify the division of the dispute and~~ either promptly submit the matter to arbitration or, by interpleader or otherwise, seek an

adjudication of the matter by court.

(2) One hundred percent of all funds or other property which is received from or on behalf of purchasers of the timeshare plan or timeshare interest before ~~prior to~~ the occurrence of events required in this subsection shall be deposited pursuant to an escrow agreement ~~approved by the division~~. The funds or other property may be released from escrow only as follows:

(a) Cancellation.—In the event a purchaser gives a valid notice of cancellation pursuant to s. 721.10 or is otherwise entitled to cancel the sale, the funds or other property received from or on behalf of the purchaser, or the proceeds thereof, shall be returned to the purchaser. Such refund shall be made within 20 days after demand therefor by the purchaser or within 5 days after receipt of funds from the purchaser's cleared check, whichever is later. If the purchaser has received benefits under the contract prior to the effective date of the cancellation, the funds or other property to be returned to the purchaser may be reduced by the proportion of contract benefits actually received.

(b) Purchaser's default.—Following expiration of the 10-day cancellation period, if the purchaser defaults in the performance of her or his obligations under the terms of the contract to purchase or such other agreement by which a seller sells the timeshare interest, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or other property and shall provide a copy of such affidavit to the purchaser who has defaulted. The developer's

affidavit, as required herein, shall include:

1. A statement that the purchaser has defaulted and that the developer has not defaulted;

2. A brief explanation of the nature of the default and the date of its occurrence;

3. A statement that pursuant to the terms of the contract the developer is entitled to the funds held by the escrow agent; and

4. A statement that the developer has not received from the purchaser any written notice of a dispute between the purchaser and developer or a claim by the purchaser to the escrow.

(c) Compliance with conditions.—

1. Timeshare licenses.—If the timeshare plan is one in which timeshare licenses are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or other property to or on the order of the developer upon presentation of:

a. An affidavit by the developer that all of the following conditions have been met:

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

(IV) Either:

(A) Execution, delivery, and recordation by each interestholder of the nondisturbance and notice to creditors instrument, as described in this section; or

(B) Transfer by the developer of legal title to the

subject accommodations and facilities, or all use rights therein, into a trust satisfying the requirements of subparagraph 4. and the execution, delivery, and recordation by each other interestholder of the nondisturbance and notice to creditors instrument, as described in this section.

b. A certified copy of each recorded nondisturbance and notice to creditors instrument.

c. One of the following:

(I) A copy of a memorandum of agreement, as defined in s. 721.05, together with satisfactory evidence that the original memorandum of agreement has been irretrievably delivered for recording to the appropriate official responsible for maintaining the public records in the county in which the subject accommodations and facilities are located. The original memorandum of agreement must be recorded within 180 days after the date on which the purchaser executed her or his purchase agreement.

(II) A notice delivered for recording to the appropriate official responsible for maintaining the public records in each county in which the subject accommodations and facilities are located notifying all persons of the identity of an independent escrow agent or trustee satisfying the requirements of subparagraph 4. that shall maintain separate books and records, in accordance with good accounting practices, for the timeshare plan in which timeshare licenses are to be sold. The books and records shall indicate each accommodation and facility that is subject to such a timeshare plan and each purchaser of a timeshare license in the timeshare plan.

2. Timeshare estates.—If the timeshare plan is one in which timeshare estates are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or other property to or on the order of the developer upon presentation of:

a. An affidavit by the developer that all of the following conditions have been met:

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

b. If the timeshare estate is sold by agreement for deed, a certified copy of the recorded nondisturbance and notice to creditors instrument, as described in this section.

c. Evidence that each accommodation and facility:

(I) Is free and clear of the claims of any interestholders, other than the claims of interestholders that, through a recorded instrument, are irrevocably made subject to the timeshare instrument and the use rights of purchasers made available through the timeshare instrument;

(II) Is the subject of a recorded nondisturbance and notice to creditors instrument that complies with subsection (3) and s. 721.17; or

(III) Has been transferred into a trust satisfying the requirements of subparagraph 4.

d. Evidence that the timeshare estate:

(I) Is free and clear of the claims of any interestholders, other than the claims of interestholders that, through a recorded instrument, are irrevocably made subject to

the timeshare instrument and the use rights of purchasers made available through the timeshare instrument; or

(II) Is the subject of a recorded nondisturbance and notice to creditors instrument that complies with subsection (3) and s. 721.17.

3. Personal property timeshare interests.—If the timeshare plan is one in which personal property timeshare interests are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or other property to or on the order of the developer upon presentation of:

a. An affidavit by the developer that all of the following conditions have been met:

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

b. If the personal property timeshare interest is sold by agreement for transfer, evidence that the agreement for transfer complies fully with s. 721.06 and this section.

c. Evidence that one of the following has occurred:

(I) Transfer by the owner of the underlying personal property of legal title to the subject accommodations and facilities or all use rights therein into a trust satisfying the requirements of subparagraph 4.; or

(II) Transfer by the owner of the underlying personal property of legal title to the subject accommodations and facilities or all use rights therein into an owners' association satisfying the requirements of subparagraph 5.

d. Evidence of compliance with the provisions of

subparagraph 6., if required.

e. If a personal property timeshare plan is created with respect to accommodations and facilities that are located on or in an oceangoing vessel, including a "documented vessel" or a "foreign vessel," as defined and governed by 46 U.S.C., chapter 301:

(I) In making the transfer required in sub-subparagraph c., the developer shall use as its transfer instrument a document that establishes and protects the continuance of the use rights in the subject accommodations and facilities in a manner that is enforceable by the trust or owners' association.

(II) The transfer instrument shall comply fully with the provisions of this chapter, shall be part of the timeshare instrument, and shall contain specific provisions that:

(A) Prohibit the vessel owner, the developer, any manager or operator of the vessel, the owners' association or the trustee, the managing entity, or any other person from incurring any liens against the vessel except for liens that are required for the operation and upkeep of the vessel, including liens for fuel expenditures, repairs, crews' wages, and salvage, and except as provided in sub-sub-subparagraphs 4.b.(III) and 5.b.(III). All expenses, fees, and taxes properly incurred in connection with the creation, satisfaction, and discharge of any such permitted lien, or a prorated portion thereof if less than all of the accommodations on the vessel are subject to the timeshare plan, shall be common expenses of the timeshare plan.

(B) Grant a lien against the vessel in favor of the owners' association or trustee to secure the full and faithful

performance of the vessel owner and developer of all of their obligations to the purchasers.

(C) Establish governing law in a jurisdiction that recognizes and will enforce the timeshare instrument and the laws of the jurisdiction of registry of the vessel.

(D) Require that a description of the use rights of purchasers be posted and displayed on the vessel in a manner that will give notice of such rights to any party examining the vessel. This notice must identify the owners' association or trustee and include a statement disclosing the limitation on incurring liens against the vessel described in sub-sub-sub-subparagraph (A).

(E) Include the nondisturbance and notice to creditors instrument for the vessel owner and any other interestholders.

(F) The owners' association created under subparagraph 5. or trustee created under subparagraph 4. shall have access to any certificates of classification in accordance with the timeshare instrument.

(III) If the vessel is a foreign vessel, the vessel must be registered in a jurisdiction that permits a filing evidencing the use rights of purchasers in the subject accommodations and facilities, offers protection for such use rights against unfiled and inferior claims, and recognizes the document or instrument creating such use rights as a lien against the vessel.

(IV) ~~In addition to the disclosures required by s. 721.07(5),~~ The public offering statement and purchase contract must contain a disclosure in conspicuous type in substantially

the following form:

The laws of the State of Florida govern the offering of this timeshare plan in this state. There are inherent risks in purchasing a timeshare interest in this timeshare plan because the accommodations and facilities of the timeshare plan are located on a vessel that will sail into international waters and into waters governed by many different jurisdictions. Therefore, the laws of the State of Florida cannot fully protect your purchase of an interest in this timeshare plan. Specifically, management and operational issues may need to be addressed in the jurisdiction in which the vessel is registered, which is (insert jurisdiction in which vessel is registered). Concerns of purchasers may be sent to (insert name of applicable regulatory agency and address).

4. Trust.—

a. If the subject accommodations or facilities, or all use rights therein, are to be transferred into a trust in order to comply with this paragraph, such transfer shall take place pursuant to this subparagraph.

b. Prior to the transfer by each interestholder of the subject accommodations and facilities, or all use rights therein, to a trust, any lien or other encumbrance against such accommodations and facilities, or use rights therein, shall be made subject to a nondisturbance and notice to creditors instrument pursuant to subsection (3). No transfer pursuant to this subparagraph shall become effective until the trustee accepts such transfer and the responsibilities set forth herein. A trust established pursuant to this subparagraph shall comply

with the following provisions:

(I) The trustee shall be an individual or a business entity authorized and qualified to conduct trust business in this state. Any corporation authorized to do business in this state may act as trustee in connection with a timeshare plan pursuant to this chapter. The trustee must be independent from any developer or managing entity of the timeshare plan or any interestholder of any accommodation or facility of such plan.

(II) The trust shall be irrevocable so long as any purchaser has a right to occupy any portion of the timeshare property pursuant to the timeshare plan.

(III) The trustee shall not convey, hypothecate, mortgage, assign, lease, or otherwise transfer or encumber in any fashion any interest in or portion of the timeshare property with respect to which any purchaser has a right of use or occupancy unless the timeshare plan is terminated pursuant to the timeshare instrument, or such conveyance, hypothecation, mortgage, assignment, lease, transfer, or encumbrance is approved by a vote of two-thirds of all voting interests of the timeshare plan and such decision is declared by a court of competent jurisdiction to be in the best interests of the purchasers of the timeshare plan. ~~The trustee shall notify the division in writing within 10 days after receiving notice of the filing of any petition relating to obtaining such a court order. The division shall have standing to advise the court of the division's interpretation of the statute as it relates to the petition.~~

(IV) All purchasers of the timeshare plan or the owners'

association of the timeshare plan shall be the express beneficiaries of the trust. The trustee shall act as a fiduciary to the beneficiaries of the trust. The personal liability of the trustee shall be governed by ss. 736.08125, 736.08163, 736.1013, and 736.1015. The agreement establishing the trust shall set forth the duties of the trustee. ~~The trustee shall be required to furnish promptly to the division upon request a copy of the complete list of the names and addresses of the owners in the timeshare plan and a copy of any other books and records of the timeshare plan required to be maintained pursuant to s. 721.13 that are in the possession, custody, or control of the trustee.~~ All expenses reasonably incurred by the trustee in the performance of its duties, together with any reasonable compensation of the trustee, shall be common expenses of the timeshare plan.

(V) The trustee shall not resign upon less than 90 days' prior written notice to the managing entity ~~and the division~~. No resignation shall become effective until a substitute trustee~~,~~ ~~approved by the division,~~ is appointed by the managing entity and accepts the appointment.

(VI) The documents establishing the trust arrangement shall constitute a part of the timeshare instrument.

(VII) For trusts holding property in a timeshare plan located outside this state, the trust and trustee holding such property shall be deemed in compliance with the requirements of this subparagraph if such trust and trustee are authorized and qualified to conduct trust business under the laws of such jurisdiction and the agreement or law governing such trust

arrangement provides substantially similar protections for the purchaser as are required in this subparagraph for trusts holding property in a timeshare plan in this state.

(VIII) The trustee shall have appointed a registered agent in this state for service of process. ~~In the event such a registered agent is not appointed, service of process may be served pursuant to s. 721.265.~~

5. Owners' association.—

a. If the subject accommodations or facilities, or all use rights therein, are to be transferred into an owners' association in order to comply with this paragraph, such transfer shall take place pursuant to this subparagraph.

b. Prior to the transfer by each interestholder of the subject accommodations and facilities, or all use rights therein, to an owners' association, any lien or other encumbrance against such accommodations and facilities, or use rights therein, shall be made subject to a nondisturbance and notice to creditors instrument pursuant to subsection (3). No transfer pursuant to this subparagraph shall become effective until the owners' association accepts such transfer and the responsibilities set forth herein. An owners' association established pursuant to this subparagraph shall comply with the following provisions:

(I) The owners' association shall be a business entity authorized and qualified to conduct business in this state. Control of the board of directors of the owners' association must be independent from any developer or managing entity of the timeshare plan or any interestholder.

(II) The bylaws of the owners' association shall provide that the corporation may not be voluntarily dissolved without the unanimous vote of all owners of personal property timeshare interests so long as any purchaser has a right to occupy any portion of the timeshare property pursuant to the timeshare plan.

(III) The owners' association shall not convey, hypothecate, mortgage, assign, lease, or otherwise transfer or encumber in any fashion any interest in or portion of the timeshare property with respect to which any purchaser has a right of use or occupancy, unless the timeshare plan is terminated pursuant to the timeshare instrument, or unless such conveyance, hypothecation, mortgage, assignment, lease, transfer, or encumbrance is approved by a vote of two-thirds of all voting interests of the association and such decision is declared by a court of competent jurisdiction to be in the best interests of the purchasers of the timeshare plan. ~~The owners' association shall notify the division in writing within 10 days after receiving notice of the filing of any petition relating to obtaining such a court order. The division shall have standing to advise the court of the division's interpretation of the statute as it relates to the petition.~~

(IV) All purchasers of the timeshare plan shall be members of the owners' association and shall be entitled to vote on matters requiring a vote of the owners' association as provided in this chapter or the timeshare instrument. The owners' association shall act as a fiduciary to the purchasers of the timeshare plan. The articles of incorporation establishing the

owners' association shall set forth the duties of the owners' association. All expenses reasonably incurred by the owners' association in the performance of its duties, together with any reasonable compensation of the officers or directors of the owners' association, shall be common expenses of the timeshare plan.

(V) The documents establishing the owners' association shall constitute a part of the timeshare instrument.

(VI) For owners' associations holding property in a timeshare plan located outside this state, the owners' association holding such property shall be deemed in compliance with the requirements of this subparagraph if such owners' association is authorized and qualified to conduct owners' association business under the laws of such jurisdiction and the agreement or law governing such arrangement provides substantially similar protections for the purchaser as are required in this subparagraph for owners' associations holding property in a timeshare plan in this state.

(VII) The owners' association shall have appointed a registered agent in this state for service of process. ~~In the event such a registered agent cannot be located, service of process may be made pursuant to s. 721.265.~~

6. Personal property subject to certificate of title.—If any personal property that is an accommodation or facility of a timeshare plan is subject to a certificate of title in this state pursuant to chapter 319 or chapter 328, the following notation must be made on such certificate of title pursuant to s. 319.27(1) or s. 328.15(1):

The further transfer or encumbrance of the property subject to this certificate of title, or any lien or encumbrance thereon, is subject to the requirements of section 721.17, Florida Statutes, and the transferee or lienor agrees to be bound by all of the obligations set forth therein.

7. If the developer has previously provided a certified copy of any document required by this paragraph, she or he may for all subsequent disbursements substitute a true and correct copy of the certified copy, provided no changes to the document have been made or are required to be made.

8. In the event that use rights relating to an accommodation or facility are transferred into a trust pursuant to subparagraph 4. or into an owners' association pursuant to subparagraph 5., all other interestholders, including the owner of the underlying fee or underlying personal property, must execute a nondisturbance and notice to creditors instrument pursuant to subsection (3).

(d) Substitution of other assurances for escrowed funds or other property.—Funds or other property escrowed as provided in this section may be released from escrow to or on the order of the developer upon acceptance by the director of the division of other assurances pursuant to subsection (5) as a substitute for such escrowed funds or other property. The amount of escrowed funds or other property that may be released pursuant to this paragraph shall be equal to or less than the face amount of the assurances accepted by the director from time to time.

~~(4) In lieu of any escrow provisions required by this act, the director of the division shall have the discretion to permit~~

~~deposit of the funds or other property in an escrow account as required by the jurisdiction in which the sale took place.~~

~~(5)(a) In lieu of any escrows required by this section, the director of the division shall have the discretion to accept other assurances, including, but not limited to, a surety bond issued by a company authorized and licensed to do business in this state as surety or an irrevocable letter of credit in an amount equal to the escrow requirements of this section.~~

~~(b) Notwithstanding anything in chapter 718 or chapter 719 to the contrary, the director of the division shall have the discretion to accept other assurances pursuant to paragraph (a) in lieu of any requirement that completion of construction of one or more accommodations or facilities of a timeshare plan be accomplished prior to closing.~~

~~(c) In lieu of a nondisturbance and notice to creditors instrument, when such an instrument is otherwise required by this section, the director of the division shall have the discretion to accept alternate means of protecting the continuing rights of purchasers in and to the subject accommodations or facilities of the timeshare plan as and for the term described in the timeshare instrument, and of providing effective constructive notice of such continuing purchaser rights to subsequent owners of the accommodations or facilities and to subsequent creditors of the affected interestholder.~~

~~(d) In lieu of the requirements in sub-sub-subparagraph (2)(c)3.c.(III), the director of the division shall have the discretion to accept alternate means of protecting the use rights of purchasers in the subject accommodations and~~

~~facilities of the timeshare plan against unfiled and inferior claims.~~

(6)~~(8)~~ An escrow agent holding escrowed funds pursuant to this chapter that have not been claimed for a period of 5 years after the date of deposit shall make at least one reasonable attempt to deliver such unclaimed funds to the purchaser who submitted such funds to escrow. In making such attempt, an escrow agent is entitled to rely on a purchaser's last known address as set forth in the books and records of the escrow agent and is not required to conduct any further search for the purchaser. If an escrow agent's attempt to deliver unclaimed funds to any purchaser is unsuccessful, the escrow agent shall give ~~may deliver such unclaimed funds to the division and the division shall deposit such unclaimed funds in the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund, 30 days after giving~~ notice in a publication of general circulation in the county in which the timeshare property containing the purchaser's timeshare interest is located. The purchaser may claim the unclaimed funds within 30 days after publication of the notice, after which ~~same at any time prior to the delivery of such funds to the division. After delivery of such funds to the division,~~ the purchaser shall have no more rights to the unclaimed funds. ~~The escrow agent shall not be liable for any claims from any party arising out of the escrow agent's delivery of the unclaimed funds to the division pursuant to this section.~~

Section 185. Paragraphs (d) through (f) of subsection (2) of section 721.09, Florida Statutes, are redesignated as

paragraphs (c) through (e), respectively, and paragraphs (a), (c), and (d) of subsection (1) and paragraph (c) of subsection (2) of that section are amended to read:

721.09 Reservation agreements; escrows.—

(1)(a) ~~Prior to filing the filed public offering statement with the division,~~ A seller shall not offer a timeshare plan for sale but may accept reservation deposits and advertise the reservation deposit program ~~upon approval by the division of a fully executed escrow agreement and reservation agreement properly filed with the division~~.

~~(c) If the timeshare plan subject to the reservation agreement has not been filed with the division under s. 721.07(5) or s. 721.55 within 180 days after the date the division approves the reservation agreement filing, the seller must immediately cancel all outstanding reservation agreements, refund all escrowed funds to prospective purchasers, and discontinue accepting reservation deposits or advertising the availability of reservation agreements.~~

(c) ~~(d)~~ A seller who has filed a reservation agreement and an escrow agreement under this section may advertise the reservation agreement program if the advertising material meets the following requirements:

1. The seller complies with the provisions of s. 721.11 with respect to such advertising material.

2. The advertising material is limited to a general description of the proposed timeshare plan, including, but not limited to, a general description of the type, number, and size of accommodations and facilities and the name of the proposed

timeshare plan.

3. The advertising material contains a statement that the advertising material is being distributed in connection with an approved reservation agreement filing only ~~and that the seller cannot offer an interest in the timeshare plan for sale until a filed public offering statement has been filed with the division under this chapter~~.

(2) Each executed reservation agreement shall be signed by the developer and shall contain the following:

~~(c) A statement of the obligation of the developer to file a filed public offering statement with the division prior to entering into binding contracts.~~

Section 186. Paragraph (b) of subsection (1) of section 721.10, Florida Statutes, is amended to read:

721.10 Cancellation.—

(1) A purchaser has the right to cancel the contract until midnight of the 10th calendar day following whichever of the following days occurs later:

(b) The day on which the purchaser received the last of all documents required to be provided to him or her~~, including the notice required by s. 721.07(2)(d)2., if applicable~~.

This right of cancellation may not be waived by any purchaser or by any other person on behalf of the purchaser. Furthermore, no closing may occur until the cancellation period of the timeshare purchaser has expired. Any attempt to obtain a waiver of the cancellation right of the timeshare purchaser, or to hold a closing prior to the expiration of the cancellation period, is

unlawful and such closing is voidable at the option of the purchaser for a period of 1 year after the expiration of the cancellation period. However, nothing in this section precludes the execution of documents in advance of closing for delivery after expiration of the cancellation period.

Section 187. Subsection (1), paragraph (n) of subsection (4), subsection (5), paragraph (a) of subsection (6), subsection (8), and paragraph (a) of subsection (9) of section 721.11, Florida Statutes, are amended to read:

721.11 Advertising materials; oral statements.—

(1) ~~(a) A developer may file advertising material with the division for review. The division shall review any advertising material filed for review by the developer and notify the developer of any deficiencies within 10 days after the filing. If the developer corrects the deficiencies or if there are no deficiencies, the division shall notify the developer of its approval of the advertising materials. Notwithstanding anything to the contrary contained in this subsection, so long as the developer uses advertising materials approved by the division, following the developer's request for a review, the developer shall not be liable for any violation of this section or s. 721.111 with respect to such advertising materials.~~

~~(b)~~ All advertising materials must be substantially in compliance with this chapter and in full compliance with the mandatory provisions of this chapter. ~~In the event that any such material is not in substantial compliance with this chapter, the division may file administrative charges and an injunction against the developer and exact such penalties or remedies as~~

~~provided in s. 721.26, or may require the developer to correct any deficiency in the materials by notifying the developer of the deficiency. If the developer fails to correct the deficiency after such notification, the division may file administrative charges against the developer and exact such penalties or remedies as provided in s. 721.26.~~

(4) No advertising or oral statement made by any seller or resale service provider shall:

(n) Purport to have resulted from a referral unless the name of the person making the referral can be produced upon demand ~~of the division~~.

(5)(a) No written advertising material, including any lodging certificate, gift award, premium, discount, or display booth, may be utilized without each prospective purchaser being provided a disclosure in conspicuous type in substantially the following form: This advertising material is being used for the purpose of soliciting sales of timeshare interests; or This advertising material is being used for the purpose of soliciting sales of a vacation (or vacation membership or vacation ownership) plan. ~~The division shall have the discretion to approve the use of an alternate disclosure.~~ The conspicuous disclosure required in this subsection shall only be required to be given to each prospective purchaser on one piece of advertising for each advertising promotion or marketing campaign, provided that if the promotion or campaign contains terms and conditions, the conspicuous disclosure required in this subsection shall be included on any piece containing such terms and conditions. The conspicuous disclosure required in

this subsection shall be provided before the purchaser is required to take any affirmative action pursuant to the promotion. If the advertising material containing the conspicuous disclosure is a display booth, the disclosure required by this subsection must be conspicuously displayed on or within the display booth.

(b) This subsection does not apply to any advertising material which involves a project or development which includes sales of real estate or other commodities or services in addition to timeshare interests, including, but not limited to, lot sales, condominium or home sales, or the rental of resort accommodations. However, if the sale of timeshare interests, as compared with such other sales or rentals, is the primary purpose of the advertising material, a disclosure shall be made in conspicuous type that: This advertising material is being used for the purpose of soliciting the sale of ...(Disclosure shall include timeshare interests and may include other types of sales).... ~~Factors which the division may consider in determining whether the primary purpose of the advertising material is the sale of timeshare interests include:~~

~~1. The retail value of the timeshare interests compared to the retail value of the other real estate, commodities, or services being offered in the advertising material.~~

~~2. The amount of space devoted to the timeshare portion of the project in the advertising material compared to the amount of space devoted to other portions of the project, including, but not limited to, printed material, photographs, or drawings.~~

(8) Notwithstanding ~~the provisions of~~ s. 721.05(7)(b), a

developer may portray possible accommodations or facilities to prospective purchasers by disseminating oral or written statements regarding same to broadcast or print media with no obligation on the developer's part to actually construct such accommodations or facilities ~~or to file such accommodations or facilities with the division~~, but only so long as such oral or written statements are not considered advertising material pursuant to paragraph (3)(e).

(9) Notwithstanding ~~the provisions of~~ s. 721.05(7)(b), a seller of a multisite timeshare plan may portray a possible component site to prospective purchasers with no accommodations or facilities located at such component site being available for use by purchasers so long as the seller satisfies the following requirements:

(a) A developer of a multisite timeshare plan may disseminate oral or written statements to broadcast or print media describing a possible component site with no obligation on the developer's part to actually add such component site to the multisite timeshare plan ~~or to amend the developer's filing with the division~~, but only so long as such oral or written statements are not considered advertising material pursuant to paragraph (3)(e).

Section 188. Subsections (6) and (7) of section 721.111, Florida Statutes, are renumbered as subsections (4) and (5), respectively, and present subsections (4) and (5) of that section are amended to read:

721.111 Prize and gift promotional offers.—

~~(4) A separate filing for each prize and gift promotional~~

~~offer to be used in the sale of timeshare interests shall be made with the division pursuant to s. 721.11(1). The developer shall pay a $100 filing fee for each prize and gift promotional offer. One item of each prize or gift, except cash, must be made available for inspection by the division.~~

~~(5) Each filing of a prize and gift promotional offer with the division shall include, when applicable:~~

~~(a) A copy of all advertising material to be used in connection with the prize and gift promotional offer.~~

~~(b) The name, address, and telephone number (including area code) of the supplier or manufacturer from whom each type or variety of prize, gift, or other item is obtained.~~

~~(c) The manufacturer's model number or other description of such item.~~

~~(d) The information on which the developer relies in determining the verifiable retail value, if the value is in excess of $50.~~

~~(e) The name, address, and telephone number (including area code) of the promotional entity responsible for overseeing and operating the prize and gift promotional offer.~~

~~(f) The name and address of the registered agent in this state of the promotional entity for service of process purposes.~~

~~(g) Full disclosure of all pertinent information concerning the use of lodging or vacation certificates, including the terms and conditions of the campaign and the fact and extent of participation in such campaign by the developer. The developer shall provide to the division, upon the request of the division, an affidavit, certification, or other reasonable~~

~~evidence that the obligation incurred by a seller or the seller's agent in a lodging certificate program can be met.~~

Section 189. Section 721.121, Florida Statutes, is repealed.

Section 190. Paragraphs (a) and (b) of subsection (2), subsections (3) and (4), and paragraphs (b) and (c) of subsection (12) of section 721.13, Florida Statutes, are amended to read:

721.13 Management.—

(2)(a) The managing entity shall act in the capacity of a fiduciary to the purchasers of the timeshare plan. ~~No penalty imposed by the division pursuant to s. 721.26 against any managing entity for breach of fiduciary duty shall be assessed as a common expense of any timeshare plan.~~

(b) The managing entity shall invest the operating and reserve funds of the timeshare plan in accordance with s. 518.11(1); however, the managing entity shall give safety of capital greater weight than production of income. In no event shall the managing entity invest timeshare plan funds with a developer or with any entity that is not independent of any developer or any managing entity within the meaning of s. 721.05(20) ~~(22)~~, and in no event shall the managing entity invest timeshare plan funds in notes and mortgages related in any way to the timeshare plan.

(3) The duties of the managing entity include, but are not limited to:

(a) Management and maintenance of all accommodations and facilities constituting the timeshare plan.

(b) Collection of all assessments for common expenses.

(c)1. Providing each year to all purchasers an itemized annual budget which shall include all estimated revenues and expenses. ~~The budget shall be in the form required by s. 721.07(5)(t).~~ The budget shall be the final budget adopted by the managing entity for the current fiscal year. The final adopted budget is not required to be delivered if the managing entity has previously delivered a proposed annual budget for the current fiscal year to purchasers in accordance with chapter 718 or chapter 719 and the managing entity includes a description of any changes in the adopted budget with the assessment notice and a disclosure regarding the purchasers' right to receive a copy of the adopted budget, if desired. The budget shall contain, as a footnote or otherwise, any related party transaction disclosures or notes which appear in the audited financial statements of the managing entity for the previous budget year as required by paragraph (e). ~~A copy of the final budget shall be filed with the division for review within 30 days after the beginning of each fiscal year, together with a statement of the number of periods of 7-day annual use availability that exist within the timeshare plan, including those periods filed for sale by the developer but not yet committed to the timeshare plan, for which annual fees are required to be paid to the division under s. 721.27.~~

2. Notwithstanding anything contained in chapter 718 or chapter 719 to the contrary, the board of administration of an owners' association which serves as the managing entity may from time to time reallocate reserves for deferred maintenance ~~and~~

~~capital expenditures required by s. 721.07(5)(t)3.a.(XI)~~ from any deferred maintenance or capital expenditure reserve account to any other deferred maintenance or capital expenditure reserve account or accounts in its discretion without the consent of purchasers of the timeshare plan. Funds in any deferred maintenance or capital expenditure reserve account may not be transferred to any operating account without the consent of a majority of the purchasers of the timeshare plan. The managing entity may from time to time transfer excess funds in any operating account to any deferred maintenance or capital expenditure reserve account without the vote or approval of purchasers of the timeshare plan. In the event any amount of reserves for accommodations and facilities of a timeshare plan containing timeshare licenses or personal property timeshare interests exists at the end of the term of the timeshare plan, such reserves shall be refunded to purchasers on a pro rata basis.

3. With respect to any timeshare plan that has a managing entity that is an owners' association, reserves may be waived or reduced by a majority vote of those voting interests that are present, in person or by proxy, at a duly called meeting of the owners' association. If a meeting of the purchasers has been called to determine whether to waive or reduce the funding of reserves and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect.

(d)1. Maintenance of all books and records concerning the timeshare plan so that all such books and records are reasonably

available for inspection by any purchaser or the authorized agent of such purchaser. For purposes of this subparagraph, the books and records of the timeshare plan shall be considered "reasonably available" if copies of the requested portions are delivered to the purchaser or the purchaser's agent within 7 days after the date the managing entity receives a written request for the records signed by the purchaser. The managing entity may charge the purchaser a reasonable fee for copying the requested information not to exceed 25 cents per page. However, any purchaser or agent of such purchaser shall be permitted to personally inspect and examine the books and records wherever located at any reasonable time, under reasonable conditions, and under the supervision of the custodian of those records. The custodian shall supply copies of the records where requested and upon payment of the copying fee. No fees other than those set forth in this section may be charged for the providing of, inspection, or examination of books and records. All books and financial records of the timeshare plan must be maintained in accordance with generally accepted accounting practices.

2. ~~If the books and records of the timeshare plan are not maintained on the premises of the accommodations and facilities of the timeshare plan, the managing entity shall inform the division in writing of the location of the books and records and the name and address of the person who acts as custodian of the books and records at that location. In the event that the location of the books and records changes, the managing entity shall notify the division of the change in location and the name and address of the new custodian within 30 days after the date~~

~~the books and records are moved.~~ The purchasers shall be notified of the location of the books and records and the name and address of the custodian in the copy of the annual budget provided to them pursuant to paragraph (c).

~~3. The division is authorized to adopt rules which specify those items and matters that shall be included in the books and records of the timeshare plan and which specify procedures to be followed in requesting and delivering copies of the books and records.~~

3.~~4.~~ Notwithstanding any provision of chapter 718 or chapter 719 to the contrary, the managing entity may not furnish the name, address, or electronic mail address of any purchaser to any other purchaser or authorized agent thereof unless the purchaser whose name, address, or electronic mail address is requested first approves the disclosure in writing.

(e) Arranging for an annual audit of the financial statements of the timeshare plan by a certified public accountant licensed by the Board of Accountancy of the Department of Business and Professional Regulation, in accordance with generally accepted auditing standards as defined by the rules of the Board of Accountancy of the Department of Business and Professional Regulation. The financial statements required by this section must be prepared on an accrual basis using fund accounting, and must be presented in accordance with generally accepted accounting principles. A copy of the audited financial statements must be ~~filed with the division for review and~~ forwarded to the board of directors and officers of the owners' association, if one exists, no later than 5 calendar

months after the end of the timeshare plan's fiscal year. If no owners' association exists, each purchaser must be notified, no later than 5 months after the end of the timeshare plan's fiscal year, that a copy of the audited financial statements is available upon request to the managing entity. Notwithstanding any requirement of s. 718.111(13) or s. 719.104(4), the audited financial statements required by this section are the only annual financial reporting requirements for timeshare condominiums or timeshare cooperatives.

~~(f) Making available for inspection by the division any books and records of the timeshare plan upon the request of the division. The division may enforce this paragraph by making direct application to the circuit court.~~

(f)~~(g)~~ Scheduling occupancy of the timeshare units, when purchasers are not entitled to use specific timeshare periods, so that all purchasers will be provided the use and possession of the accommodations and facilities of the timeshare plan which they have purchased.

(g)~~(h)~~ Performing any other functions and duties which are necessary and proper to maintain the accommodations or facilities, as provided in the contract and as advertised.

(h)~~(i)1.~~ Entering into an ad valorem tax escrow agreement before ~~prior to~~ the receipt of any ad valorem tax escrow payments into the ad valorem tax escrow account, as long as an independent escrow agent is required by s. 192.037.

~~2. Submitting to the division the statement of receipts and disbursements regarding the ad valorem tax escrow account as required by s. 192.037(6)(e). The statement of receipts and~~

~~disbursements must also include a statement disclosing that all ad valorem taxes have been paid in full to the tax collector through the current assessment year, or, if all such ad valorem taxes have not been paid in full to the tax collector, a statement disclosing those assessment years for which there are outstanding ad valorem taxes due and the total amount of all delinquent taxes, interest, and penalties for each such assessment year as of the date of the statement of receipts and disbursements.~~

(i) ~~(j)~~ Notwithstanding anything contained in chapter 718 or chapter 719 to the contrary, purchasers shall not have the power to cancel contracts entered into by the managing entity relating to a master or community antenna television system, a franchised cable television service, or any similar paid television programming service or bulk rate services agreement.

(4) The managing entity shall maintain among its records ~~and provide to the division upon request~~ a complete list of the names and addresses of all purchasers and owners of timeshare units in the timeshare plan. The managing entity shall update this list no less frequently than quarterly. Pursuant to paragraph (3)(d), the managing entity may not publish this owner's list or provide a copy of it to any purchaser or to any third party ~~other than the division~~. However, the managing entity shall mail to those persons listed on the owner's list materials provided by any purchaser, upon the written request of that purchaser, if the purpose of the mailing is to advance legitimate owners' association business, such as a proxy solicitation for any purpose, including the recall of one or

more board members elected by the owners or the discharge of the manager or management firm. The use of any proxies solicited in this manner must comply with the provisions of the timeshare instrument and this chapter. A mailing requested for the purpose of advancing legitimate owners' association business shall occur within 30 days after receipt of a request from a purchaser. The board of administration of the owners' association shall be responsible for determining the appropriateness of any mailing requested pursuant to this subsection. The purchaser who requests the mailing must reimburse the owners' association in advance for the owners' association's actual costs in performing the mailing. It shall be a violation of this chapter and, if applicable, of part VIII of chapter 468, for the board of administration or the manager or management firm to refuse to mail any material requested by the purchaser to be mailed, provided the sole purpose of the materials is to advance legitimate owners' association business. If the purpose of the mailing is a proxy solicitation to recall one or more board members elected by the owners or to discharge the manager or management firm and the managing entity does not mail the materials within 30 days after receipt of a request from a purchaser, the circuit court in the county where the timeshare plan is located may, upon application from the requesting purchaser, summarily order the mailing of the materials solely related to the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The court shall dispose of an application on an expedited basis. In the event of such an order, the court may order the managing

entity to pay the purchaser's costs, including attorney's fees reasonably incurred to enforce the purchaser's rights, unless the managing entity can prove it refused the mailing in good faith because of a reasonable basis for doubt about the legitimacy of the mailing.

(12)

(b) A statement in conspicuous type, in substantially the following form, shall appear in the public offering statement ~~as provided in s. 721.07~~:

The managing entity shall have the right to forecast anticipated reservation and use of the accommodations of the timeshare plan and is authorized to reasonably reserve, deposit, or rent the accommodations for the purpose of facilitating the use or future use of the accommodations or other benefits made available through the timeshare plan.

(c) The managing entity shall maintain copies of all records, data, and information supporting the processes, analyses, procedures, and methods utilized by the managing entity in its determination to reserve accommodations of the timeshare plan pursuant to this subsection for a period of 5 years from the date of such determination. ~~In the event of an investigation by the division for failure of a managing entity to comply with this subsection, the managing entity shall make all such records, data, and information available to the division for inspection, provided that if the managing entity complies with the provisions of s. 721.071,~~ Any such records,

data, and information ~~provided to the division~~ shall constitute a trade secret ~~pursuant to that section~~.

Section 191. Subsections (3) and (5) of section 721.18, Florida Statutes, are renumbered as subsections (2) and (3), respectively, and subsections (1), (2), and (4) of that section are amended to read:

721.18 Exchange programs; filing of information and other materials; filing fees; unlawful acts in connection with an exchange program.—

(1) If a purchaser is offered the opportunity to subscribe to an exchange program, the seller shall deliver to the purchaser, together with the purchaser public offering statement, and prior to the offering or execution of any contract between the purchaser and the company offering the exchange program, written information regarding such exchange program; or, if the exchange company is dealing directly with the purchaser, the exchange company shall deliver to the purchaser, prior to the initial offering or execution of any contract between the purchaser and the company offering the exchange program, written information regarding such exchange program. In either case, the purchaser shall certify in writing to the receipt of such information. Such information shall include, but is not limited to, the following information~~, the form and substance of which shall first be approved by the division in accordance with subsection (2)~~:

(a) The name and address of the exchange company.

(b) The names of all officers, directors, and shareholders of the exchange company.

(c) Whether the exchange company or any of its officers or directors has any legal or beneficial interest in any developer, seller, or managing entity for any timeshare plan participating in the exchange program and, if so, the name and location of the timeshare plan and the nature of the interest.

(d) Unless otherwise stated, a statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the seller of the timeshare plan.

(e) Whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the timeshare plan with the exchange program.

(f) A statement that the purchaser's participation in the exchange program is voluntary. This statement is not required to be given by the seller or managing entity of a multisite timeshare plan to purchasers in the multisite timeshare plan.

(g) A complete and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange program and the procedure by which changes thereto may be made.

(h) A complete and accurate description of the procedure to qualify for and effectuate exchanges.

(i) A complete and accurate description of all limitations, restrictions, or priorities employed in the operation of the exchange program, including, but not limited to, limitations on exchanges based on seasonality, timeshare unit size, or levels of occupancy, expressed in boldfaced type, and, in the event that such limitations, restrictions, or

priorities are not uniformly applied by the exchange program, a clear description of the manner in which they are applied.

(j) Whether exchanges are arranged on a space-available basis and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange program.

(k) Whether and under what circumstances a purchaser, in dealing with the exchange program, may lose the use and occupancy of her or his timeshare period in any properly applied for exchange without her or his being provided with substitute accommodations by the exchange program.

(l) The fees or range of fees for membership or participation in the exchange program by purchasers, including any conversion or other fees payable to third parties, a statement whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made.

(m) The name and address of the site of each timeshare plan participating in the exchange program.

(n) The number of the timeshare units in each timeshare plan which are available for occupancy and which qualify for participation in the exchange program, expressed within the following numerical groupings: 1-5; 6-10; 11-20; 21-50; and 51 and over.

(o) The number of currently enrolled purchasers for each timeshare plan participating in the exchange program, expressed within the following numerical groupings: 1-100; 101-249; 250-499; 500-999; and 1,000 and over; and a statement of the criteria used to determine those purchasers who are currently

enrolled with the exchange program.

(p) The disposition made by the exchange company of timeshare periods deposited with the exchange program by purchasers enrolled in the exchange program and not used by the exchange company in effecting exchanges.

(q) The following information, which shall be independently audited by a certified public accountant or accounting firm in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants and reported annually:

1. The number of purchasers currently enrolled in the exchange program.

2. The number of accommodations and facilities that have current written affiliation agreements with the exchange program.

3. The percentage of confirmed exchanges, which is the number of exchanges confirmed by the exchange program divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for.

4. The number of timeshare periods for which the exchange program has an outstanding obligation to provide an exchange to a purchaser who relinquished a timeshare period during the year in exchange for a timeshare period in any future year.

5. The number of exchanges confirmed by the exchange program during the year.

(r) A statement in boldfaced type to the effect that the percentage described in subparagraph (q)3. is a summary of the

exchange requests entered with the exchange program in the period reported and that the percentage does not indicate the probabilities of a purchaser's being confirmed to any specific choice or range of choices.

~~(2) Each exchange company offering an exchange program to purchasers in this state shall file with the division for review the information specified in subsection (1), together with any membership agreement and application between the purchaser and the exchange company, and the audit specified in subsection (1) on or before June 1 of each year. However, an exchange company shall make its initial filing at least 20 days prior to offering an exchange program to any purchaser in this state. Each filing shall be accompanied by an annual filing fee of $500. Within 20 days after receipt of such filing, the division shall determine whether the filing is adequate to meet the requirements of this section and shall notify the exchange company in writing that the division has either approved the filing or found specified deficiencies in the filing. If the division fails to respond within 20 days, the filing shall be deemed approved. The exchange company may correct the deficiencies; and, within 10 days after receipt of corrections from the exchange company, the division shall notify the exchange company in writing that the division has either approved the filing or found additional specified deficiencies in the filing. If the exchange company fails to adequately respond to any deficiency notice within 10 days, the division may reject the filing. Subsequent to such rejection, a new filing fee and a new division initial review period pursuant to this subsection shall apply to any refiling~~

~~or further review of the rejected filing.~~

~~(a) Any material change to an approved exchange company filing shall be filed with the division for approval as an amendment prior to becoming effective. Each amendment filing shall be accompanied by a filing fee of $100. The exchange company may correct the deficiencies; and, within 10 days after receipt of corrections from the exchange company, the division shall notify the exchange company in writing that the division has either approved the filing or found additional specified deficiencies in the filing. Each approved amendment to the approved exchange company filing, other than an amendment that does not materially alter or modify the exchange program in a manner that is adverse to a purchaser, as determined by the exchange company in its reasonable discretion, shall be delivered to each purchaser who has not closed. An approved exchange program filing is required to be updated with respect to added or deleted resorts only once each year, and such annual update shall not be deemed to be a material change to the filing.~~

~~(b) If at any time the division determines that any of such information supplied by an exchange company fails to meet the requirements of this section, the division may undertake enforcement action against the exchange company in accordance with the provision of s. 721.26.~~

~~(4) At the request of the exchange company, the division shall review any audio, written, or visual publications or materials relating to an exchange company or an exchange program filed for review by the exchange company and shall notify the~~

~~exchange company of any deficiencies within 10 days after the filing. If the exchange company corrects the deficiencies, or if there are no deficiencies, the division shall notify the exchange company of its approval of the advertising materials. If the exchange company fails to adequately respond to any deficiency notice within 10 days, the division may reject the advertising materials. Subsequent to such rejection, a new division initial review period pursuant to this subsection shall apply to any refiling or further review.~~

Section 192. Subsection (3) of section 721.20, Florida Statutes, is amended to read:

721.20 Licensing requirements; suspension or revocation of license; exceptions to applicability; collection of advance fees for listings unlawful.—

(3) ~~A solicitor who has violated the provisions of chapter 468, chapter 718, chapter 719, this chapter, or the rules of the division governing timesharing shall be subject to the provisions of s. 721.26.~~ Any developer or other person who supervises, directs, or engages the services of a solicitor shall be liable for any violation of ~~the provisions of~~ chapter 468, chapter 718, chapter 719, or this chapter~~, or the rules of the division governing timesharing committed by such solicitor~~.

Section 193. Sections 721.26, 721.265, 721.27, 721.28, 721.29, 721.301, and 721.53, Florida Statutes, are repealed.

Section 194. Section 721.55, Florida Statutes, is amended to read:

721.55 Multisite timeshare plan public offering statement.—Each ~~filed~~ public offering statement for a multisite

timeshare plan shall contain the information required by this section ~~and shall comply with the provisions of s. 721.07, except as otherwise provided therein~~. ~~The division is authorized to provide by rule the method by which a developer must provide such information to the division.~~ Each multisite timeshare plan ~~filed~~ public offering statement shall contain the following information and disclosures:

(1) A cover page containing:

(a) The name of the multisite timeshare plan.

(b) The following statement in conspicuous type:

This public offering statement contains important matters to be considered in acquiring an interest in a multisite timeshare plan (or multisite vacation ownership plan or multisite vacation plan or vacation club). The statements contained herein are only summary in nature. A prospective purchaser should refer to all references, accompanying exhibits, contract documents, and sales materials. The prospective purchaser should not rely upon oral representations as being correct and should refer to this document and accompanying exhibits for correct representations.

(2) A summary containing all statements required to be in conspicuous type in the public offering statement and in all exhibits thereto.

(3) A separate index for the contents and exhibits of the public offering statement.

(4) A text, which shall include, where applicable, the information and disclosures set forth in paragraphs (a)-(l).

(a) A description of the multisite timeshare plan,

including its term, legal structure, and form of ownership. For multisite timeshare plans in which the purchaser will receive a timeshare estate pursuant to s. 721.57 and for specific multisite timeshare plans, the description must also include the term of each component site within the multisite timeshare plan.

(b) A description of the structure and ownership of the reservation system together with a disclosure of the entity responsible for the operation of the reservation system. The description shall include the financial terms of any lease of the reservation system, if applicable. The developer shall not be required to disclose the financial terms of any such lease if such lease is prepaid in full for the term of the multisite timeshare plan or to any extent that neither purchasers nor the managing entity will be required to make payments for the continued use of the system following default by the developer or termination of the managing entity.

(c)1. A description of the manner in which the reservation system operates. The description shall include a disclosure in compliance with the demand balancing standard set forth in s. 721.56~~(6)~~ and shall describe the developer's efforts to comply with same in creating the reservation system. The description shall also include a summary of the rules and regulations governing access to and use of the reservation system.

2. In lieu of describing the rules and regulations of the reservation system in the public offering statement text, the developer may attach the rules and regulations as a separate public offering statement exhibit, together with a cross-reference in the public offering statement text to such exhibit.

(d) The existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation or facility on a first come, first served basis, including, if applicable, the following statement in conspicuous type:

Component sites contained in the multisite timeshare plan (or multisite vacation ownership plan or multisite vacation plan or vacation club) are subject to priority reservation features which may affect your ability to obtain a reservation.

(e) A summary of the material rules and regulations, if any, other than the reservation system rules and regulations, affecting the purchaser's use of each accommodation and facility at each component site.

(f) If the provisions of s. 721.552 and the timeshare instrument permit additions, substitutions, or deletions of accommodations or facilities, the public offering statement must include substantially the following information:

1. Additions.—

a. A description of the basis upon which new accommodations and facilities may be added to the multisite timeshare plan; by whom additions may be made; and the anticipated effect of the addition of new accommodations and facilities upon the reservation system, its priorities, its rules and regulations, and the availability of existing accommodations and facilities.

b. The developer must disclose the existence of any cap on annual increases in common expenses of the multisite timeshare plan that would apply in the event that additional

accommodations and facilities are made a part of the plan.

c. The developer shall also disclose any extent to which the purchasers of the multisite timeshare plan will have the right to consent to any proposed additions; if the purchasers do not have the right to consent, the developer must include the following disclosure in conspicuous type:

Accommodations and facilities may be added to this multisite timeshare plan (or multisite vacation ownership plan or multisite vacation plan or vacation club) without the consent of the purchasers. The addition of accommodations and facilities to the plan may result in the addition of new purchasers who will compete with existing purchasers in making reservations for the use of available accommodations and facilities within the plan, and may also result in an increase in the annual assessment against purchasers for common expenses.

2. Substitutions.—

a. A description of the basis upon which new accommodations and facilities may be substituted for existing accommodations and facilities of the multisite timeshare plan; by whom substitutions may be made; the basis upon which the determination may be made to cause such substitutions to occur; and any limitations upon the ability to cause substitutions to occur.

b. The developer shall also disclose any extent to which purchasers will have the right to consent to any proposed substitutions; if the purchasers do not have the right to consent, the developer must include the following disclosure in conspicuous type:

New accommodations and facilities may be substituted for existing accommodations and facilities of this multisite timeshare plan (or multisite vacation ownership plan or multisite vacation plan or vacation club) without the consent of the purchasers. The replacement accommodations and facilities may be located at a different place or may be of a different type or quality than the replaced accommodations and facilities. The substitution of accommodations and facilities may also result in an increase in the annual assessment against purchasers for common expenses.

3. Deletions.—A description of any provision of the timeshare instrument governing deletion of accommodations or facilities from the multisite timeshare plan. If the timeshare instrument does not provide for business interruption insurance in the event of a casualty, or if it is unavailable, or if the instrument permits the developer, the managing entity, or the purchasers to elect not to reconstruct after casualty under certain circumstances or to secure replacement accommodations or facilities in lieu of reconstruction, the public offering statement must contain a disclosure that during the reconstruction, replacement, or acquisition period, or as a result of a decision not to reconstruct, purchasers of the plan may temporarily compete for available accommodations on a greater than one-to-one use right to use night requirement ratio.

(g) A description of the developer and the managing entity of the multisite timeshare plan, including:

1. The identity of the developer; the developer's business

address; the number of years of experience the developer has in the timeshare, hotel, motel, travel, resort, or leisure industries; and a description of any pending lawsuit or judgment against the developer which is material to the plan. If there are no such pending lawsuits or judgments, there shall be a statement to that effect.

2. The identity of the managing entity of the multisite timeshare plan; the managing entity's business address; the number of years of experience the managing entity has in the timeshare, hotel, motel, travel, resort, or leisure industries; and a description of any lawsuit or judgment against the managing entity which is material to the plan. If there are no pending lawsuits or judgments, there shall be a statement to that effect. The description of the managing entity shall also include a description of the relationship among the managing entity of the multisite timeshare plan and the various component site managing entities.

(h) A description of the purchaser's liability for common expenses of the multisite timeshare plan, including the following:

1. A description of the common expenses of the plan, including the method of allocation and assessment of such common expenses, whether component site common expenses and real estate taxes are included within the total common expense assessment of the multisite timeshare plan, and, if not, the manner in which timely payment of component site common expenses and real estate taxes shall be accomplished.

2. A description of any cap imposed upon the level of

common expenses payable by the purchaser. In no event shall the total common expense assessment for the multisite timeshare plan in a given calendar year exceed 125 percent of the total common expense assessment for the plan in the previous calendar year.

3. A description of the entity responsible for the determination of the common expenses of the multisite timeshare plan, as well as any entity which may increase the level of common expenses assessed against the purchaser at the multisite timeshare plan level.

4. A description of the method used to collect common expenses, including the entity responsible for such collections, and the lien rights of any entity for nonpayment of common expenses. If the common expenses of any component site are collected by the managing entity of the multisite timeshare plan, a statement to that effect together with the identity and address of the escrow agent required by s. 721.56~~(3)~~.

5. If the purchaser will receive an interest in a nonspecific multisite timeshare plan, a statement that a multisite timeshare plan budget is attached to the public offering statement as an exhibit pursuant to paragraph (6)~~(7)~~(c). ~~The multisite timeshare plan budget shall comply with the provisions of s. 721.07(5)(t).~~

6. If the developer intends to guarantee the level of assessments for the multisite timeshare plan, such guarantee must be based upon a good faith estimate of the revenues and expenses of the multisite timeshare plan. The guarantee must include a description of the following:

a. The specific time period, measured in one or more

calendar or fiscal years, during which the guarantee will be in effect.

b. A statement that the developer will pay all common expenses incurred in excess of the total revenues of the multisite timeshare plan, if the developer is to be excused from the payment of assessments during the guarantee period.

c. The level, expressed in total dollars, at which the developer guarantees the assessments. If the developer has reserved the right to extend or increase the guarantee level, a disclosure must be included to that effect.

7. If required under applicable law, the developer shall also disclose the following matters for each component site:

a. Any limitation upon annual increases in common expenses;

b. The existence of any bad debt or working capital reserve; and

c. The existence of any replacement or deferred maintenance reserve.

(i) If there are any restrictions upon the sale, transfer, conveyance, or leasing of an interest in a multisite timeshare plan, a description of the restrictions together with a statement in conspicuous type in substantially the following form:

The sale, lease, or transfer of interests in this multisite timeshare plan is restricted or controlled.

(j) The following statement in conspicuous type in substantially the following form:

The purchase of an interest in a multisite timeshare plan

(or multisite vacation ownership plan or multisite vacation plan or vacation club) should be based upon its value as a vacation experience or for spending leisure time, and not considered for purposes of acquiring an appreciating investment or with an expectation that the interest may be resold.

(k) If the multisite timeshare plan provides purchasers with the opportunity to participate in an exchange program, a description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program. In lieu of this requirement, the public offering statement text may contain a cross-reference to other provisions in the public offering statement or in an exhibit containing this information.

(l) A description of each component site, which description may be disclosed in a written, graphic, or tabular~~, or other~~ form ~~approved by the division~~. The description of each component site shall include the following information:

1. The name and address of each component site.

2. The number of accommodations, timeshare interests, and timeshare periods, expressed in periods of 7-day use availability, committed to the multisite timeshare plan and available for use by purchasers.

3. Each type of accommodation in terms of the number of bedrooms, bathrooms, sleeping capacity, and whether or not the accommodation contains a full kitchen. For purposes of this description, a full kitchen shall mean a kitchen having a minimum of a dishwasher, range, sink, oven, and refrigerator.

4. A description of facilities available for use by the purchaser at each component site, including the following:

a. The intended use of the facility, if not apparent from the description.

b. Any user fees associated with a purchaser's use of the facility.

5. A cross-reference to the location in the public offering statement of the description of any priority reservation features which may affect a purchaser's ability to obtain a reservation in the component site.

~~(5) Such other information as the division determines is necessary to fairly, meaningfully, and effectively disclose all aspects of the multisite timeshare plan, including, but not limited to, any disclosures made necessary by the operation of s. 721.03(8). However, if a developer has, in good faith, attempted to comply with the requirements of this section, and if, in fact, the developer has substantially complied with the disclosure requirements of this chapter, nonmaterial errors or omissions shall not be actionable.~~

(5)~~(6)~~ Any other information that the developer~~, with the approval of the division,~~ desires to include in the public offering statement text.

(6)~~(7)~~ The following documents shall be included as exhibits to the ~~filed~~ public offering statement, if applicable:

(a) The timeshare instrument.

(b) The reservation system rules and regulations.

(c) The multisite timeshare plan budget pursuant to subparagraph (4)(h)5.

(d) Any document containing the material rules and regulations described in paragraph (4)(e).

(e) Any contract, agreement, or other document through which component sites are affiliated with the multisite timeshare plan.

(f) Any escrow agreement required pursuant to s. 721.08 or s. 721.56~~(3)~~.

(g) The form agreement for sale or lease of an interest in the multisite timeshare plan.

(h) The form receipt for multisite timeshare plan documents required to be given to the purchaser pursuant to s. 721.551~~(2)(b)~~.

(i) The description of documents list required to be given to the purchaser by s. 721.551~~(2)(b)~~.

(j) The component site managing entity affidavit or statement required by s. 721.56~~(1)~~.

~~(k) Any subordination instrument required by s. 721.53.~~

~~(l)1. If the multisite timeshare plan contains any component sites located in this state, the information required by s. 721.07(5) pertaining to each such component site unless exempt pursuant to s. 721.03.~~

~~2. If the purchaser will receive a timeshare estate pursuant to s. 721.57, or an interest in a specific multisite timeshare plan, in a component site located outside of this state but which is offered in this state, the information required by s. 721.07(5) pertaining to that component site, provided, however, that the provisions of s. 721.07(5)(t) shall only require disclosure of information related to the estimated budget for the timeshare plan and purchaser's expenses as required by the jurisdiction in which the component site is~~

~~located.~~

~~(8)(a) A timeshare plan containing only one component site must be filed with the division as a multisite timeshare plan if the timeshare instrument reserves the right for the developer to add future component sites. However, if the developer fails to add at least one additional component site to a timeshare plan described in this paragraph within 3 years after the date the plan is initially filed with the division, the multisite filing for such plan shall thereupon terminate, and the developer may not thereafter offer any further interests in such plan unless and until he or she refiles such plan with the division pursuant to this chapter.~~

~~(b) The public offering statement for any timeshare plan described in paragraph (a) must include the following disclosure in conspicuous type:~~

~~This timeshare plan has been filed as a multisite timeshare plan (or multisite vacation ownership plan or multisite vacation plan or vacation club); however, this plan currently contains only one component site. The developer is not required to add any additional component sites to the plan. Do not purchase an interest in this plan in reliance upon the addition of any other component sites.~~

Section 195. Section 721.551, Florida Statutes, is amended to read:

721.551 Delivery of multisite timeshare plan purchaser public offering statement.—

~~(1) The division is authorized to prescribe by rule the~~

~~form of the approved multisite timeshare plan public offering statement that must be furnished by a seller to each purchaser pursuant to this section. The form of the public offering statement that is furnished to purchasers must provide fair, meaningful, and effective disclosure of all aspects of the multisite timeshare plan.~~

~~(2)~~ The developer shall furnish each purchaser with the following:

(1)~~(a)~~ A copy of the approved multisite timeshare plan public offering statement text containing the information required by s. 721.55(1)-(5)~~(6)~~.

(2)~~(b)~~ A receipt for multisite timeshare plan documents and a list describing any exhibit to the ~~filed~~ public offering statement which is not delivered to the purchaser. ~~The division is authorized to prescribe by rule the form of the receipt for multisite timeshare plan documents and the description of exhibits list that must be furnished to the purchaser pursuant to this section.~~

~~(c) If the purchaser will receive a timeshare estate pursuant to s. 721.57, or an interest in a specific multisite timeshare plan, in a component site located in this state, the developer shall also furnish the purchaser with the information required to be delivered pursuant to s. 721.07(6)(a) and (b) for the component site in which the purchaser will receive an estate or interest in a specific multisite timeshare plan~~.

(3)~~(d)~~ Any other exhibit that the developer elects to include as part of the purchaser public offering statement~~, provided that the developer first files the exhibit with the~~

~~division~~.

(4)~~(e)~~ An executed copy of any document which the purchaser signs.

(5)~~(f)~~ The developer shall be required to provide the managing entity of the multisite timeshare plan with a copy of the approved ~~filed~~ public offering statement and any approved amendments thereto to be maintained by the managing entity as part of the books and records of the timeshare plan pursuant to s. 721.13(3)(d).

Section 196. Paragraph (b) of subsection (1) and paragraph (g) of subsection (2) of section 721.552, Florida Statutes, are amended to read:

721.552 Additions, substitutions, or deletions of component site accommodations or facilities; purchaser remedies for violations.—Additions, substitutions, or deletions of component site accommodations or facilities may be made only in accordance with the following:

(1) ADDITIONS.—

(b) Any person who is authorized by the timeshare instrument to make additions to the multisite timeshare plan pursuant to this subsection shall act as a fiduciary in such capacity in the best interests of the purchasers of the plan as a whole and shall adhere to the demand balancing standard set forth in s. 721.56(4)~~(6)~~ in connection with such additions. Additions that are otherwise permitted may be made only so long as a one-to-one use right to use night requirement ratio is maintained at all times.

(2) SUBSTITUTIONS.—

(g) The person who is authorized by the timeshare instrument to make substitutions to the multisite timeshare plan pursuant to this subsection shall act as a fiduciary in such capacity in the best interests of the purchasers of the plan as a whole and shall adhere to the demand balancing standard set forth in s. 721.56(4) ~~(6)~~ in connection with such substitutions. Substitutions that are otherwise permitted may be made only so long as a one-to-one use right to use night requirement ratio is maintained at all times.

Section 197. Subsections (3) through (6) of section 721.56, Florida Statutes, are renumbered as subsections (1) through (4), respectively, and present subsections (1), (2), and (3) of that section are amended to read:

721.56 Management of multisite timeshare plans; reservation systems; demand balancing.—

~~(1) The developer as a prerequisite for approval of his or her public offering statement filing or his or her phase filing must obtain an affidavit, or other evidence satisfactory to the director of the division, from the component site managing entity containing all of the following:~~

~~(a) A statement that all assessments on inventory are fully paid as required by applicable law.~~

~~(b) A statement as to the amount of delinquent assessments existing at the component site, if any.~~

~~(c) If required by applicable law, a statement that the latest annual audit of the component site shows that, if required, reserves are adequately maintained with respect to each component site.~~

~~(d) A statement that the component site managing entity specifically acknowledges the existence of the multisite timeshare plan relating to the use of the accommodations and facilities of the component site by purchasers of the plan.~~

~~(2) In the event that the developer files an affidavit or other evidence with the division pursuant to subsection (1) and subsequently determines that the status of the component site has materially changed such that any portion of the affidavit or other evidence is consequently materially changed, the developer shall immediately notify the division of the change.~~

(1)~~(3)~~(a) The managing entity of the multisite timeshare plan shall establish an escrow account with an escrow agent qualified pursuant to s. 721.05 and deposit into such account all payments received by the managing entity from time to time from the developer and purchasers of the plan that relate to common expenses and real estate taxes due with respect to any component site. The managing entity of the multisite timeshare plan shall not be required to escrow payments received from the developer or purchasers that relate to other plan expenses, including those pertaining to the compensation of the managing entity of the multisite timeshare plan and pertaining to the operation of the reservation system.

(b) Funds may only be disbursed from the escrow account described in paragraph (a) by the escrow agent upon receipt of an affidavit from the managing entity of the multisite timeshare plan specifying the purpose for which the disbursement is requested and making reference to the budgetary source of authority for such disbursement. The escrow agent shall only

disburse moneys from escrow relating to a particular component site directly to the managing entity of that component site. Real estate tax payments shall only be disbursed from the escrow account to the component site managing entity or to the appropriate tax collection authority pursuant to applicable law.

(c) The escrow agent shall be entitled to rely upon the affidavit of the managing entity and shall have no obligation to independently ascertain the propriety of the requested disbursement so long as the escrow agent has no actual knowledge that the affidavit is false in any respect.

~~(d) An escrow agent shall maintain the account called for in this section only in such a manner as to be under the direct supervision and control of the escrow agent. The escrow agent shall have a fiduciary duty to each purchaser to maintain the escrow account in accordance with good accounting principles and to release funds from escrow only in accordance with this subsection. The escrow agent shall retain all affidavits received pursuant to this subsection for a period of 5 years. Should the escrow agent receive conflicting demands for the escrowed funds, the escrow agent shall immediately notify the division of the dispute and either promptly submit the matter to arbitration or, by interpleader or otherwise, seek an adjudication of the matter by court.~~

(d) ~~(e)~~ Any managing entity or escrow agent who intentionally fails to comply with the provisions of this subsection concerning the establishment of an escrow account, deposit of funds into escrow, and withdrawal therefrom commits a felony of the third degree, punishable as provided in s.

775.082, s. 775.083, or s. 775.084, or the successor thereof. The failure to establish an escrow account or to place funds therein as required in this subsection is prima facie evidence of an intentional and purposeful violation of this subsection.

~~(f) In lieu of the escrow required by this subsection, the director of the division shall have the discretion to accept other assurances in accordance with s. 721.08, provided that such other assurances are maintained at a minimum amount equal to the total common expense assessment payments for the then-current fiscal year.~~

(e)~~(g)~~ The provisions of this subsection shall not apply to any payments made directly to a component site managing entity by the developer or a purchaser of a multisite timeshare plan.

Section 198. Section 721.58, Florida Statutes, is repealed.

Section 199. Subsections (4) and (14) of section 721.82, Florida Statutes, are amended to read:

721.82 Definitions.—As used in this part, the term:

(4) "Lienholder" means a holder of an assessment lien or a holder of a mortgage lien, as applicable. ~~A receiver appointed under s. 721.26 is a lienholder for purposes of foreclosure of assessment liens under this part.~~

(14) "Trustee" means an attorney who is a member in good standing of The Florida Bar and who has been practicing law for at least 5 years or that attorney's law firm, or a title insurer authorized to transact business in this state under s. 624.401 and who has been authorized to transact business for at least 5

years, appointed as trustee or as substitute trustee in accordance with s. 721.855 or s. 721.856. ~~A receiver appointed under s. 721.26 may act as a trustee under s. 721.855.~~ A trustee must be independent as defined in s. 721.05(18)~~(20)~~.

Section 200. Section 721.98, Florida Statutes, is repealed.

Section 201. Subsection (2) of section 723.002, Florida Statutes, is amended to read:

723.002 Application of chapter.—

(2) The provisions of ss. 723.035, 723.037, ~~723.038,~~ 723.054, 723.055, 723.056, 723.058, and 723.068 are applicable to mobile home subdivision developers and the owners of lots in mobile home subdivisions.

Section 202. Subsections (2) through (15) of section 723.003, Florida Statutes, are renumbered as subsections (1) through (14), respectively, and present subsections (1) and (11) of that section are amended to read:

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

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

(10)~~(11)~~ The term "proportionate share" as used in subsection (9)~~(10)~~ means an amount calculated by dividing equally among the affected developed lots in the park the total costs for the necessary and actual direct costs and impact or hookup fees incurred for governmentally mandated capital

improvements serving the recreational and common areas and all affected developed lots in the park.

Section 203. Subsection (5) of section 723.004, Florida Statutes, is amended to read:

723.004 Legislative intent; preemption of subject matter.—

(5) Nothing in this chapter shall be construed to prevent the enforcement of a right or duty under this section, s. 723.022, s. 723.023, s. 723.031, s. 723.032, s. 723.033, s. 723.035, s. 723.037, ~~s. 723.038,~~ s. 723.061, s. 723.0615, s. 723.062, s. 723.063, or s. 723.081 by civil action after the party has exhausted its administrative remedies, if any.

Section 204. Sections 723.005, 723.007, 723.008, 723.009, 723.011, 723.012, 723.013, and 723.016, Florida Statutes, are repealed.

Section 205. Paragraph (b) of subsection (5) and subsection (7) of section 723.031, Florida Statutes, are amended to read:

723.031 Mobile home lot rental agreements.—

(5) The rental agreement shall contain the lot rental amount and services included. An increase in lot rental amount upon expiration of the term of the lot rental agreement shall be in accordance with ss. 723.033 and 723.037 or s. 723.059(4), whichever is applicable, provided that, pursuant to s. 723.059(4), the amount of the lot rental increase is disclosed and agreed to by the purchaser, in writing. An increase in lot rental amount shall not be arbitrary or discriminatory between similarly situated tenants in the park. No lot rental amount may be increased during the term of the lot rental agreement,

except:

(b) For pass-through charges as defined in s. 723.003(9) ~~(10)~~.

(7) A ~~No~~ park owner may not increase the lot rental amount until an approved prospectus is ~~has been~~ delivered if one is required. This subsection does ~~shall~~ not ~~be construed to~~ prohibit those increases in lot rental amount for those lot rental agreements for which an approved prospectus was required to be delivered and which was delivered on or before July 1, 1986, if the mobile home park owner had:

(a) Filed a prospectus with the former Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation before ~~prior to~~ entering into the lot rental agreement;

(b) Made a good faith effort to correct deficiencies cited by the former division by responding within the time limit set by the former division, if one was set; and

(c) Delivered the approved prospectus to the mobile home owner within 45 days of approval by the former division.

This subsection does ~~shall~~ not preclude the finding that a lot rental increase is invalid on other grounds and does ~~shall~~ not ~~be construed to~~ limit any rights of a mobile home owner or to preclude a mobile home owner from seeking any remedies allowed by this chapter, including a determination that the lot rental agreement or any part thereof is unreasonable.

Section 206. Subsection (7) of section 723.033, Florida Statutes, is amended to read:

723.033 Unreasonable lot rental agreements; increases, changes.—

(7) An arbitrator or mediator under s. ~~ss.~~ 723.037~~,~~ ~~723.038, and 723.0381~~ shall employ the same standards as set forth in this section.

Section 207. Subsection (2) of section 723.035, Florida Statutes, is amended to read:

723.035 Rules and regulations.—

(2) No rule or regulation shall provide for payment of any fee, fine, assessment, or charge, except as otherwise provided in the prospectus or offering circular ~~filed under s. 723.012~~, if one is required to be provided, and until after the park owner has complied with the procedure set forth in s. 723.037.

Section 208. Subsections (3), (4), (5), and (6) of section 723.037, Florida Statutes, are amended to read:

723.037 Lot rental increases; reduction in services or utilities; change in rules and regulations~~; mediation~~.—

~~(3) The park owner shall file annually with the division a copy of any notice of a lot rental amount increase. The notice shall be filed on or before January 1 of each year for any notice given during the preceding year. If the actual increase is an amount less than the proposed amount stated in the notice, the park owner shall notify the division of the actual amount of the increase within 30 days of the effective date of the increase or at the time of filing, whichever is later.~~

(3)~~(4)~~(a) A committee, not to exceed five in number, designated by a majority of the affected mobile home owners or by the board of directors of the homeowners' association, if

applicable, and the park owner shall meet, at a mutually convenient time and place within 30 days after receipt by the homeowners of the notice of change, to discuss the reasons for the increase in lot rental amount, reduction in services or utilities, or change in rules and regulations.

(b)1. At the meeting, the park owner or subdivision developer shall in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount, reduce services or utilities, or change rules and regulations, including how those factors justify the specific change proposed. The park owner or subdivision developer may not limit the discussion of the reasons for the change to generalities only, such as, but not limited to, increases in operational costs, changes in economic conditions, or rents charged by comparable mobile home parks. For example, if the reason for an increase in lot rental amount is an increase in operational costs, the park owner must disclose the item or items which have increased, the amount of the increase, any similar item or items which have decreased, and the amount of the decrease. If an increase is based upon the lot rental amount charged by comparable mobile home parks, the park owner shall disclose, and provide in writing to the committee at or before the meeting, the name, address, lot rental amount, and any other relevant factors relied upon by the park owner, such as facilities, services, and amenities, concerning the comparable mobile home parks. The information concerning comparable mobile home parks to be exchanged by the parties is to encourage a dialogue concerning the reasons used by the park owner for the

increase in lot rental amount and to encourage the home owners to evaluate and discuss the reasons for those changes with the park owner. The park owner shall prepare a written summary of the material factors and retain a copy for 3 years. The park owner shall provide the committee a copy of the summary at or before the meeting.

2. The park owner shall not limit the comparable mobile home park disclosure to those mobile home parks that are owned or operated by the same owner or operator as the subject park, except in certain circumstances, which include, but are not limited to:

a. That the market area for comparable mobile home parks includes mobile home parks owned or operated by the same entity that have similar facilities, services, and amenities;

b. That the subject mobile home park has unique attributes that are shared with similar mobile home parks;

c. That the mobile home park is located in a geographic or market area that contains few comparable mobile home parks; or

d. That there are similar considerations or factors that would be considered in such a market analysis by a competent professional and would be considered in determining the valuation of the market rent.

(c) If the committee disagrees with a park owner's lot rental amount increase based upon comparable mobile home parks, the committee shall disclose to the park owner the name, address, lot rental amount, and any other relevant factors relied upon by the committee, such as facilities, services, and amenities, concerning the comparable mobile home parks. The

committee shall provide to the park owner the disclosure, in writing, within 15 days after the meeting with the park owner, together with a request for a second meeting. The park owner shall meet with the committee at a mutually convenient time and place within 30 days after receipt by the park owner of the request from the committee to discuss the disclosure provided by the committee. At the second meeting, the park owner may take into account the information on comparable parks provided by the committee, may supplement the information provided to the committee at the first meeting, and may modify his or her position, but the park owner may not change the information provided to the committee at the first meeting.

(d) The committee and the park owner may mutually agree, in writing, to extend or continue any meetings required by this section.

(e) Either party may prepare and use additional information to support its position during or subsequent to the meetings required by this section.

This subsection is not intended to be enforced by civil or administrative action. Rather, the meetings and discussions are intended to be in the nature of settlement discussions ~~prior to the parties proceeding to mediation of any dispute~~.

~~(5)(a) Within 30 days after the date of the last scheduled meeting described in subsection (4), the homeowners may petition the division to initiate mediation of the dispute pursuant to s. 723.038 if a majority of the affected homeowners have designated, in writing, that:~~

~~1. The rental increase is unreasonable;~~

~~2. The rental increase has made the lot rental amount unreasonable;~~

~~3. The decrease in services or utilities is not accompanied by a corresponding decrease in rent or is otherwise unreasonable; or~~

~~4. The change in the rules and regulations is unreasonable.~~

~~(b) A park owner, within the same time period, may also petition the division to initiate mediation of the dispute.~~

~~(c) When a dispute involves a rental increase for different home owners and there are different rates or different rental terms for those home owners, all such rent increases in a calendar year for one mobile home park may be considered in one mediation proceeding.~~

~~(d) At mediation, the park owner and the homeowners committee may supplement the information provided to each other at the meetings described in subsection (4) and may modify their position, but they may not change the information provided to each other at the first and second meetings.~~

~~The purpose of this subsection is to encourage discussion and evaluation by the parties of the comparable mobile home parks in the competitive market area. The requirements of this subsection are not intended to be enforced by civil or administrative action. Rather, the meetings and discussions are intended to be in the nature of settlement discussions prior to the parties proceeding to litigation of any dispute.~~

~~(6) If a party requests mediation and the opposing party refuses to agree to mediate upon proper request, the party refusing to mediate shall not be entitled to attorney's fees in any action relating to a dispute described in this section.~~

Section 209. Sections 723.038 and 723.0381, Florida Statutes, are repealed.

Section 210. Section 723.042, Florida Statutes, is amended to read:

723.042 Provision of improvements.—No person shall be required by a mobile home park owner or developer, as a condition of residence in the mobile home park, to provide any improvement unless the requirement is disclosed ~~pursuant to s. 723.011~~ prior to occupancy in the mobile home park.

Section 211. Subsection (1) of section 723.06115, Florida Statutes, is amended to read:

723.06115 Florida Mobile Home Relocation Trust Fund.—

(1) There is established within the Department of Business and Professional Regulation the Florida Mobile Home Relocation Trust Fund, to be used by the department for the purpose of funding the administration and operations of the Florida Mobile Home Relocation Corporation. All interest earned from the investment or deposit of moneys in the trust fund shall be deposited in the trust fund. The trust fund shall be funded from the moneys collected by the department under s. 723.06116 from mobile home park owners who change the use of their mobile home parks; ~~the surcharge collected by the department under s. 723.007(2);~~ the surcharge collected by the Department of Highway Safety and Motor Vehicles; and by other appropriated funds.

Section 212. This act shall take effect July 1, 2011.