

By Senator Hays

11-00846-14

20141348\_\_

1                                   A bill to be entitled  
2       An act relating to homeowners' associations; amending  
3       s. 20.165, F.S.; renaming the Division of Florida  
4       Condominiums, Timeshares, and Mobile Homes the  
5       Division of Florida Condominiums, Homeowners'  
6       Associations, Timeshares, and Mobile Homes; amending  
7       s. 718.509, F.S.; renaming the Division of Florida  
8       Condominiums, Timeshares, and Mobile Homes Trust Fund  
9       the Division of Florida Condominiums, Homeowners'  
10      Associations, Timeshares, and Mobile Homes Trust Fund;  
11      amending s. 720.301, F.S.; defining terms; creating s.  
12      720.3011, F.S.; providing that the Legislature  
13      reserves the power to amend or repeal ch. 720, F.S.;  
14      requiring that homeowners' associations be governed by  
15      such amendment or repeal; amending s. 720.302, F.S.;  
16      clarifying legislative intent; creating s. 720.3021,  
17      F.S.; providing division powers and duties; creating  
18      s. 720.3022, F.S.; authorizing the division to  
19      investigate complaints relating to developer control  
20      and improper turnover; providing a procedure for  
21      taking action on such complaints; authorizing the  
22      division to conduct investigations to determine  
23      whether ch. 720, F.S., or rules adopted thereto has  
24      been violated; providing a procedure for conducting  
25      and administering an investigation; specifying  
26      conditions under which the division is authorized to  
27      institute enforcement proceedings in its own name;  
28      providing for service of process; requiring the  
29      division to adopt penalty guidelines; establishing

11-00846-14

20141348\_\_

30 factors the division must consider to adopt the  
31 guidelines; creating s. 720.3023, F.S.; requiring  
32 funds collected by the division to be deposited into  
33 the Florida Condominiums, Homeowners' Associations,  
34 Timeshares, and Mobile Homes Trust Fund; creating s.  
35 720.3024, F.S.; creating the Office of the Community  
36 Association Ombudsman within the division; providing  
37 for appointment and powers and duties; specifying  
38 circumstances under which the ombudsman is required to  
39 appoint an election monitor; creating s. 720.3029,  
40 F.S.; providing homeowners' association fees; amending  
41 s. 720.303, F.S.; requiring written notice of a board  
42 meeting at which increases in assessments or  
43 amendments to governing documents will be considered;  
44 specifying notice requirements; amending s. 720.305,  
45 F.S.; authorizing a homeowners' association to impose  
46 fines if its original governing documents authorized  
47 the imposition of such fines; prohibiting a fine from  
48 becoming a lien against a parcel; amending s. 720.306,  
49 F.S.; restricting the amendment of the declaration of  
50 a homeowners' association to a specified vote of the  
51 affected parcels; revising annual meeting  
52 requirements; providing requirements for voting by  
53 general and limited proxy; revising provisions  
54 relating to board elections and vacancies; amending s.  
55 720.307, F.S.; revising the applicability of certain  
56 provisions that relate to the transition of  
57 association control in a community; amending ss.  
58 73.073, 192.037, 213.053, 326.002, 326.006, 380.0651,

11-00846-14

20141348\_\_

59 455.116, 475.455, 509.512, 559.935, 718.103, 718.105,  
 60 718.1255, 718.501, 718.5011, 718.502, 718.503,  
 61 718.504, 718.508, 718.608, 719.103, 719.1255, 719.501,  
 62 719.502, 719.504, 719.508, 719.608, 721.05, 721.07,  
 63 721.08, 721.26, 721.28, 721.301, 723.003, 723.006,  
 64 723.009, and 723.0611, F.S.; conforming cross-  
 65 references to changes made by the act; providing an  
 66 effective date.

67

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

69

70 Section 1. Paragraph (e) of subsection (2) of section  
 71 20.165, Florida Statutes, is amended to read:

72 20.165 Department of Business and Professional Regulation.-  
 73 There is created a Department of Business and Professional  
 74 Regulation.

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

77 (e) Division of Florida Condominiums, Homeowners'  
 78 Associations, Timeshares, and Mobile Homes. The executive  
 79 offices of the division shall be located in Tallahassee. The  
 80 division may establish and maintain branch offices throughout  
 81 the state.

82 Section 2. Section 718.509, Florida Statutes, is amended to  
 83 read:

84 718.509 Division of Florida Condominiums, Homeowners'  
 85 Associations, Timeshares, and Mobile Homes Trust Fund.-

86 (1) The Division of Florida Condominiums, Homeowners'  
 87 Associations, Timeshares, and Mobile Homes Trust Fund ~~There is~~

11-00846-14

20141348\_\_

88 created within the State Treasury ~~the Division of Florida~~  
89 ~~Condominiums, Timeshares, and Mobile Homes Trust Fund~~ to be used  
90 for the administration and operation of this chapter and  
91 chapters ~~718,~~ 719, 721, and 723 by the division.

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

110 Section 3. Subsection (7) of section 720.301, Florida  
111 Statutes, is amended, present subsection (13) is renumbered as  
112 subsection (14), and a new subsection (13) is added to that  
113 section, to read:

114 720.301 Definitions.—As used in this chapter, the term:

115 (7) "Division" means the Division of Florida Condominiums,  
116 Homeowners' Associations, Timeshares, and Mobile Homes in the

11-00846-14

20141348\_\_

117 Department of Business and Professional Regulation.

118 (13) "Special assessment" means any assessment levied  
119 against a parcel owner other than the assessment required by a  
120 budget adopted annually.

121 Section 4. Section 720.3011, Florida Statutes, is created  
122 to read:

123 720.3011 Reservation of power to amend or repeal.—The  
124 Legislature has the power to amend or repeal all or part of this  
125 chapter at any time, and all homeowners' associations subject to  
126 this chapter shall be governed by the amendment or repeal.

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

129 720.302 Purposes, scope, and application.—

130 (1) The purposes of this chapter are to give statutory  
131 recognition to corporations not for profit that administer or  
132 operate residential communities in this state, to provide  
133 regulations ~~procedures~~ for operating homeowners' associations,  
134 and to protect the rights of association members without unduly  
135 impairing the ability of such associations to perform their  
136 functions as authorized by federal, state, and local laws and  
137 the governing documents of the association.

138 (2) Having provided certain powers and authority to  
139 homeowners' associations and in deed restrictions created by  
140 developers of mandated properties in residential communities,  
141 the Legislature recognizes that it is necessary to provide  
142 regulatory oversight of such associations to ensure compliance  
143 with federal and state laws and local ordinances. It is the  
144 intent of the Legislature to protect the rights of parcel owners  
145 by ensuring that the powers and authority granted to homeowners'

11-00846-14

20141348\_\_

146 associations and in deed restrictions created by developers of  
 147 mandated properties in residential communities conform to a  
 148 system of checks and balances in order to prevent abuses by  
 149 these governing authorities. Further ~~The Legislature recognizes~~  
 150 ~~that it is not in the best interest of homeowners' associations~~  
 151 ~~or the individual association members thereof to create or~~  
 152 ~~impose a bureau or other agency of state government to regulate~~  
 153 ~~the affairs of homeowners' associations. However, in accordance~~  
 154 ~~with s. 720.311, the Legislature finds that homeowners'~~  
 155 ~~associations and their individual members will benefit from an~~  
 156 ~~expedited alternative process for~~ the ~~resolution of election and~~  
 157 ~~recall disputes and presuit mediation of other disputes~~  
 158 ~~involving covenant enforcement and authorizes the department to~~  
 159 ~~hear, administer, and determine these disputes as more fully set~~  
 160 ~~forth in this chapter. Further,~~ ~~The Legislature recognizes that~~  
 161 ~~certain~~ contract rights that were created before June 14, 1995,  
 162 were ~~have been~~ created for the benefit of homeowners'  
 163 associations and their ~~members thereof before the effective date~~  
 164 ~~of this act~~ and that this chapter is ss. 720.301-720.407 ~~are not~~  
 165 ~~intended to impair such contract rights, including, but not~~  
 166 ~~limited to, the rights of the developer to complete the~~  
 167 ~~community as initially contemplated.~~

168 Section 6. Section 720.3021, Florida Statutes, is created  
 169 to read:

170 720.3021 Division powers and duties.-

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

174 (a) Issue a notice to show cause, which must provide for a

11-00846-14

20141348\_\_

175 hearing, upon written request, in accordance with chapter 120.

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

177 (c) Prepare and disseminate a prospectus and other  
178 information to assist prospective owners, purchasers, lessees,  
179 and developers of homeowners' associations in assessing  
180 associated rights, privileges, and duties.

181 (2) The division shall:

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

184 (b) Establish procedures for providing notice to an  
185 association and the developer during the period the developer  
186 controls the association if the division is considering the  
187 issuance of a declaratory statement with respect to the  
188 homeowners' association or any related document governing such  
189 community.

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

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

203 (e) Maintain a toll-free telephone number accessible to

11-00846-14

20141348\_\_

204 homeowners' association parcel owners.

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

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

213 2. For initial certification by the division, paid  
214 mediators must be certified by the Supreme Court to mediate  
215 court cases in county or circuit courts. However, the division  
216 may, by rule, adopt additional factors related to the mediator's  
217 experience, education, or background. To maintain certification,  
218 a person initially certified as a paid mediator by the division  
219 must comply with the factors or requirements adopted by rule.

220 (g) Cooperate with similar agencies in other jurisdictions  
221 to establish uniform filing procedures and forms, public  
222 offering statements, advertising standards, and rules and common  
223 administrative practices.

224 (h) Consider notice to a developer to be complete when it  
225 is delivered to the address of the developer currently on file  
226 with the division.

227 (i) Adopt a seal by which it shall authenticate its  
228 records. Copies of the records of the division, and certificates  
229 purporting to relate the facts contained in those records, if  
230 authenticated by the seal, shall be prima facie evidence of the  
231 records in the courts of this state.

232 (j) Submit to the Governor, the President of the Senate,



11-00846-14

20141348\_\_

233 and the Speaker of the House of Representatives an annual report  
234 that includes, at a minimum, the number of training programs  
235 provided for homeowners' association board members and parcel  
236 owners under paragraph (2)(d); and the number of complaints  
237 received by type, the number and percent of complaints  
238 acknowledged in writing within 30 days, the number and percent  
239 of resulting investigations conducted within 90 days, and the  
240 number of investigations exceeding the 90-day requirement as  
241 required under s. 720.3022(1). The annual report must also  
242 include an evaluation of the division's core business processes  
243 and make recommendations for improvements, including statutory  
244 changes. The report shall be submitted by September 30 following  
245 the end of the fiscal year.

246 (3) The department may adopt rules to administer and  
247 enforce this chapter.

248 Section 7. Section 720.3022, Florida Statutes, is created  
249 to read:

250 720.3022 Complaints; investigations; service of process;  
251 penalty guidelines.—

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

11-00846-14

20141348\_\_

262 receiving a complaint:

263 (a) The division shall acknowledge the complaint in writing  
264 and notify the complainant as to whether the complaint is within  
265 the jurisdiction of the division and whether additional  
266 information is needed by the division from the complainant.

267 (b) The division shall conduct its investigation and,  
268 within 90 days after receipt of the original complaint or timely  
269 requested additional information, take action upon the  
270 complaint. However, the failure to complete the investigation  
271 within 90 days does not prevent the division from continuing the  
272 investigation, accepting or considering evidence obtained or  
273 received after 90 days, or taking administrative action if  
274 reasonable cause exists to believe that a violation of this  
275 chapter or related rule has occurred.

276 (c) If an investigation is not completed within the time  
277 limits established in this subsection, the division shall, on a  
278 monthly basis, notify the complainant in writing of the status  
279 of the investigation.

280 (d) When reporting its action to the complainant, the  
281 division shall inform the complainant of any right to a hearing  
282 pursuant to ss. 120.569 and 120.57.

283 (2) INVESTIGATIONS.—The division may conduct necessary  
284 public or private investigations within or outside this state to  
285 determine whether there has been a violation of this chapter or  
286 related rules or orders, and to aid in the adoption of needed  
287 rules or forms.

288 (a) For the purpose of conducting an investigation, the  
289 division director, or officer or employee designated by the  
290 division director, may administer oaths or affirmations,

11-00846-14

20141348\_\_

291 subpoena witnesses and compel their attendance, take evidence,  
292 and require the production of any matter that is relevant to an  
293 investigation, including the existence, description, nature,  
294 custody, condition, and location of any books, documents, or  
295 other tangible things and the identity and location of persons  
296 having knowledge of relevant facts or any other matter  
297 reasonably calculated to lead to the discovery of material  
298 evidence. Upon the failure by a person to obey a subpoena or to  
299 answer questions propounded by the investigating officer and  
300 upon reasonable notice to all affected persons, the division may  
301 apply to the circuit court for an order compelling compliance.

302 (b) The division may require or permit any person to file a  
303 statement in writing, under oath or otherwise, as determined by  
304 the division, as to the facts and circumstances concerning a  
305 matter to be investigated.

306 (c) The division may submit any official written report,  
307 worksheet, or other related paper, or a certified copy thereof,  
308 compiled, prepared, drafted, or otherwise made and authenticated  
309 by a financial examiner or analyst to be admitted as competent  
310 evidence in any hearing in which the financial examiner or  
311 analyst is available for cross-examination and attests under  
312 oath that such documents were prepared as a result of an  
313 examination or inspection conducted pursuant to this chapter.

314 (d) Notwithstanding any remedies available to parcel owners  
315 and associations, if the division has reasonable cause to  
316 believe that a violation of this chapter or related rule has  
317 occurred, the division may institute enforcement proceedings in  
318 its own name against any developer, association, officer, or  
319 member of the board of administration, or its assignees or

11-00846-14

20141348\_\_

320 agents, as follows:

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

326 2. The division may issue an order requiring the developer,  
327 association, developer-designated officer, or developer  
328 designated member of the board of administration, developer  
329 designated assignees or agents, community association manager,  
330 or community association management firm to cease and desist  
331 from the unlawful practice and take such affirmative action as  
332 the division determines will carry out the purposes of this  
333 chapter. If the division finds that a developer, association,  
334 officer, or member of the board of administration, or its  
335 assignees or agents, is violating or is about to violate this  
336 chapter, any rule adopted or order issued by the division, or  
337 any written agreement entered into with the division, and such  
338 violation presents an immediate danger to the public requiring  
339 an immediate final order, it may issue an emergency cease and  
340 desist order reciting with particularity the facts underlying  
341 such findings. The emergency cease and desist order is effective  
342 for 90 days. If the division begins nonemergency cease and  
343 desist proceedings, the emergency cease and desist order remains  
344 effective until the conclusion of the proceedings under ss.  
345 120.569 and 120.57.

346 3. If a developer fails to pay restitution determined by  
347 the division to be owed, plus any accrued interest at the  
348 highest rate permitted by law, within 30 days after expiration

11-00846-14

20141348\_\_

349 of any appellate time period of a final order requiring payment  
350 of restitution or the conclusion of any appeal, whichever is  
351 later, the division shall bring an action in circuit or county  
352 court on behalf of any association, class of parcel owners,  
353 lessees, or purchasers for restitution, declaratory relief,  
354 injunctive relief, or any other available remedy. The division  
355 may also temporarily revoke its acceptance of the filing for the  
356 developer to which the restitution relates until payment of  
357 restitution is made.

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

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

376 6. The division may impose a civil penalty against a  
377 developer or association, or its assignee or agent, for any

11-00846-14

20141348\_\_

378 violation of this chapter or related rule. The division may  
379 impose a civil penalty individually against an officer or board  
380 member who willfully and knowingly violates this chapter, an  
381 adopted rule, or a final order of the division; may order the  
382 removal of such individual as an officer or from the board of  
383 administration or as an officer of the association; and may  
384 prohibit such individual from serving as an officer or on the  
385 board of a community association for a period of time. For  
386 purposes of this section, the term "willfully and knowingly"  
387 means that the division informed the officer or board member  
388 that his or her action or intended action violates this chapter,  
389 a related rule, or a final order of the division and that the  
390 officer or board member refused to comply with this chapter, the  
391 related rule, or the final order of the division. Before  
392 initiating formal agency action under chapter 120, the division  
393 must afford the officer or board member an opportunity to  
394 voluntarily comply, and if he or she complies within 10 days the  
395 officer or board member is not subject to a civil penalty. A  
396 penalty may be imposed for each day of continuing violation, but  
397 may not exceed a total of \$5,000.

398 7. If a parcel owner presents the division with proof that  
399 the parcel owner has requested access to official records in  
400 writing by certified mail, and that after 10 days the parcel  
401 owner again made the same request for access to official records  
402 in writing by certified mail, and that more than 10 days has  
403 elapsed since the second request and the association has still  
404 failed or refused to provide access to official records as  
405 required by this chapter, the division shall issue a subpoena  
406 requiring production of the requested records where the records

11-00846-14

20141348\_\_

407 are kept pursuant to s. 720.303.

408 8. In addition to subparagraph 6., the division may seek  
409 the imposition of a civil penalty through the circuit court for  
410 any violation for which the division may issue a notice to show  
411 cause under subsection s. 720.302(11). The civil penalty must be  
412 at least \$500 but may not exceed \$5,000 for each violation. The  
413 court may also award to the prevailing party court costs and  
414 reasonable attorney fees and, if the division prevails, may also  
415 award reasonable costs of investigation.

416 (e) Homeowners' association directors, officers, and  
417 employees; homeowners' association developers and community  
418 association managers; and community association management firms  
419 have an ongoing duty to reasonably cooperate with the division  
420 in any investigation pursuant to this chapter. The division  
421 shall refer to local law enforcement any person whom the  
422 division believes has altered, destroyed, concealed, or removed  
423 any record, document, or thing required to be kept or maintained  
424 under this chapter for the purpose of impairing its verity or  
425 availability to the department's investigation.

426 (f) The division may contract with agencies in this state  
427 or other jurisdictions to perform investigative functions.

428 (g) The division shall establish by rule the standards for  
429 reimbursement of actual verified expenses incurred in connection  
430 with an onsite review or investigation.

431 (3) SERVICE OF PROCESS.—

432 (a) In addition to the methods of service provided for in  
433 the Florida Rules of Civil Procedure and under state law,  
434 service may be made and is binding upon a defendant or  
435 respondent if the division:

11-00846-14

20141348\_\_

436 1. Acting as the petitioner or plaintiff, immediately sends  
437 a copy of the process and the pleading by certified mail to the  
438 defendant or respondent at his or her last known address; and

439 2. Files an affidavit of compliance with this subsection on  
440 or before the return date of the process or within the time set  
441 by the court.

442 (b) If a person, including a nonresident of this state,  
443 allegedly engages in conduct prohibited by this chapter or any  
444 rule or order of the division, has not filed a consent to  
445 service of process, and personal jurisdiction over him or her  
446 cannot otherwise be obtained in this state, the director may  
447 receive service of process in any noncriminal proceeding against  
448 that person or his or her successor which grows out of the  
449 conduct and which is brought by the division under this chapter  
450 or any rule or order of the division. Such process has the same  
451 force and validity as if personally served. Notice shall be  
452 given as provided in paragraph (a).

453 (4) PENALTY GUIDELINES.—The division shall, by rule, adopt  
454 penalty guidelines applicable to violations or to categories of  
455 violations of this chapter or related rules. The guidelines must  
456 specify a meaningful range of civil penalties for each such  
457 violation of statute and rule and must be based upon the harm  
458 caused by the violation, the repetition of the violation, and  
459 upon such other factors deemed relevant by the division, such as  
460 the size of the association or whether the violations were  
461 committed by a developer- or owner-controlled association. The  
462 guidelines must designate possible mitigating or aggravating  
463 circumstances that might justify a departure from the range of  
464 penalties provided by the rules. It is the Legislature's intent



11-00846-14

20141348\_\_

465 that minor violations be distinguished from those that endanger  
466 the health, safety, or welfare of parcel owners or other persons  
467 and that such guidelines provide reasonable and meaningful  
468 notice to the public of likely penalties that may be imposed for  
469 the proscribed conduct. This subsection does not limit the  
470 ability of the division to informally dispose of administrative  
471 actions or complaints by stipulation, agreed settlement, or  
472 consent order. All amounts collected shall be deposited with the  
473 Chief Financial Officer to the credit of the Division of Florida  
474 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
475 Homes Trust Fund. If a developer fails to pay the civil penalty  
476 and the amount owed to the association, the division shall issue  
477 an order directing that such developer cease and desist from  
478 further operation until the civil penalty is paid or shall  
479 pursue enforcement of the penalty through court order. If an  
480 association fails to pay the civil penalty, the division shall  
481 pursue enforcement through court order, and the order imposing  
482 the civil penalty or the cease and desist order is not effective  
483 until 20 days after the date of such order. Any action commenced  
484 by the division shall be brought in the county in which the  
485 division has its executive offices or in the county where the  
486 violation occurred.

487 Section 8. Section 720.3023, Florida Statutes, is created  
488 to read:

489 720.3023 Depositing funds.—All funds collected by the  
490 division and any amounts paid as fees, fines, or penalties or  
491 from costs awarded to the division by a court or administrative  
492 final order under this chapter shall be deposited in the State  
493 Treasury to the credit of the Division of Florida Condominiums,

11-00846-14

20141348\_\_

494 Homeowners' Associations, Timeshares, and Mobile Homes Trust  
495 Fund created by s. 718.509.

496 Section 9. Section 720.3024, Florida Statutes, is created  
497 to read:

498 720.3024 Office of the Community Association Ombudsman.—

499 (1) CREATION.—There is created an Office of the Community  
500 Association Ombudsman, within the division.

501 (a) The office shall be a bureau within the division as  
502 provided under s. 20.04(3).

503 (b) The functions of the office shall be funded by the  
504 Division of Florida Condominiums, Homeowners' Associations,  
505 Timeshares, and Mobile Homes Trust Fund.

506 (c) The office shall be located in Leon County on the  
507 premises of the division or, if suitable space cannot be  
508 provided there, at another place convenient to the division  
509 which enables the ombudsman to expeditiously carry out the  
510 duties and functions of his or her office. The office may  
511 establish branch offices elsewhere in the state upon the  
512 concurrence of the Governor and the availability of funding.

513 (2) APPOINTMENT OF OMBUDSMAN.—The office shall be headed by  
514 an ombudsman who shall be appointed by and serve at the pleasure  
515 of the Governor.

516 (a) The ombudsman must be an attorney licensed to practice  
517 law in this state.

518 (b) The ombudsman or any full-time employee of the office  
519 may not actively engage in any other business or profession that  
520 directly or indirectly relates to or conflicts with his or her  
521 work in the ombudsman's office; serve as the representative of  
522 any political party, executive committee, or other governing

11-00846-14

20141348\_\_

523 body of a political party; serve as an executive, officer, or  
524 employee of a political party; receive remuneration for  
525 activities on behalf of any candidate for public office; or  
526 engage in soliciting votes or other activities on behalf of a  
527 candidate for public office. The ombudsman or any employee of  
528 the office may not become a candidate for election to public  
529 office unless he or she first resigns from his or her office or  
530 employment.

531 (3) POWERS AND DUTIES.—The ombudsman shall have all powers  
532 necessary to carry out the duties of the office, including  
533 authority to:

534 (a) Access and use the files and records of the division.

535 (b) Employ professional and clerical staff as necessary for  
536 the efficient operation of the office.

537 (c) Prepare and issue reports and recommendations to the  
538 Governor, the President of the Senate, the Speaker of the House  
539 of Representatives, the department, and the division on any  
540 matter within the jurisdiction of the division. The ombudsman  
541 shall make such recommendations as he or she deems appropriate  
542 for legislation relative to division procedures, rules,  
543 jurisdiction, personnel, and functions.

544 (d) Act as the liaison between the division, parcel owners,  
545 boards of directors, board members, community association  
546 managers, and other affected parties. The ombudsman shall  
547 develop policies and procedures to assist parcel owners, boards  
548 of directors, board members, community association managers, and  
549 other affected parties to understand their rights and  
550 responsibilities as set forth in this chapter and the  
551 homeowners' association documents governing the respective

11-00846-14

20141348\_\_

552 association. The ombudsman shall coordinate and assist in the  
553 preparation and adoption of educational and reference material,  
554 and endeavor to coordinate with private or volunteer providers  
555 of these services, so that the availability of these resources  
556 is made known to the largest possible audience.

557 (e) Monitor and review procedures and disputes concerning  
558 homeowners' association elections or meetings, including, but  
559 not limited to, recommending that the division pursue  
560 enforcement action in any manner if there is reasonable cause to  
561 believe that election misconduct has occurred.

562 (f) Make recommendations to the division for changes in  
563 rules and procedures for the filing, investigation, and  
564 resolution of complaints filed by parcel owners, associations,  
565 and managers.

566 (g) Provide resources to assist members of boards of  
567 directors and officers of associations to carry out their powers  
568 and duties consistent with this chapter, division rule, and the  
569 homeowners' associations documents governing the association.

570 (h) Encourage and facilitate voluntary meetings with and  
571 between parcel owners, boards of directors, board members,  
572 community association managers, and other affected parties if  
573 such meetings may assist in resolving a dispute within a  
574 community association before the dispute is submitted for a  
575 formal or administrative remedy. It is the intent of the  
576 Legislature that the ombudsman act as a neutral resource for  
577 both the rights and responsibilities of parcel owners,  
578 associations, and board members.

579 (i) Assist with the resolution of disputes between parcel  
580 owners and the association or between parcel owners if the

11-00846-14

20141348\_\_

581 dispute is not within the jurisdiction of the division to  
582 resolve.

583 (4) APPOINTMENT OF ELECTION MONITORS.—Fifteen percent of  
584 the total voting interests in a homeowners' association, or six  
585 parcel owners, whichever is greater, may petition the ombudsman  
586 to appoint an election monitor to attend the annual meeting of  
587 the members and conduct the election of the directors. The  
588 ombudsman shall appoint a division employee, a person or persons  
589 specializing in homeowners' association election monitoring, or  
590 an attorney licensed to practice in this state as the election  
591 monitor. All costs associated with the election monitoring  
592 process shall be paid by the association. The division shall  
593 adopt by rule procedures for the appointment of election  
594 monitors and the scope and extent of the monitor's role in the  
595 election process.

596 Section 10. Section 720.3029, Florida Statutes, is created  
597 to read:

598 720.3029 Homeowners' association fees.—Effective January 1,  
599 2015, each homeowners' association that operates more than two  
600 parcels must pay to the division an annual fee of \$4 for each  
601 residential parcel operated by the association. Beginning  
602 January 1, 2016, the division may increase the fee to reflect  
603 changes in the cost of living under s. 401(a)(17) of the  
604 Internal Revenue Code.

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

11-00846-14

20141348\_\_

610       (2) Funds collected shall be deposited into the Division of  
611 Florida Condominiums, Homeowners' Associations, Timeshares, and  
612 Mobile Homes Trust Fund. Funds shall be used by the division  
613 for, but their use is not limited to, the review and approval of  
614 deed restrictions before being recorded at the county level by  
615 the developer or owner of the initial lots to be developed;  
616 education; enforcement; investigation; and prosecution of  
617 policies and procedures related to mandated properties.

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

621       Section 11. Paragraph (c) of subsection (2) of section  
622 720.303, Florida Statutes, is amended to read:

623       720.303 Association powers and duties; meetings of board;  
624 official records; budgets; financial reporting; association  
625 funds; recalls.—

626       (2) BOARD MEETINGS.—

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

630       1. Notices of all board meetings must be posted in a  
631 conspicuous place in the community at least 48 hours in advance  
632 of a meeting, except in an emergency. In the alternative, if  
633 notice is not posted in a conspicuous place in the community,  
634 notice of each board meeting must be mailed or delivered to each  
635 member at least 7 days before the meeting, except in an  
636 emergency. Notwithstanding this general notice requirement, for  
637 communities with more than 100 members, the bylaws may provide  
638 for a reasonable alternative to posting or mailing of notice for

11-00846-14

20141348\_\_

639 each board meeting, including publication of notice, provision  
640 of a schedule of board meetings, or the conspicuous posting and  
641 repeated broadcasting of the notice on a closed-circuit cable  
642 television system serving the homeowners' association. However,  
643 if broadcast notice is used in lieu of a notice posted  
644 physically in the community, the notice must be broadcast at  
645 least four times every broadcast hour of each day that a posted  
646 notice is otherwise required. When broadcast notice is provided,  
647 the notice and agenda must be broadcast in a manner and for a  
648 sufficient continuous length of time so as to allow an average  
649 reader to observe the notice and read and comprehend the entire  
650 content of the notice and the agenda. The bylaws or amended  
651 bylaws may provide for giving notice by electronic transmission  
652 in a manner authorized by law for meetings of the board of  
653 directors, committee meetings requiring notice under this  
654 section, and annual and special meetings of the members;  
655 however, a member must consent in writing to receiving notice by  
656 electronic transmission.

657 2. An assessment may not be levied at a board meeting  
658 unless the notice of the meeting includes a statement that  
659 assessments will be considered and the nature of the  
660 assessments. Written notice of any meeting at which special  
661 assessments, increases in assessments, or amendments to  
662 governing documents will be considered or at which amendments to  
663 rules regarding parcel use will be considered must be mailed,  
664 delivered, or electronically transmitted to the members and  
665 parcel owners and posted conspicuously on the property or  
666 broadcast on closed-circuit cable television not less than 14  
667 days before the meeting regardless of contrary notice

11-00846-14

20141348\_\_

668 requirements in a governing document.

669 3. Directors may not vote by proxy or by secret ballot at  
670 board meetings, except that secret ballots may be used in the  
671 election of officers. This subsection also applies to the  
672 meetings of a ~~any~~ committee or other similar body, if ~~when~~ a  
673 final decision will be made regarding the expenditure of  
674 association funds, and to a ~~any~~ body vested with the power to  
675 approve or disapprove architectural decisions with respect to a  
676 specific parcel of residential property owned by a member of the  
677 community.

678 Section 12. Subsection (2) of section 720.305, Florida  
679 Statutes, is amended to read:

680 720.305 Obligations of members; remedies at law or in  
681 equity; levy of fines and suspension of use rights.—

682 (2) If the association is authorized by its original  
683 governing documents to impose fines, it may levy reasonable  
684 fines of up to \$100 per violation against any member or any  
685 member's tenant, guest, or invitee for the failure of the owner  
686 of the parcel or its occupant, licensee, or invitee to comply  
687 with any provision of the declaration, the association bylaws,  
688 or reasonable rules of the association. A fine may be levied for  
689 each day of a continuing violation, with a single notice and  
690 opportunity for hearing, except that the fine may not exceed  
691 \$1,000 in the aggregate unless otherwise provided in the  
692 governing documents. A fine ~~of less than \$1,000~~ may not become a  
693 lien against a parcel. In any action to recover a fine, the  
694 prevailing party is entitled to reasonable attorney fees and  
695 costs from the nonprevailing party as determined by the court.

696 (a) An association may suspend, for a reasonable period of



11-00846-14

20141348\_\_

697 time, the right of a member, or a member's tenant, guest, or  
698 invitee, to use common areas and facilities for the failure of  
699 the owner of the parcel or its occupant, licensee, or invitee to  
700 comply with any provision of the declaration, the association  
701 bylaws, or reasonable rules of the association. This paragraph  
702 does not apply to that portion of common areas used to provide  
703 access or utility services to the parcel. A suspension may not  
704 impair the right of an owner or tenant of a parcel to have  
705 vehicular and pedestrian ingress to and egress from the parcel,  
706 including, but not limited to, the right to park.

707 (b) A fine or suspension may not be imposed without at  
708 least 14 days' notice to the person sought to be fined or  
709 suspended and an opportunity for a hearing before a committee of  
710 at least three members appointed by the board who are not  
711 officers, directors, or employees of the association, or the  
712 spouse, parent, child, brother, or sister of an officer,  
713 director, or employee. If the committee, by majority vote, does  
714 not approve a proposed fine or suspension, it may not be  
715 imposed. If the association imposes a fine or suspension, the  
716 association must provide written notice of such fine or  
717 suspension by mail or hand delivery to the parcel owner and, if  
718 applicable, to any tenant, licensee, or invitee of the parcel  
719 owner.

720 Section 13. Paragraphs (a) and (b) of subsection (1) and  
721 subsections (2), (4), (5), (6), (8), and (9) of section 720.306,  
722 Florida Statutes, are amended to read:

723 720.306 Meetings of members; voting and election  
724 procedures; amendments.—

725 (1) QUORUM; AMENDMENTS.—

11-00846-14

20141348\_\_

726 (a) Unless a lower number is provided in the bylaws, the  
727 percentage of voting interests required for to constitute a  
728 quorum at a meeting of the members is shall be 30 percent of the  
729 total voting interests. Unless otherwise provided in this  
730 chapter or in the articles of incorporation or bylaws, decisions  
731 that require a vote of the members must be approved ~~made~~ by the  
732 ~~concurrence of~~ at least a majority of the voting interests  
733 present, in person or by proxy, at a meeting at which a quorum  
734 is present ~~has been attained~~.

735 (b) Unless otherwise provided in the governing documents or  
736 required by law, and other than those matters set forth in  
737 paragraph (c), ~~any governing document~~ the bylaws or articles of  
738 incorporation of an association may be amended by the  
739 affirmative vote of two-thirds of the voting interests of the  
740 association, and the declaration may be amended by the  
741 affirmative vote of parcel owners representing two-thirds of the  
742 voting interests of the affected parcels. Within 30 days after  
743 recording an amendment to the governing documents, the  
744 association shall provide copies of the amendment to the  
745 members.

746 (2) ANNUAL MEETING.—The members ~~association~~ shall hold an  
747 annual ~~a meeting of its members annually~~ for the transaction of  
748 any and all proper business at a time, date, and place stated  
749 in, or fixed in accordance with, the bylaws. If the bylaws are  
750 silent as to the location, the annual meeting and all other  
751 membership meetings shall be held within 45 miles of the  
752 association property. The election of directors, if one is  
753 required to be held, must be held at, or in conjunction with,  
754 the annual meeting or as provided in the governing documents.

11-00846-14

20141348\_\_

755 (4) CONTENT OF NOTICE.—Unless law or the governing  
756 documents require otherwise, notice of an annual meeting is not  
757 required to ~~need not~~ include a description of the purpose ~~or~~  
758 ~~purposes~~ for which the meeting is called. Notice of a special  
759 meeting must include a description of the purpose ~~or purposes~~  
760 for which the meeting is called.

761 (5) NOTICE OF MEETINGS.—The bylaws must ~~shall~~ provide for  
762 giving notice to members of all member meetings, and if they do  
763 not do so shall be deemed to provide the following: The  
764 association shall give all parcel owners and members actual  
765 notice of all membership meetings, which shall be mailed,  
766 delivered, or electronically transmitted to the members not less  
767 than 14 days before ~~prior to~~ the meeting. Evidence of compliance  
768 with this 14-day notice shall be made by an affidavit executed  
769 by the person providing the notice and filed upon execution  
770 among the official records of the association. In addition to  
771 mailing, delivering, or electronically transmitting the notice  
772 of any meeting, the association may, by reasonable rule, adopt a  
773 procedure for conspicuously posting and repeatedly broadcasting  
774 the notice and the agenda on a closed-circuit cable television  
775 system serving the association. If ~~When~~ broadcast notice is  
776 provided, the notice and agenda must be broadcast in a manner  
777 and for a sufficient continuous length of time so as to allow an  
778 average reader to observe the notice and read and comprehend the  
779 entire content of the notice and the agenda.

780 (6) RIGHT TO SPEAK.—Members and parcel owners have the  
781 right to attend all membership meetings and to speak at any  
782 meeting with reference to all items opened for discussion or  
783 included on the agenda. Notwithstanding any provision ~~to the~~

11-00846-14

20141348\_\_

784 ~~contrary~~ in the governing documents or any rules adopted by the  
785 board or by the membership, a member and a parcel owner have the  
786 right to speak for at least 3 minutes on any item. The  
787 association may adopt ~~written~~ reasonable written rules governing  
788 the frequency, duration, and other manner of member and parcel  
789 owner statements, which are ~~rules must be~~ consistent with this  
790 subsection.

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

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

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

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

801 3. Votes taken to amend the declaration;

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

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

806 (b) General proxies may be used for other matters for which  
807 limited proxies are not required and also may be used in voting  
808 for nonsubstantive changes to items for which a limited proxy is  
809 required and given.

810 (c) Limited proxies and general proxies may be used to  
811 establish a quorum.

812 (d) Voting interests or consent rights allocated to a

11-00846-14

20141348\_\_

813 parcel owned by the association may not be exercised or  
814 considered for any purpose, whether for a quorum, an election,  
815 or otherwise.

816 (e) Any proxy given is effective only for the specific  
817 meeting for which originally given and any lawfully adjourned  
818 meetings thereof. In no event is a proxy valid for longer than  
819 90 days after the date of the first meeting for which it was  
820 given. Every proxy is revocable at any time at the pleasure of  
821 the parcel owner executing it.

822 (f) This subsection does not limit the use of general  
823 proxies, require the use of limited proxies for any agenda item  
824 or election at any meeting of a timeshare condominium  
825 association, or prohibit parcel owners from voting in person at  
826 parcel owner meetings.

827 ~~(a) To be valid, a proxy must be dated, must state the~~  
828 ~~date, time, and place of the meeting for which it was given, and~~  
829 ~~must be signed by the authorized person who executed the proxy.~~  
830 ~~A proxy is effective only for the specific meeting for which it~~  
831 ~~was originally given, as the meeting may lawfully be adjourned~~  
832 ~~and reconvened from time to time, and automatically expires 90~~  
833 ~~days after the date of the meeting for which it was originally~~  
834 ~~given. A proxy is revocable at any time at the pleasure of the~~  
835 ~~person who executes it. If the proxy form expressly so provides,~~  
836 ~~any proxy holder may appoint, in writing, a substitute to act in~~  
837 ~~his or her place.~~

838 ~~(b) If the governing documents permit voting by secret~~  
839 ~~ballot by members who are not in attendance at a meeting of the~~  
840 ~~members for the election of directors, such ballots must be~~  
841 ~~placed in an inner envelope with no identifying markings and~~

11-00846-14

20141348\_\_

842 ~~mailed or delivered to the association in an outer envelope~~  
843 ~~bearing identifying information reflecting the name of the~~  
844 ~~member, the lot or parcel for which the vote is being cast, and~~  
845 ~~the signature of the lot or parcel owner casting that ballot. If~~  
846 ~~the eligibility of the member to vote is confirmed and no other~~  
847 ~~ballot has been submitted for that lot or parcel, the inner~~  
848 ~~envelope shall be removed from the outer envelope bearing the~~  
849 ~~identification information, placed with the ballots which were~~  
850 ~~personally cast, and opened when the ballots are counted. If~~  
851 ~~more than one ballot is submitted for a lot or parcel, the~~  
852 ~~ballots for that lot or parcel shall be disqualified. Any vote~~  
853 ~~by ballot received after the closing of the balloting may not be~~  
854 ~~considered.~~

855 (9) ELECTIONS AND BOARD VACANCIES.—

856 (a) Unless the governing documents provide otherwise, a  
857 vacancy on the board of directors caused by the expiration of a  
858 director's term shall be filled by electing a new board member.  
859 This section applies to any mandatory association that governs  
860 10 parcels or more. The election must occur on the date of the  
861 annual meeting.

862 1. An election is not required unless more candidates file  
863 notices of intent to run or are nominated than board vacancies  
864 exist. If the number of board members whose terms expire at the  
865 annual meeting equals or exceeds the number of candidates, the  
866 candidates become members of the board effective upon the  
867 adjournment of the annual meeting.

868 2. If the governing documents permit staggered terms of up  
869 to 2 years, and upon approval of a majority of the total voting  
870 interests, the association board members may serve 2-year

11-00846-14

20141348\_\_

871 staggered terms. If the staggered term of a board member does  
872 not expire until a later annual meeting, or if all members'  
873 terms would otherwise expire but there are no candidates, the  
874 terms of all board members expire at the annual meeting, and  
875 such members may stand for reelection unless prohibited by the  
876 governing documents.

877 3. Unless the governing documents provide otherwise, any  
878 remaining vacancies shall be filled by the affirmative vote of  
879 the majority of the directors making up the newly constituted  
880 board even if the directors constitute less than a quorum or  
881 there is only one director.

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

886 (b) Any parcel owner desiring to be a candidate for board  
887 membership must be eligible to serve on the board of directors  
888 at the time of the deadline for submitting a notice of intent to  
889 run as provided in subparagraph (c)2. in order to have his or  
890 her name listed as a proper candidate on the ballot. A parcel  
891 owner may not be a candidate for or serve on the board of  
892 directors if:

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

895 2. In a homeowners' association of more than 10 parcels, he  
896 or she is the co-owner of a parcel and another co-owner of the  
897 same parcel is a member of the board of directors at the same  
898 time unless they own more than one parcel or there are not  
899 enough eligible candidates to fill the vacancies on the board at

11-00846-14

20141348\_\_

900 the time of the vacancy.

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

906 1. At least 60 days before a scheduled election, the  
907 association shall mail, deliver, or electronically transmit, by  
908 separate association mailing or by inclusion in another  
909 association mailing, delivery, or transmission, including  
910 regularly published newsletters, to each parcel owner entitled  
911 to a vote, a first notice of the date of the election.

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

916 3. Together with the notice and agenda required under  
917 subsection (5), the association shall mail, deliver, or  
918 electronically transmit a second notice of the election to all  
919 parcel owners entitled to vote which includes a ballot that  
920 lists all candidates. Upon request of a candidate, an  
921 information sheet no larger than 8 1/2 inches by 11 inches,  
922 which must be furnished by the candidate at least 35 days before  
923 the election, must be included with the mailing, delivery, or  
924 transmission of the ballot, with the costs of mailing, delivery,  
925 or electronic transmission and copying to be borne by the  
926 association. The association is not liable for the contents of  
927 an information sheet prepared by a candidate. In order to reduce  
928 costs, the association may print or duplicate the information



11-00846-14

20141348\_\_

929 sheets on both sides of the paper.

930 4. Elections shall be decided by a plurality of ballots  
931 cast. There is no quorum requirement; however, at least 20  
932 percent of the eligible voters must cast a ballot in order to  
933 have a valid election. A parcel owner may not permit any other  
934 person to vote his or her ballot, and any ballots improperly  
935 cast are invalid. A parcel owner who violates this provision may  
936 be fined by the association in accordance with s. 720.305. A  
937 parcel owner who needs assistance in casting the ballot for the  
938 reasons stated in s. 101.051 may obtain such assistance.

939 5. The division shall by rule establish voting procedures  
940 consistent with this paragraph, including rules establishing  
941 procedures for giving notice by electronic transmission and  
942 rules providing for the secrecy of ballots.

943 ~~(a) Elections of directors must be conducted in accordance~~  
944 ~~with the procedures set forth in the governing documents of the~~  
945 ~~association. All members of the association are eligible to~~  
946 ~~serve on the board of directors, and a member may nominate~~  
947 ~~himself or herself as a candidate for the board at a meeting~~  
948 ~~where the election is to be held; provided, however, that if the~~  
949 ~~election process allows candidates to be nominated in advance of~~  
950 ~~the meeting, the association is not required to allow~~  
951 ~~nominations at the meeting. An election is not required unless~~  
952 ~~more candidates are nominated than vacancies exist. Except as~~  
953 ~~otherwise provided in the governing documents, boards of~~  
954 ~~directors must be elected by a plurality of the votes cast by~~  
955 ~~eligible voters. Any challenge to the election process must be~~  
956 ~~commenced within 60 days after the election results are~~  
957 ~~announced.~~

11-00846-14

20141348\_\_

958        ~~(d)~~ A person who is delinquent in the payment of any  
959 fee, fine, or other monetary obligation to the association for  
960 more than 90 days is not eligible for board membership. A person  
961 who has been convicted of any felony in this state or in a  
962 United States District or Territorial Court, or has been  
963 convicted of any offense in another jurisdiction which would be  
964 considered a felony if committed in this state, is not eligible  
965 for board membership unless such felon's civil rights have been  
966 restored for at least 5 years as of the date on which such  
967 person seeks election to the board. The validity of any action  
968 by the board is not affected if it is later determined that a  
969 member of the board is ineligible for board membership.

970        ~~(e)~~ Any election dispute between a member and an  
971 association must be submitted to mandatory binding arbitration  
972 with the division. Such proceedings must be conducted in the  
973 manner provided by s. 718.1255 and the procedural rules adopted  
974 by the division. Any challenge to the election process must be  
975 commenced within 60 days after the election results are  
976 announced.

977        1. Unless otherwise provided in the governing documents  
978 ~~bylaws~~, any vacancy occurring on the board before the expiration  
979 of a term may be filled by an affirmative vote of the majority  
980 of the remaining directors, even if the remaining directors  
981 constitute less than a quorum, or by the sole remaining  
982 director. In the alternative, a board may hold an election to  
983 fill the vacancy, in which case the election procedures must  
984 conform to the requirements of the governing documents.

985        2. Unless otherwise provided in the governing documents  
986 ~~bylaws~~, a board member appointed or elected under this section

11-00846-14

20141348\_\_

987 is appointed for the unexpired term of the seat being filled.  
988 Filling vacancies created by recall is governed by s.  
989 720.303(10) and rules adopted by the division.

990 Section 14. Subsection (5) of section 720.307, Florida  
991 Statutes, is amended to read:

992 720.307 Transition of association control in a community.-  
993 With respect to homeowners' associations:

994 (5) This section does not apply to a homeowners'  
995 association ~~in existence on the effective date of this act, or~~  
996 ~~to a homeowners' association, no matter when created, if such~~  
997 ~~association is~~ created in a community that is included in an  
998 effective development-of-regional-impact development order as of  
999 the effective date of this act, together with any approved  
1000 modifications thereof.

1001 Section 15. Subsection (2) of section 73.073, Florida  
1002 Statutes, is amended to read:

1003 73.073 Eminent domain procedure with respect to condominium  
1004 common elements.-

1005 (2) With respect to the exercise of eminent domain or a  
1006 negotiated sale for the purchase or taking of a portion of the  
1007 common elements of a condominium, the condemning authority shall  
1008 have the responsibility of contacting the condominium  
1009 association and acquiring the most recent rolls indicating the  
1010 names of the unit owners or contacting the appropriate taxing  
1011 authority to obtain the names of the owners of record on the tax  
1012 rolls. Notification shall be sent by certified mail, return  
1013 receipt requested, to the unit owners of record of the  
1014 condominium units by the condemning authority indicating the  
1015 intent to purchase or take the required property and requesting

11-00846-14

20141348\_\_

1016 a response from the unit owner. The condemning authority shall  
1017 be responsible for the expense of sending notification pursuant  
1018 to this section. Such notice shall, at a minimum, include:

1019 (a) The name and address of the condemning authority.

1020 (b) A written or visual description of the property.

1021 (c) The public purpose for which the property is needed.

1022 (d) The appraisal value of the property.

1023 (e) A clear, concise statement relating to the unit owner's  
1024 right to object to the taking or appraisal value and the  
1025 procedures and effects of exercising that right.

1026 (f) A clear, concise statement relating to the power of the  
1027 association to convey the property on behalf of the unit owners  
1028 if no objection to the taking or appraisal value is raised, and  
1029 the effects of this alternative on the unit owner.

1030  
1031 The Division of Florida Condominiums, Homeowners' Associations,  
1032 Timeshares, and Mobile Homes of the Department of Business and  
1033 Professional Regulation may adopt, by rule, a standard form for  
1034 such notice and may require the notice to include any additional  
1035 relevant information.

1036 Section 16. Paragraph (e) of subsection (6) of section  
1037 192.037, Florida Statutes, is amended to read:

1038 192.037 Fee timeshare real property; taxes and assessments;  
1039 escrow.—

1040 (6)

1041 (e) On or before May 1 of each year, a statement of  
1042 receipts and disbursements of the escrow account must be filed  
1043 with the Division of Florida Condominiums, Homeowners'  
1044 Associations, Timeshares, and Mobile Homes of the Department of

11-00846-14

20141348\_\_

1045 Business and Professional Regulation, which may enforce this  
1046 paragraph pursuant to s. 721.26. This statement must  
1047 appropriately show the amount of principal and interest in such  
1048 account.

1049 Section 17. Paragraph (i) of subsection (8) of section  
1050 213.053, Florida Statutes, is amended to read:

1051 213.053 Confidentiality and information sharing.—

1052 (8) Notwithstanding any other provision of this section,  
1053 the department may provide:

1054 (i) Information relative to chapters 212 and 326 to the  
1055 Division of Florida Condominiums, Homeowners' Associations,  
1056 Timeshares, and Mobile Homes of the Department of Business and  
1057 Professional Regulation in the conduct of its official duties.

1058  
1059 Disclosure of information under this subsection shall be  
1060 pursuant to a written agreement between the executive director  
1061 and the agency. Such agencies, governmental or nongovernmental,  
1062 shall be bound by the same requirements of confidentiality as  
1063 the Department of Revenue. Breach of confidentiality is a  
1064 misdemeanor of the first degree, punishable as provided by s.  
1065 775.082 or s. 775.083.

1066 Section 18. Subsection (2) of section 326.002, Florida  
1067 Statutes, is amended to read:

1068 326.002 Definitions.—As used in ss. 326.001-326.006, the  
1069 term:

1070 (2) "Division" means the Division of Florida Condominiums,  
1071 Homeowners' Associations, Timeshares, and Mobile Homes of the  
1072 Department of Business and Professional Regulation.

1073 Section 19. Paragraph (d) of subsection (2) and subsection

11-00846-14

20141348\_\_

1074 (3) of section 326.006, Florida Statutes, are amended to read:

1075 326.006 Powers and duties of division.-

1076 (2) The division has the power to enforce and ensure  
1077 compliance with the provisions of this chapter and rules adopted  
1078 under this chapter relating to the sale and ownership of yachts  
1079 and ships. In performing its duties, the division has the  
1080 following powers and duties:

1081 (d) Notwithstanding any remedies available to a yacht or  
1082 ship purchaser, if the division has reasonable cause to believe  
1083 that a violation of any provision of this chapter or rule  
1084 adopted under this chapter has occurred, the division may  
1085 institute enforcement proceedings in its own name against any  
1086 broker or salesperson or any of his or her assignees or agents,  
1087 or against any unlicensed person or any of his or her assignees  
1088 or agents, as follows:

1089 1. The division may permit a person whose conduct or  
1090 actions are under investigation to waive formal proceedings and  
1091 enter into a consent proceeding whereby orders, rules, or  
1092 letters of censure or warning, whether formal or informal, may  
1093 be entered against the person.

1094 2. The division may issue an order requiring the broker or  
1095 salesperson or any of his or her assignees or agents, or  
1096 requiring any unlicensed person or any of his or her assignees  
1097 or agents, to cease and desist from the unlawful practice and  
1098 take such affirmative action as in the judgment of the division  
1099 will carry out the purposes of this chapter.

1100 3. The division may bring an action in circuit court on  
1101 behalf of a class of yacht or ship purchasers for declaratory  
1102 relief, injunctive relief, or restitution.

11-00846-14

20141348\_\_

1103 4. The division may impose a civil penalty against a broker  
1104 or salesperson or any of his or her assignees or agents, or  
1105 against an unlicensed person or any of his or her assignees or  
1106 agents, for any violation of this chapter or a rule adopted  
1107 under this chapter. A penalty may be imposed for each day of  
1108 continuing violation, but in no event may the penalty for any  
1109 offense exceed \$10,000. All amounts collected must be deposited  
1110 with the Chief Financial Officer to the credit of the Division  
1111 of Florida Condominiums, Homeowners' Associations, Timeshares,  
1112 and Mobile Homes Trust Fund. If a broker, salesperson, or  
1113 unlicensed person working for a broker, fails to pay the civil  
1114 penalty, the division shall issue an order suspending the  
1115 broker's license until such time as the civil penalty is paid or  
1116 may pursue enforcement of the penalty in a court of competent  
1117 jurisdiction. The order imposing the civil penalty or the order  
1118 of suspension may not become effective until 20 days after the  
1119 date of such order. Any action commenced by the division must be  
1120 brought in the county in which the division has its executive  
1121 offices or in the county where the violation occurred.

1122 (3) All fees must be deposited in the Division of Florida  
1123 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
1124 Homes Trust Fund as provided by law.

1125 Section 20. Paragraph (a) of subsection (4) of section  
1126 380.0651, Florida Statutes, is amended to read:

1127 380.0651 Statewide guidelines and standards.—

1128 (4) Two or more developments, represented by their owners  
1129 or developers to be separate developments, shall be aggregated  
1130 and treated as a single development under this chapter when they  
1131 are determined to be part of a unified plan of development and

11-00846-14

20141348\_\_

1132 are physically proximate to one other.

1133 (a) The criteria of three of the following subparagraphs  
1134 must be met in order for the state land planning agency to  
1135 determine that there is a unified plan of development:

1136 1.a. The same person has retained or shared control of the  
1137 developments;

1138 b. The same person has ownership or a significant legal or  
1139 equitable interest in the developments; or

1140 c. There is common management of the developments  
1141 controlling the form of physical development or disposition of  
1142 parcels of the development.

1143 2. There is a reasonable closeness in time between the  
1144 completion of 80 percent or less of one development and the  
1145 submission to a governmental agency of a master plan or series  
1146 of plans or drawings for the other development which is  
1147 indicative of a common development effort.

1148 3. A master plan or series of plans or drawings exists  
1149 covering the developments sought to be aggregated which have  
1150 been submitted to a local general-purpose government, water  
1151 management district, the Florida Department of Environmental  
1152 Protection, or the Division of Florida Condominiums, Homeowners'  
1153 Associations, Timeshares, and Mobile Homes for authorization to  
1154 commence development. The existence or implementation of a  
1155 utility's master utility plan required by the Public Service  
1156 Commission or general-purpose local government or a master  
1157 drainage plan may ~~shall~~ not be the sole determinant of the  
1158 existence of a master plan.

1159 4. There is a common advertising scheme or promotional plan  
1160 in effect for the developments sought to be aggregated.



11-00846-14

20141348\_\_

1161 Section 21. Subsection (5) of section 455.116, Florida  
1162 Statutes, is amended to read:

1163 455.116 Regulation trust funds.—The following trust funds  
1164 shall be placed in the department:

1165 (5) Division of Florida Condominiums, Homeowners'  
1166 Associations, Timeshares, and Mobile Homes Trust Fund.

1167 Section 22. Section 475.455, Florida Statutes, is amended  
1168 to read:

1169 475.455 Exchange of disciplinary information.—The  
1170 commission shall inform the Division of Florida Condominiums,  
1171 Homeowners' Associations, Timeshares, and Mobile Homes of the  
1172 Department of Business and Professional Regulation of any  
1173 disciplinary action the commission has taken against any of its  
1174 licensees. The division shall inform the commission of any  
1175 disciplinary action the division has taken against any broker or  
1176 sales associate registered with the division.

1177 Section 23. Section 509.512, Florida Statutes, is amended  
1178 to read:

1179 509.512 Timeshare plan developer and exchange company  
1180 exemption.—Sections 509.501-509.511 do not apply to a developer  
1181 of a timeshare plan or an exchange company approved by the  
1182 Division of Florida Condominiums, Homeowners' Associations,  
1183 Timeshares, and Mobile Homes pursuant to chapter 721, but only  
1184 to the extent that the developer or exchange company engages in  
1185 conduct regulated under chapter 721.

1186 Section 24. Subsection (1) of section 559.935, Florida  
1187 Statutes, is amended to read:

1188 559.935 Exemptions.—

1189 (1) This part does not apply to:

11-00846-14

20141348\_\_

- 1190 (a) A bona fide employee of a seller of travel who is  
1191 engaged solely in the business of her or his employer;
- 1192 (b) Any direct common carrier of passengers or property  
1193 regulated by an agency of the Federal Government or employees of  
1194 such carrier when engaged solely in the transportation business  
1195 of the carrier as identified in the carrier's certificate;
- 1196 (c) An intrastate common carrier of passengers or property  
1197 selling only transportation as defined in the applicable state  
1198 or local registration or certification, or employees of such  
1199 carrier when engaged solely in the transportation business of  
1200 the carrier;
- 1201 (d) Hotels, motels, or other places of public accommodation  
1202 selling public accommodations, or employees of such hotels,  
1203 motels, or other places of public accommodation, when engaged  
1204 solely in making arrangements for lodging, accommodations, or  
1205 sightseeing tours within the state, or taking reservations for  
1206 the traveler with times, dates, locations, and accommodations  
1207 certain at the time the reservations are made, provided that  
1208 hotels and motels registered with the Department of Business and  
1209 Professional Regulation pursuant to chapter 509 are excluded  
1210 from the provisions of this chapter;
- 1211 (e) Persons involved solely in the rental, leasing, or sale  
1212 of residential property;
- 1213 (f) Persons involved solely in the rental, leasing, or sale  
1214 of transportation vehicles;
- 1215 (g) Persons who make travel arrangements for themselves;  
1216 for their employees or agents; for distributors, franchisees, or  
1217 dealers of the persons' products or services; for entities which  
1218 are financially related to the persons; or for the employees or

11-00846-14

20141348\_\_

1219 agents of the distributor, franchisee, or dealer or financially  
1220 related entity;

1221 (h) A developer of a timeshare plan or an exchange company  
1222 approved by the Division of Florida Condominiums, Homeowners'  
1223 Associations, Timeshares, and Mobile Homes pursuant to chapter  
1224 721, but only to the extent that the developer or exchange  
1225 company engages in conduct regulated under chapter 721; or

1226 (i) Persons or entities engaged solely in offering diving  
1227 services, including classes and sales or rentals of equipment,  
1228 when engaged in making any prearranged travel-related or  
1229 tourist-related services in conjunction with a primarily dive-  
1230 related event.

1231 Section 25. Subsection (17) of section 718.103, Florida  
1232 Statutes, is amended to read:

1233 718.103 Definitions.—As used in this chapter, the term:

1234 (17) "Division" means the Division of Florida Condominiums,  
1235 Homeowners' Associations, Timeshares, and Mobile Homes of the  
1236 Department of Business and Professional Regulation.

1237 Section 26. Paragraph (c) of subsection (4) of section  
1238 718.105, Florida Statutes, is amended to read:

1239 718.105 Recording of declaration.—

1240 (4)

1241 (c) If the sum of money held by the clerk has not been paid  
1242 to the developer or association as provided in paragraph (b)  
1243 within 5 years after the date the declaration was originally  
1244 recorded, the clerk may notify, in writing, the registered agent  
1245 of the association that the sum is still available and the  
1246 purpose for which it was deposited. If the association does not  
1247 record the certificate within 90 days after the clerk has given

11-00846-14

20141348\_\_

1248 the notice, the clerk may disburse the money to the developer.  
1249 If the developer cannot be located, the clerk shall disburse the  
1250 money to the Division of Florida Condominiums, Homeowners'  
1251 Associations, Timeshares, and Mobile Homes for deposit in the  
1252 Division of Florida Condominiums, Homeowners' Associations,  
1253 Timeshares, and Mobile Homes Trust Fund.

1254 Section 27. Subsection (4) of section 718.1255, Florida  
1255 Statutes, is amended to read:

1256 718.1255 Alternative dispute resolution; voluntary  
1257 mediation; mandatory nonbinding arbitration; legislative  
1258 findings.—

1259 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
1260 DISPUTES.—The Division of Florida Condominiums, Homeowners'  
1261 Associations, Timeshares, and Mobile Homes of the Department of  
1262 Business and Professional Regulation shall employ full-time  
1263 attorneys to act as arbitrators to conduct the arbitration  
1264 hearings provided by this chapter. The division may also certify  
1265 attorneys who are not employed by the division to act as  
1266 arbitrators to conduct the arbitration hearings provided by this  
1267 section. No person may be employed by the department as a full-  
1268 time arbitrator unless he or she is a member in good standing of  
1269 The Florida Bar. The department shall adopt rules of procedure  
1270 to govern such arbitration hearings including mediation incident  
1271 thereto. The decision of an arbitrator shall be final but may  
1272 ~~however, a decision shall not be deemed final agency action.~~  
1273 Nothing in this subsection may ~~provision shall~~ be construed to  
1274 foreclose parties from proceeding in a trial de novo unless the  
1275 parties have agreed that the arbitration is binding. If judicial  
1276 proceedings are initiated, the final decision of the arbitrator

11-00846-14

20141348\_\_

1277 shall be admissible in evidence in the trial de novo.

1278 (a) Prior to the institution of court litigation, a party  
1279 to a dispute shall petition the division for nonbinding  
1280 arbitration. The petition must be accompanied by a filing fee in  
1281 the amount of \$50. Filing fees collected under this section must  
1282 be used to defray the expenses of the alternative dispute  
1283 resolution program.

1284 (b) The petition must recite, and have attached thereto,  
1285 supporting proof that the petitioner gave the respondents:

1286 1. Advance written notice of the specific nature of the  
1287 dispute;

1288 2. A demand for relief, and a reasonable opportunity to  
1289 comply or to provide the relief; and

1290 3. Notice of the intention to file an arbitration petition  
1291 or other legal action in the absence of a resolution of the  
1292 dispute.

1293  
1294 Failure to include the allegations or proof of compliance with  
1295 these prerequisites requires dismissal of the petition without  
1296 prejudice.

1297 (c) Upon receipt, the petition shall be promptly reviewed  
1298 by the division to determine the existence of a dispute and  
1299 compliance with the requirements of paragraphs (a) and (b). If  
1300 emergency relief is required and is not available through  
1301 arbitration, a motion to stay the arbitration may be filed. The  
1302 motion must be accompanied by a verified petition alleging facts  
1303 that, if proven, would support entry of a temporary injunction,  
1304 and if an appropriate motion and supporting papers are filed,  
1305 the division may abate the arbitration pending a court hearing

11-00846-14

20141348\_\_

1306 and disposition of a motion for temporary injunction.

1307 (d) Upon determination by the division that a dispute  
1308 exists and that the petition substantially meets the  
1309 requirements of paragraphs (a) and (b) and any other applicable  
1310 rules, a copy of the petition shall be served by the division  
1311 upon all respondents.

1312 (e) Before or after the filing of the respondents' answer  
1313 to the petition, any party may request that the arbitrator refer  
1314 the case to mediation under this section and any rules adopted  
1315 by the division. Upon receipt of a request for mediation, the  
1316 division shall promptly contact the parties to determine if  
1317 there is agreement that mediation would be appropriate. If all  
1318 parties agree, the dispute must be referred to mediation.  
1319 Notwithstanding a lack of an agreement by all parties, the  
1320 arbitrator may refer a dispute to mediation at any time.

1321 (f) Upon referral of a case to mediation, the parties must  
1322 select a mutually acceptable mediator. To assist in the  
1323 selection, the arbitrator shall provide the parties with a list  
1324 of both volunteer and paid mediators that have been certified by  
1325 the division under s. 718.501. If the parties are unable to  
1326 agree on a mediator within the time allowed by the arbitrator,  
1327 the arbitrator shall appoint a mediator from the list of  
1328 certified mediators. If a case is referred to mediation, the  
1329 parties shall attend a mediation conference, as scheduled by the  
1330 parties and the mediator. If any party fails to attend a duly  
1331 noticed mediation conference, without the permission or approval  
1332 of the arbitrator or mediator, the arbitrator must impose  
1333 sanctions against the party, including the striking of any  
1334 pleadings filed, the entry of an order of dismissal or default

11-00846-14

20141348\_\_

1335 if appropriate, and the award of costs and attorney ~~attorneys'~~  
1336 fees incurred by the other parties. Unless otherwise agreed to  
1337 by the parties or as provided by order of the arbitrator, a  
1338 party is deemed to have appeared at a mediation conference by  
1339 the physical presence of the party or its representative having  
1340 full authority to settle without further consultation, provided  
1341 that an association may comply by having one or more  
1342 representatives present with full authority to negotiate a  
1343 settlement and recommend that the board of administration ratify  
1344 and approve such a settlement within 5 days from the date of the  
1345 mediation conference. The parties shall share equally the  
1346 expense of mediation, unless they agree otherwise.

1347 (g) The purpose of mediation as provided for by this  
1348 section is to present the parties with an opportunity to resolve  
1349 the underlying dispute in good faith, and with a minimum  
1350 expenditure of time and resources.

1351 (h) Mediation proceedings must generally be conducted in  
1352 accordance with the Florida Rules of Civil Procedure, and these  
1353 proceedings are privileged and confidential to the same extent  
1354 as court-ordered mediation. Persons who are not parties to the  
1355 dispute are not allowed to attend the mediation conference  
1356 without the consent of all parties, with the exception of  
1357 counsel for the parties and corporate representatives designated  
1358 to appear for a party. If the mediator declares an impasse after  
1359 a mediation conference has been held, the arbitration proceeding  
1360 terminates, unless all parties agree in writing to continue the  
1361 arbitration proceeding, in which case the arbitrator's decision  
1362 shall be binding or nonbinding, as agreed upon by the parties;  
1363 in the arbitration proceeding, the arbitrator may ~~shall~~ not

11-00846-14

20141348\_\_

1364 consider any evidence relating to the unsuccessful mediation  
1365 except in a proceeding to impose sanctions for failure to appear  
1366 at the mediation conference. If the parties do not agree to  
1367 continue arbitration, the arbitrator shall enter an order of  
1368 dismissal, and either party may institute a suit in a court of  
1369 competent jurisdiction. The parties may seek to recover any  
1370 costs and attorney ~~attorneys'~~ fees incurred in connection with  
1371 arbitration and mediation proceedings under this section as part  
1372 of the costs and fees that may be recovered by the prevailing  
1373 party in any subsequent litigation.

1374 (i) Arbitration shall be conducted according to rules  
1375 adopted by the division. The filing of a petition for  
1376 arbitration shall toll the applicable statute of limitations.

1377 (j) At the request of any party to the arbitration, the  
1378 arbitrator shall issue subpoenas for the attendance of witnesses  
1379 and the production of books, records, documents, and other  
1380 evidence and any party on whose behalf a subpoena is issued may  
1381 apply to the court for orders compelling such attendance and  
1382 production. Subpoenas shall be served and shall be enforceable  
1383 in the manner provided by the Florida Rules of Civil Procedure.  
1384 Discovery may, in the discretion of the arbitrator, be permitted  
1385 in the manner provided by the Florida Rules of Civil Procedure.  
1386 Rules adopted by the division may authorize any reasonable  
1387 sanctions except contempt for a violation of the arbitration  
1388 procedural rules of the division or for the failure of a party  
1389 to comply with a reasonable nonfinal order issued by an  
1390 arbitrator which is not under judicial review.

1391 (k) The arbitration decision shall be presented to the  
1392 parties in writing. An arbitration decision is final in those



11-00846-14

20141348\_\_

1393 disputes in which the parties have agreed to be bound. An  
1394 arbitration decision is also final if a complaint for a trial de  
1395 novo is not filed in a court of competent jurisdiction in which  
1396 the condominium is located within 30 days. The right to file for  
1397 a trial de novo entitles the parties to file a complaint in the  
1398 appropriate trial court for a judicial resolution of the  
1399 dispute. The prevailing party in an arbitration proceeding shall  
1400 be awarded the costs of the arbitration and reasonable attorney  
1401 ~~attorney's~~ fees in an amount determined by the arbitrator. Such  
1402 an award shall include the costs and reasonable attorney  
1403 ~~attorney's~~ fees incurred in the arbitration proceeding as well  
1404 as the costs and reasonable attorney ~~attorney's~~ fees incurred in  
1405 preparing for and attending any scheduled mediation.

1406 (l) The party who files a complaint for a trial de novo  
1407 shall be assessed the other party's arbitration costs, court  
1408 costs, and other reasonable costs, including attorney ~~attorney's~~  
1409 fees, investigation expenses, and expenses for expert or other  
1410 testimony or evidence incurred after the arbitration hearing if  
1411 the judgment upon the trial de novo is not more favorable than  
1412 the arbitration decision. If the judgment is more favorable, the  
1413 party who filed a complaint for trial de novo shall be awarded  
1414 reasonable court costs and attorney ~~attorney's~~ fees.

1415 (m) Any party to an arbitration proceeding may enforce an  
1416 arbitration award by filing a petition in a court of competent  
1417 jurisdiction in which the condominium is located. A petition may  
1418 not be granted unless the time for appeal by the filing of a  
1419 complaint for trial de novo has expired. If a complaint for a  
1420 trial de novo has been filed, a petition may not be granted with  
1421 respect to an arbitration award that has been stayed. If the

11-00846-14

20141348\_\_

1422 petition for enforcement is granted, the petitioner shall  
1423 recover reasonable attorney ~~attorney's~~ fees and costs incurred  
1424 in enforcing the arbitration award. A mediation settlement may  
1425 also be enforced through the county or circuit court, as  
1426 applicable, and any costs and fees incurred in the enforcement  
1427 of a settlement agreement reached at mediation must be awarded  
1428 to the prevailing party in any enforcement action.

1429 Section 28. Section 718.501, Florida Statutes, is amended  
1430 to read:

1431 718.501 Authority, responsibility, and duties of Division  
1432 of Florida Condominiums, Homeowners' Associations, Timeshares,  
1433 and Mobile Homes.—

1434 (1) The division may enforce and ensure compliance with the  
1435 provisions of this chapter and rules relating to the  
1436 development, construction, sale, lease, ownership, operation,  
1437 and management of residential condominium units. In performing  
1438 its duties, the division has complete jurisdiction to  
1439 investigate complaints and enforce compliance with respect to  
1440 associations that are still under developer control or the  
1441 control of a bulk assignee or bulk buyer pursuant to part VII of  
1442 this chapter and complaints against developers, bulk assignees,  
1443 or bulk buyers involving improper turnover or failure to  
1444 turnover, pursuant to s. 718.301. However, after turnover has  
1445 occurred, the division has jurisdiction to investigate  
1446 complaints related only to financial issues, elections, and unit  
1447 owner access to association records pursuant to s. 718.111(12).

1448 (a)1. The division may make necessary public or private  
1449 investigations within or outside this state to determine whether  
1450 any person has violated this chapter or any rule or order

11-00846-14

20141348\_\_

1451 hereunder, to aid in the enforcement of this chapter, or to aid  
1452 in the adoption of rules or forms.

1453 2. The division may submit any official written report,  
1454 worksheet, or other related paper, or a duly certified copy  
1455 thereof, compiled, prepared, drafted, or otherwise made by and  
1456 duly authenticated by a financial examiner or analyst to be  
1457 admitted as competent evidence in any hearing in which the  
1458 financial examiner or analyst is available for cross-examination  
1459 and attests under oath that such documents were prepared as a  
1460 result of an examination or inspection conducted pursuant to  
1461 this chapter.

1462 (b) The division may require or permit any person to file a  
1463 statement in writing, under oath or otherwise, as the division  
1464 determines, as to the facts and circumstances concerning a  
1465 matter to be investigated.

1466 (c) For the purpose of any investigation under this  
1467 chapter, the division director or any officer or employee  
1468 designated by the division director may administer oaths or  
1469 affirmations, subpoena witnesses and compel their attendance,  
1470 take evidence, and require the production of any matter which is  
1471 relevant to the investigation, including the existence,  
1472 description, nature, custody, condition, and location of any  
1473 books, documents, or other tangible things and the identity and  
1474 location of persons having knowledge of relevant facts or any  
1475 other matter reasonably calculated to lead to the discovery of  
1476 material evidence. Upon the failure by a person to obey a  
1477 subpoena or to answer questions propounded by the investigating  
1478 officer and upon reasonable notice to all affected persons, the  
1479 division may apply to the circuit court for an order compelling

11-00846-14

20141348\_\_

1480 compliance.

1481 (d) Notwithstanding any remedies available to unit owners  
1482 and associations, if the division has reasonable cause to  
1483 believe that a violation of any provision of this chapter or  
1484 related rule has occurred, the division may institute  
1485 enforcement proceedings in its own name against any developer,  
1486 bulk assignee, bulk buyer, association, officer, or member of  
1487 the board of administration, or its assignees or agents, as  
1488 follows:

1489 1. The division may permit a person whose conduct or  
1490 actions may be under investigation to waive formal proceedings  
1491 and enter into a consent proceeding whereby orders, rules, or  
1492 letters of censure or warning, whether formal or informal, may  
1493 be entered against the person.

1494 2. The division may issue an order requiring the developer,  
1495 bulk assignee, bulk buyer, association, developer-designated  
1496 officer, or developer-designated member of the board of  
1497 administration, developer-designated assignees or agents, bulk  
1498 assignee-designated assignees or agents, bulk buyer-designated  
1499 assignees or agents, community association manager, or community  
1500 association management firm to cease and desist from the  
1501 unlawful practice and take such affirmative action as in the  
1502 judgment of the division carry out the purposes of this chapter.  
1503 If the division finds that a developer, bulk assignee, bulk  
1504 buyer, association, officer, or member of the board of  
1505 administration, or its assignees or agents, is violating or is  
1506 about to violate any provision of this chapter, any rule adopted  
1507 or order issued by the division, or any written agreement  
1508 entered into with the division, and presents an immediate danger

11-00846-14

20141348\_\_

1509 to the public requiring an immediate final order, it may issue  
1510 an emergency cease and desist order reciting with particularity  
1511 the facts underlying such findings. The emergency cease and  
1512 desist order is effective for 90 days. If the division begins  
1513 nonemergency cease and desist proceedings, the emergency cease  
1514 and desist order remains effective until the conclusion of the  
1515 proceedings under ss. 120.569 and 120.57.

1516 3. If a developer, bulk assignee, or bulk buyer, fails to  
1517 pay any restitution determined by the division to be owed, plus  
1518 any accrued interest at the highest rate permitted by law,  
1519 within 30 days after expiration of any appellate time period of  
1520 a final order requiring payment of restitution or the conclusion  
1521 of any appeal thereof, whichever is later, the division must  
1522 bring an action in circuit or county court on behalf of any  
1523 association, class of unit owners, lessees, or purchasers for  
1524 restitution, declaratory relief, injunctive relief, or any other  
1525 available remedy. The division may also temporarily revoke its  
1526 acceptance of the filing for the developer to which the  
1527 restitution relates until payment of restitution is made.

1528 4. The division may petition the court for appointment of a  
1529 receiver or conservator. If appointed, the receiver or  
1530 conservator may take action to implement the court order to  
1531 ensure the performance of the order and to remedy any breach  
1532 thereof. In addition to all other means provided by law for the  
1533 enforcement of an injunction or temporary restraining order, the  
1534 circuit court may impound or sequester the property of a party  
1535 defendant, including books, papers, documents, and related  
1536 records, and allow the examination and use of the property by  
1537 the division and a court-appointed receiver or conservator.

11-00846-14

20141348\_\_

1538           5. The division may apply to the circuit court for an order  
1539 of restitution whereby the defendant in an action brought  
1540 pursuant to subparagraph 4. is ordered to make restitution of  
1541 those sums shown by the division to have been obtained by the  
1542 defendant in violation of this chapter. At the option of the  
1543 court, such restitution is payable to the conservator or  
1544 receiver appointed pursuant to subparagraph 4. or directly to  
1545 the persons whose funds or assets were obtained in violation of  
1546 this chapter.

1547           6. The division may impose a civil penalty against a  
1548 developer, bulk assignee, or bulk buyer, or association, or its  
1549 assignee or agent, for any violation of this chapter or related  
1550 rule. The division may impose a civil penalty individually  
1551 against an officer or board member who willfully and knowingly  
1552 violates a provision of this chapter, adopted rule, or a final  
1553 order of the division; may order the removal of such individual  
1554 as an officer or from the board of administration or as an  
1555 officer of the association; and may prohibit such individual  
1556 from serving as an officer or on the board of a community  
1557 association for a period of time. The term "willfully and  
1558 knowingly" means that the division informed the officer or board  
1559 member that his or her action or intended action violates this  
1560 chapter, a rule adopted under this chapter, or a final order of  
1561 the division and that the officer or board member refused to  
1562 comply with the requirements of this chapter, a rule adopted  
1563 under this chapter, or a final order of the division. The  
1564 division, before initiating formal agency action under chapter  
1565 120, must afford the officer or board member an opportunity to  
1566 voluntarily comply, and an officer or board member who complies

11-00846-14

20141348\_\_

1567 within 10 days is not subject to a civil penalty. A penalty may  
1568 be imposed on the basis of each day of continuing violation, but  
1569 the penalty for any offense may not exceed \$5,000. By January 1,  
1570 1998, the division shall adopt, by rule, penalty guidelines  
1571 applicable to possible violations or to categories of violations  
1572 of this chapter or rules adopted by the division. The guidelines  
1573 must specify a meaningful range of civil penalties for each such  
1574 violation of the statute and rules and must be based upon the  
1575 harm caused by the violation, the repetition of the violation,  
1576 and upon such other factors deemed relevant by the division. For  
1577 example, the division may consider whether the violations were  
1578 committed by a developer, bulk assignee, or bulk buyer, or  
1579 owner-controlled association, the size of the association, and  
1580 other factors. The guidelines must designate the possible  
1581 mitigating or aggravating circumstances that justify a departure  
1582 from the range of penalties provided by the rules. It is the  
1583 legislative intent that minor violations be distinguished from  
1584 those which endanger the health, safety, or welfare of the  
1585 condominium residents or other persons and that such guidelines  
1586 provide reasonable and meaningful notice to the public of likely  
1587 penalties that may be imposed for proscribed conduct. This  
1588 subsection does not limit the ability of the division to  
1589 informally dispose of administrative actions or complaints by  
1590 stipulation, agreed settlement, or consent order. All amounts  
1591 collected shall be deposited with the Chief Financial Officer to  
1592 the credit of the Division of Florida Condominiums, Homeowners'  
1593 Associations, Timeshares, and Mobile Homes Trust Fund. If a  
1594 developer, bulk assignee, or bulk buyer fails to pay the civil  
1595 penalty and the amount deemed to be owed to the association, the

11-00846-14

20141348\_\_

1596 division shall issue an order directing that such developer,  
1597 bulk assignee, or bulk buyer cease and desist from further  
1598 operation until such time as the civil penalty is paid or may  
1599 pursue enforcement of the penalty in a court of competent  
1600 jurisdiction. If an association fails to pay the civil penalty,  
1601 the division shall pursue enforcement in a court of competent  
1602 jurisdiction, and the order imposing the civil penalty or the  
1603 cease and desist order is not effective until 20 days after the  
1604 date of such order. Any action commenced by the division shall  
1605 be brought in the county in which the division has its executive  
1606 offices or in the county where the violation occurred.

1607 7. If a unit owner presents the division with proof that  
1608 the unit owner has requested access to official records in  
1609 writing by certified mail, and that after 10 days the unit owner  
1610 again made the same request for access to official records in  
1611 writing by certified mail, and that more than 10 days has  
1612 elapsed since the second request and the association has still  
1613 failed or refused to provide access to official records as  
1614 required by this chapter, the division shall issue a subpoena  
1615 requiring production of the requested records where the records  
1616 are kept pursuant to s. 718.112.

1617 8. In addition to subparagraph 6., the division may seek  
1618 the imposition of a civil penalty through the circuit court for  
1619 any violation for which the division may issue a notice to show  
1620 cause under paragraph (r). The civil penalty shall be at least  
1621 \$500 but no more than \$5,000 for each violation. The court may  
1622 also award to the prevailing party court costs and reasonable  
1623 attorney ~~attorney's~~ fees and, if the division prevails, may also  
1624 award reasonable costs of investigation.



11-00846-14

20141348\_\_

1625 (e) The division may prepare and disseminate a prospectus  
1626 and other information to assist prospective owners, purchasers,  
1627 lessees, and developers of residential condominiums in assessing  
1628 the rights, privileges, and duties pertaining thereto.

1629 (f) The division may adopt rules to administer and enforce  
1630 the provisions of this chapter.

1631 (g) The division shall establish procedures for providing  
1632 notice to an association and the developer, bulk assignee, or  
1633 bulk buyer during the period in which the developer, bulk  
1634 assignee, or bulk buyer controls the association if the division  
1635 is considering the issuance of a declaratory statement with  
1636 respect to the declaration of condominium or any related  
1637 document governing such condominium community.

1638 (h) The division shall furnish each association that pays  
1639 the fees required by paragraph (2)(a) a copy of this chapter, as  
1640 amended, and the rules adopted thereto on an annual basis.

1641 (i) The division shall annually provide each association  
1642 with a summary of declaratory statements and formal legal  
1643 opinions relating to the operations of condominiums which were  
1644 rendered by the division during the previous year.

1645 (j) The division shall provide training and educational  
1646 programs for condominium association board members and unit  
1647 owners. The training may, in the division's discretion, include  
1648 web-based electronic media, and live training and seminars in  
1649 various locations throughout the state. The division may review  
1650 and approve education and training programs for board members  
1651 and unit owners offered by providers and shall maintain a  
1652 current list of approved programs and providers and make such  
1653 list available to board members and unit owners in a reasonable

11-00846-14

20141348\_\_

1654 and cost-effective manner.

1655 (k) The division shall maintain a toll-free telephone  
1656 number accessible to condominium unit owners.

1657 (l) The division shall develop a program to certify both  
1658 volunteer and paid mediators to provide mediation of condominium  
1659 disputes. The division shall provide, upon request, a list of  
1660 such mediators to any association, unit owner, or other  
1661 participant in arbitration proceedings under s. 718.1255  
1662 requesting a copy of the list. The division shall include on the  
1663 list of volunteer mediators only the names of persons who have  
1664 received at least 20 hours of training in mediation techniques  
1665 or who have mediated at least 20 disputes. In order to become  
1666 initially certified by the division, paid mediators must be  
1667 certified by the Supreme Court to mediate court cases in county  
1668 or circuit courts. However, the division may adopt, by rule,  
1669 additional factors for the certification of paid mediators,  
1670 which must be related to experience, education, or background.  
1671 Any person initially certified as a paid mediator by the  
1672 division must, in order to continue to be certified, comply with  
1673 the factors or requirements adopted by rule.

1674 (m) If a complaint is made, the division must conduct its  
1675 inquiry with due regard for the interests of the affected  
1676 parties. Within 30 days after receipt of a complaint, the  
1677 division shall acknowledge the complaint in writing and notify  
1678 the complainant whether the complaint is within the jurisdiction  
1679 of the division and whether additional information is needed by  
1680 the division from the complainant. The division shall conduct  
1681 its investigation and, within 90 days after receipt of the  
1682 original complaint or of timely requested additional

11-00846-14

20141348\_\_

1683 information, take action upon the complaint. However, the  
1684 failure to complete the investigation within 90 days does not  
1685 prevent the division from continuing the investigation,  
1686 accepting or considering evidence obtained or received after 90  
1687 days, or taking administrative action if reasonable cause exists  
1688 to believe that a violation of this chapter or a rule has  
1689 occurred. If an investigation is not completed within the time  
1690 limits established in this paragraph, the division shall, on a  
1691 monthly basis, notify the complainant in writing of the status  
1692 of the investigation. When reporting its action to the  
1693 complainant, the division shall inform the complainant of any  
1694 right to a hearing pursuant to ss. 120.569 and 120.57.

1695 (n) Condominium association directors, officers, and  
1696 employees; condominium developers; bulk assignees, bulk buyers,  
1697 and community association managers; and community association  
1698 management firms have an ongoing duty to reasonably cooperate  
1699 with the division in any investigation pursuant to this section.  
1700 The division shall refer to local law enforcement authorities  
1701 any person whom the division believes has altered, destroyed,  
1702 concealed, or removed any record, document, or thing required to  
1703 be kept or maintained by this chapter with the purpose to impair  
1704 its verity or availability in the department's investigation.

1705 (o) The division may:

- 1706 1. Contract with agencies in this state or other  
1707 jurisdictions to perform investigative functions; or  
1708 2. Accept grants-in-aid from any source.

1709 (p) The division shall cooperate with similar agencies in  
1710 other jurisdictions to establish uniform filing procedures and  
1711 forms, public offering statements, advertising standards, and

11-00846-14

20141348\_\_

1712 rules and common administrative practices.

1713 (q) The division shall consider notice to a developer, bulk  
1714 assignee, or bulk buyer to be complete when it is delivered to  
1715 the address of the developer, bulk assignee, or bulk buyer  
1716 currently on file with the division.

1717 (r) In addition to its enforcement authority, the division  
1718 may issue a notice to show cause, which must provide for a  
1719 hearing, upon written request, in accordance with chapter 120.

1720 (s) The division shall submit to the Governor, the  
1721 President of the Senate, the Speaker of the House of  
1722 Representatives, and the chairs of the legislative  
1723 appropriations committees an annual report that includes, but  
1724 need not be limited to, the number of training programs provided  
1725 for condominium association board members and unit owners, the  
1726 number of complaints received by type, the number and percent of  
1727 complaints acknowledged in writing within 30 days and the number  
1728 and percent of investigations acted upon within 90 days in  
1729 accordance with paragraph (m), and the number of investigations  
1730 exceeding the 90-day requirement. The annual report must also  
1731 include an evaluation of the division's core business processes  
1732 and make recommendations for improvements, including statutory  
1733 changes. The report shall be submitted by September 30 following  
1734 the end of the fiscal year.

1735 (2) (a) Each condominium association which operates more  
1736 than two units shall pay to the division an annual fee in the  
1737 amount of \$4 for each residential unit in condominiums operated  
1738 by the association. If the fee is not paid by March 1, the  
1739 association shall be assessed a penalty of 10 percent of the  
1740 amount due, and the association will not have standing to

11-00846-14

20141348\_\_

1741 maintain or defend any action in the courts of this state until  
1742 the amount due, plus any penalty, is paid.

1743 (b) All fees shall be deposited in the Division of Florida  
1744 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
1745 Homes Trust Fund as provided by law.

1746 Section 29. Subsection (1) of section 718.5011, Florida  
1747 Statutes, is amended to read:

1748 718.5011 Ombudsman; appointment; administration.-

1749 (1) There is created an Office of the Condominium  
1750 Ombudsman, to be located for administrative purposes within the  
1751 Division of Florida Condominiums, Homeowners' Associations,  
1752 Timeshares, and Mobile Homes. The functions of the office shall  
1753 be funded by the Division of Florida Condominiums, Homeowners'  
1754 Associations, Timeshares, and Mobile Homes Trust Fund. The  
1755 ombudsman shall be a bureau chief of the division, and the  
1756 office shall be set within the division in the same manner as  
1757 any other bureau is staffed and funded.

1758 Section 30. Paragraph (a) of subsection (2) of section  
1759 718.502, Florida Statutes, is amended to read:

1760 718.502 Filing prior to sale or lease.-

1761 (2) (a) Prior to filing as required by subsection (1), and  
1762 prior to acquiring an ownership, leasehold, or contractual  
1763 interest in the land upon which the condominium is to be  
1764 developed, a developer may ~~shall~~ not offer a contract for  
1765 purchase of a unit or lease of a unit for more than 5 years.  
1766 However, the developer may accept deposits for reservations upon  
1767 the approval of a fully executed escrow agreement and  
1768 reservation agreement form properly filed with the Division of  
1769 Florida Condominiums, Homeowners' Associations, Timeshares, and

11-00846-14

20141348\_\_

1770 Mobile Homes. Each filing of a proposed reservation program  
1771 shall be accompanied by a filing fee of \$250. Reservations may  
1772 ~~shall~~ not be taken on a proposed condominium unless the  
1773 developer has an ownership, leasehold, or contractual interest  
1774 in the land upon which the condominium is to be developed. The  
1775 division shall notify the developer within 20 days of receipt of  
1776 the reservation filing of any deficiencies contained therein.  
1777 Such notification does ~~shall~~ not preclude the determination of  
1778 reservation filing deficiencies at a later date, nor shall it  
1779 relieve the developer of any responsibility under the law. The  
1780 escrow agreement and the reservation agreement form shall  
1781 include a statement of the right of the prospective purchaser to  
1782 an immediate unqualified refund of the reservation deposit  
1783 moneys upon written request to the escrow agent by the  
1784 prospective purchaser or the developer.

1785 Section 31. Paragraph (a) of subsection (2) of section  
1786 718.503, Florida Statutes, is amended to read:

1787 718.503 Developer disclosure prior to sale; nondeveloper  
1788 unit owner disclosure prior to sale; voidability.—

1789 (2) NONDEVELOPER DISCLOSURE.—

1790 (a) Each unit owner who is not a developer as defined by  
1791 this chapter shall comply with the provisions of this subsection  
1792 prior to the sale of his or her unit. Each prospective purchaser  
1793 who has entered into a contract for the purchase of a  
1794 condominium unit is entitled, at the seller's expense, to a  
1795 current copy of the declaration of condominium, articles of  
1796 incorporation of the association, bylaws and rules of the  
1797 association, financial information required by s. 718.111, and  
1798 the document entitled "Frequently Asked Questions and Answers"

11-00846-14

20141348\_\_

1799 required by s. 718.504. On and after January 1, 2009, the  
1800 prospective purchaser shall also be entitled to receive from the  
1801 seller a copy of a governance form. Such form shall be provided  
1802 by the division summarizing governance of condominium  
1803 associations. In addition to such other information as the  
1804 division considers helpful to a prospective purchaser in  
1805 understanding association governance, the governance form shall  
1806 address the following subjects:

1807 1. The role of the board in conducting the day-to-day  
1808 affairs of the association on behalf of, and in the best  
1809 interests of, the owners.

1810 2. The board's responsibility to provide advance notice of  
1811 board and membership meetings.

1812 3. The rights of owners to attend and speak at board and  
1813 membership meetings.

1814 4. The responsibility of the board and of owners with  
1815 respect to maintenance of the condominium property.

1816 5. The responsibility of the board and owners to abide by  
1817 the condominium documents, this chapter, rules adopted by the  
1818 division, and reasonable rules adopted by the board.

1819 6. Owners' rights to inspect and copy association records  
1820 and the limitations on such rights.

1821 7. Remedies available to owners with respect to actions by  
1822 the board which may be abusive or beyond the board's power and  
1823 authority.

1824 8. The right of the board to hire a property management  
1825 firm, subject to its own primary responsibility for such  
1826 management.

1827 9. The responsibility of owners with regard to payment of

11-00846-14

20141348\_\_

1828 regular or special assessments necessary for the operation of  
1829 the property and the potential consequences of failure to pay  
1830 such assessments.

1831 10. The voting rights of owners.

1832 11. Rights and obligations of the board in enforcement of  
1833 rules in the condominium documents and rules adopted by the  
1834 board.

1835

1836 The governance form shall also include the following statement  
1837 in conspicuous type: "This publication is intended as an  
1838 informal educational overview of condominium governance. In the  
1839 event of a conflict, this ~~the provisions of~~ chapter 718, ~~Florida~~  
1840 ~~Statutes~~, rules adopted by the Division of Florida Condominiums,  
1841 Homeowners' Associations, Timeshares, and Mobile Homes of the  
1842 Department of Business and Professional Regulation, the  
1843 provisions of the condominium documents, and reasonable rules  
1844 adopted by the condominium association's board of administration  
1845 prevail over the contents of this publication."

1846 Section 32. Section 718.504, Florida Statutes, is amended  
1847 to read:

1848 718.504 Prospectus or offering circular.—Every developer of  
1849 a residential condominium which contains more than 20  
1850 residential units, or which is part of a group of residential  
1851 condominiums which will be served by property to be used in  
1852 common by unit owners of more than 20 residential units, shall  
1853 prepare a prospectus or offering circular and file it with the  
1854 Division of Florida Condominiums, Homeowners' Associations,  
1855 Timeshares, and Mobile Homes prior to entering into an  
1856 enforceable contract of purchase and sale of any unit or lease



11-00846-14

20141348\_\_

1857 of a unit for more than 5 years and shall furnish a copy of the  
1858 prospectus or offering circular to each buyer. In addition to  
1859 the prospectus or offering circular, each buyer shall be  
1860 furnished a separate page entitled "Frequently Asked Questions  
1861 and Answers," which shall be in accordance with a format  
1862 approved by the division and a copy of the financial information  
1863 required by s. 718.111. This page shall, in readable language,  
1864 inform prospective purchasers regarding their voting rights and  
1865 unit use restrictions, including restrictions on the leasing of  
1866 a unit; shall indicate whether and in what amount the unit  
1867 owners or the association is obligated to pay rent or land use  
1868 fees for recreational or other commonly used facilities; shall  
1869 contain a statement identifying that amount of assessment which,  
1870 pursuant to the budget, would be levied upon each unit type,  
1871 exclusive of any special assessments, and which shall further  
1872 identify the basis upon which assessments are levied, whether  
1873 monthly, quarterly, or otherwise; shall state and identify any  
1874 court cases in which the association is currently a party of  
1875 record in which the association may face liability in excess of  
1876 \$100,000; and which shall further state whether membership in a  
1877 recreational facilities association is mandatory, and if so,  
1878 shall identify the fees currently charged per unit type. The  
1879 division shall by rule require such other disclosure as in its  
1880 judgment will assist prospective purchasers. The prospectus or  
1881 offering circular may include more than one condominium,  
1882 although not all such units are being offered for sale as of the  
1883 date of the prospectus or offering circular. The prospectus or  
1884 offering circular must contain the following information:

1885 (1) The front cover or the first page must contain only:

11-00846-14

20141348\_\_

- 1886 (a) The name of the condominium.
- 1887 (b) The following statements in conspicuous type:
- 1888 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
- 1889 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.
- 1890 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
- 1891 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
- 1892 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
- 1893 MATERIALS.
- 1894 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
- 1895 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
- 1896 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
- 1897 REPRESENTATIONS.
- 1898 (2) Summary: The next page must contain all statements
- 1899 required to be in conspicuous type in the prospectus or offering
- 1900 circular.
- 1901 (3) A separate index of the contents and exhibits of the
- 1902 prospectus.
- 1903 (4) Beginning on the first page of the text (not including
- 1904 the summary and index), a description of the condominium,
- 1905 including, but not limited to, the following information:
- 1906 (a) Its name and location.
- 1907 (b) A description of the condominium property, including,
- 1908 without limitation:
- 1909 1. The number of buildings, the number of units in each
- 1910 building, the number of bathrooms and bedrooms in each unit, and
- 1911 the total number of units, if the condominium is not a phase
- 1912 condominium, or the maximum number of buildings that may be
- 1913 contained within the condominium, the minimum and maximum
- 1914 numbers of units in each building, the minimum and maximum

11-00846-14

20141348\_\_

1915 numbers of bathrooms and bedrooms that may be contained in each  
1916 unit, and the maximum number of units that may be contained  
1917 within the condominium, if the condominium is a phase  
1918 condominium.

1919 2. The page in the condominium documents where a copy of  
1920 the plot plan and survey of the condominium is located.

1921 3. The estimated latest date of completion of constructing,  
1922 finishing, and equipping. In lieu of a date, the description  
1923 shall include a statement that the estimated date of completion  
1924 of the condominium is in the purchase agreement and a reference  
1925 to the article or paragraph containing that information.

1926 (c) The maximum number of units that will use facilities in  
1927 common with the condominium. If the maximum number of units will  
1928 vary, a description of the basis for variation and the minimum  
1929 amount of dollars per unit to be spent for additional  
1930 recreational facilities or enlargement of such facilities. If  
1931 the addition or enlargement of facilities will result in a  
1932 material increase of a unit owner's maintenance expense or  
1933 rental expense, if any, the maximum increase and limitations  
1934 thereon shall be stated.

1935 (5) (a) A statement in conspicuous type describing whether  
1936 the condominium is created and being sold as fee simple  
1937 interests or as leasehold interests. If the condominium is  
1938 created or being sold on a leasehold, the location of the lease  
1939 in the disclosure materials shall be stated.

1940 (b) If timeshare estates are or may be created with respect  
1941 to any unit in the condominium, a statement in conspicuous type  
1942 stating that timeshare estates are created and being sold in  
1943 units in the condominium.

11-00846-14

20141348\_\_

1944 (6) A description of the recreational and other commonly  
1945 used facilities that will be used only by unit owners of the  
1946 condominium, including, but not limited to, the following:

1947 (a) Each room and its intended purposes, location,  
1948 approximate floor area, and capacity in numbers of people.

1949 (b) Each swimming pool, as to its general location,  
1950 approximate size and depths, approximate deck size and capacity,  
1951 and whether heated.

1952 (c) Additional facilities, as to the number of each  
1953 facility, its approximate location, approximate size, and  
1954 approximate capacity.

1955 (d) A general description of the items of personal property  
1956 and the approximate number of each item of personal property  
1957 that the developer is committing to furnish for each room or  
1958 other facility or, in the alternative, a representation as to  
1959 the minimum amount of expenditure that will be made to purchase  
1960 the personal property for the facility.

1961 (e) The estimated date when each room or other facility  
1962 will be available for use by the unit owners.

1963 (f)1. An identification of each room or other facility to  
1964 be used by unit owners that will not be owned by the unit owners  
1965 or the association;

1966 2. A reference to the location in the disclosure materials  
1967 of the lease or other agreements providing for the use of those  
1968 facilities; and

1969 3. A description of the terms of the lease or other  
1970 agreements, including the length of the term; the rent payable,  
1971 directly or indirectly, by each unit owner, and the total rent  
1972 payable to the lessor, stated in monthly and annual amounts for

11-00846-14

20141348\_\_

1973 the entire term of the lease; and a description of any option to  
1974 purchase the property leased under any such lease, including the  
1975 time the option may be exercised, the purchase price or how it  
1976 is to be determined, the manner of payment, and whether the  
1977 option may be exercised for a unit owner's share or only as to  
1978 the entire leased property.

1979 (g) A statement as to whether the developer may provide  
1980 additional facilities not described above; their general  
1981 locations and types; improvements or changes that may be made;  
1982 the approximate dollar amount to be expended; and the maximum  
1983 additional common expense or cost to the individual unit owners  
1984 that may be charged during the first annual period of operation  
1985 of the modified or added facilities.

1986  
1987 Descriptions as to locations, areas, capacities, numbers,  
1988 volumes, or sizes may be stated as approximations or minimums.

1989 (7) A description of the recreational and other facilities  
1990 that will be used in common with other condominiums, community  
1991 associations, or planned developments which require the payment  
1992 of the maintenance and expenses of such facilities, directly or  
1993 indirectly, by the unit owners. The description shall include,  
1994 but not be limited to, the following:

1995 (a) Each building and facility committed to be built.

1996 (b) Facilities not committed to be built except under  
1997 certain conditions, and a statement of those conditions or  
1998 contingencies.

1999 (c) As to each facility committed to be built, or which  
2000 will be committed to be built upon the happening of one of the  
2001 conditions in paragraph (b), a statement of whether it will be

11-00846-14

20141348\_\_

2002 owned by the unit owners having the use thereof or by an  
2003 association or other entity which will be controlled by them, or  
2004 others, and the location in the exhibits of the lease or other  
2005 document providing for use of those facilities.

2006 (d) The year in which each facility will be available for  
2007 use by the unit owners or, in the alternative, the maximum  
2008 number of unit owners in the project at the time each of all of  
2009 the facilities is committed to be completed.

2010 (e) A general description of the items of personal  
2011 property, and the approximate number of each item of personal  
2012 property, that the developer is committing to furnish for each  
2013 room or other facility or, in the alternative, a representation  
2014 as to the minimum amount of expenditure that will be made to  
2015 purchase the personal property for the facility.

2016 (f) If there are leases, a description thereof, including  
2017 the length of the term, the rent payable, and a description of  
2018 any option to purchase.

2019 Descriptions shall include location, areas, capacities, numbers,  
2020 volumes, or sizes and may be stated as approximations or  
2021 minimums.

2022 (8) Recreation lease or associated club membership:

2023 (a) If any recreational facilities or other facilities  
2024 offered by the developer and available to, or to be used by,  
2025 unit owners are to be leased or have club membership associated,  
2026 the following statement in conspicuous type shall be included:  
2027 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
2028 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
2029 CONDOMINIUM. There shall be a reference to the location in the  
2030

11-00846-14

20141348\_\_

2031 disclosure materials where the recreation lease or club  
2032 membership is described in detail.

2033 (b) If it is mandatory that unit owners pay a fee, rent,  
2034 dues, or other charges under a recreational facilities lease or  
2035 club membership for the use of facilities, there shall be in  
2036 conspicuous type the applicable statement:

2037 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
2038 MANDATORY FOR UNIT OWNERS; or

2039 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
2040 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2041 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS  
2042 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,  
2043 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE  
2044 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2045 4. A similar statement of the nature of the organization or  
2046 the manner in which the use rights are created, and that unit  
2047 owners are required to pay.

2048  
2049 Immediately following the applicable statement, the location in  
2050 the disclosure materials where the development is described in  
2051 detail shall be stated.

2052 (c) If the developer, or any other person other than the  
2053 unit owners and other persons having use rights in the  
2054 facilities, reserves, or is entitled to receive, any rent, fee,  
2055 or other payment for the use of the facilities, then there shall  
2056 be the following statement in conspicuous type: THE UNIT OWNERS  
2057 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
2058 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
2059 following this statement, the location in the disclosure

11-00846-14

20141348\_\_

2060 materials where the rent or land use fees are described in  
2061 detail shall be stated.

2062 (d) If, in any recreation format, whether leasehold, club,  
2063 or other, any person other than the association has the right to  
2064 a lien on the units to secure the payment of assessments, rent,  
2065 or other exactions, there shall appear a statement in  
2066 conspicuous type in substantially the following form:

2067 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2068 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
2069 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
2070 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2071 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2072 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
2073 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
2074 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
2075 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2076  
2077 Immediately following the applicable statement, the location in  
2078 the disclosure materials where the lien or lien right is  
2079 described in detail shall be stated.

2080 (9) If the developer or any other person has the right to  
2081 increase or add to the recreational facilities at any time after  
2082 the establishment of the condominium whose unit owners have use  
2083 rights therein, without the consent of the unit owners or  
2084 associations being required, there shall appear a statement in  
2085 conspicuous type in substantially the following form:

2086 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
2087 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
2088 statement, the location in the disclosure materials where such



11-00846-14

20141348\_\_

2089 reserved rights are described shall be stated.

2090 (10) A statement of whether the developer's plan includes a  
2091 program of leasing units rather than selling them, or leasing  
2092 units and selling them subject to such leases. If so, there  
2093 shall be a description of the plan, including the number and  
2094 identification of the units and the provisions and term of the  
2095 proposed leases, and a statement in boldfaced type that: THE  
2096 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2097 (11) The arrangements for management of the association and  
2098 maintenance and operation of the condominium property and of  
2099 other property that will serve the unit owners of the  
2100 condominium property, and a description of the management  
2101 contract and all other contracts for these purposes having a  
2102 term in excess of 1 year, including the following:

2103 (a) The names of contracting parties.

2104 (b) The term of the contract.

2105 (c) The nature of the services included.

2106 (d) The compensation, stated on a monthly and annual basis,  
2107 and provisions for increases in the compensation.

2108 (e) A reference to the volumes and pages of the condominium  
2109 documents and of the exhibits containing copies of such  
2110 contracts.

2111  
2112 Copies of all described contracts shall be attached as exhibits.  
2113 If there is a contract for the management of the condominium  
2114 property, then a statement in conspicuous type in substantially  
2115 the following form shall appear, identifying the proposed or  
2116 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
2117 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE

11-00846-14

20141348\_\_

2118 CONTRACT MANAGER). Immediately following this statement, the  
2119 location in the disclosure materials of the contract for  
2120 management of the condominium property shall be stated.

2121 (12) If the developer or any other person or persons other  
2122 than the unit owners has the right to retain control of the  
2123 board of administration of the association for a period of time  
2124 which can exceed 1 year after the closing of the sale of a  
2125 majority of the units in that condominium to persons other than  
2126 successors or alternate developers, then a statement in  
2127 conspicuous type in substantially the following form shall be  
2128 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
2129 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
2130 HAVE BEEN SOLD. Immediately following this statement, the  
2131 location in the disclosure materials where this right to control  
2132 is described in detail shall be stated.

2133 (13) If there are any restrictions upon the sale, transfer,  
2134 conveyance, or leasing of a unit, then a statement in  
2135 conspicuous type in substantially the following form shall be  
2136 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
2137 CONTROLLED. Immediately following this statement, the location  
2138 in the disclosure materials where the restriction, limitation,  
2139 or control on the sale, lease, or transfer of units is described  
2140 in detail shall be stated.

2141 (14) If the condominium is part of a phase project, the  
2142 following information shall be stated:

2143 (a) A statement in conspicuous type in substantially the  
2144 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
2145 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
2146 this statement, the location in the disclosure materials where

11-00846-14

20141348\_\_

2147 the phasing is described shall be stated.

2148 (b) A summary of the provisions of the declaration which  
2149 provide for the phasing.

2150 (c) A statement as to whether or not residential buildings  
2151 and units which are added to the condominium may be  
2152 substantially different from the residential buildings and units  
2153 originally in the condominium. If the added residential  
2154 buildings and units may be substantially different, there shall  
2155 be a general description of the extent to which such added  
2156 residential buildings and units may differ, and a statement in  
2157 conspicuous type in substantially the following form shall be  
2158 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM  
2159 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
2160 UNITS IN THE CONDOMINIUM. Immediately following this statement,  
2161 the location in the disclosure materials where the extent to  
2162 which added residential buildings and units may substantially  
2163 differ is described shall be stated.

2164 (d) A statement of the maximum number of buildings  
2165 containing units, the maximum and minimum numbers of units in  
2166 each building, the maximum number of units, and the minimum and  
2167 maximum square footage of the units that may be contained within  
2168 each parcel of land which may be added to the condominium.

2169 (15) If a condominium created on or after July 1, 2000, is  
2170 or may become part of a multicondominium, the following  
2171 information must be provided:

2172 (a) A statement in conspicuous type in substantially the  
2173 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
2174 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
2175 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following

11-00846-14

20141348\_\_

2176 this statement, the location in the prospectus or offering  
2177 circular and its exhibits where the multicondominium aspects of  
2178 the offering are described must be stated.

2179 (b) A summary of the provisions in the declaration,  
2180 articles of incorporation, and bylaws which establish and  
2181 provide for the operation of the multicondominium, including a  
2182 statement as to whether unit owners in the condominium will have  
2183 the right to use recreational or other facilities located or  
2184 planned to be located in other condominiums operated by the same  
2185 association, and the manner of sharing the common expenses  
2186 related to such facilities.

2187 (c) A statement of the minimum and maximum number of  
2188 condominiums, and the minimum and maximum number of units in  
2189 each of those condominiums, which will or may be operated by the  
2190 association, and the latest date by which the exact number will  
2191 be finally determined.

2192 (d) A statement as to whether any of the condominiums in  
2193 the multicondominium may include units intended to be used for  
2194 nonresidential purposes and the purpose or purposes permitted  
2195 for such use.

2196 (e) A general description of the location and approximate  
2197 acreage of any land on which any additional condominiums to be  
2198 operated by the association may be located.

2199 (16) If the condominium is created by conversion of  
2200 existing improvements, the following information shall be  
2201 stated:

2202 (a) The information required by s. 718.616.

2203 (b) A caveat that there are no express warranties unless  
2204 they are stated in writing by the developer.

11-00846-14

20141348\_\_

2205 (17) A summary of the restrictions, if any, to be imposed  
2206 on units concerning the use of any of the condominium property,  
2207 including statements as to whether there are restrictions upon  
2208 children and pets, and reference to the volumes and pages of the  
2209 condominium documents where such restrictions are found, or if  
2210 such restrictions are contained elsewhere, then a copy of the  
2211 documents containing the restrictions shall be attached as an  
2212 exhibit.

2213 (18) If there is any land that is offered by the developer  
2214 for use by the unit owners and that is neither owned by them nor  
2215 leased to them, the association, or any entity controlled by  
2216 unit owners and other persons having the use rights to such  
2217 land, a statement shall be made as to how such land will serve  
2218 the condominium. If any part of such land will serve the  
2219 condominium, the statement shall describe the land and the  
2220 nature and term of service, and the declaration or other  
2221 instrument creating such servitude shall be included as an  
2222 exhibit.

2223 (19) The manner in which utility and other services,  
2224 including, but not limited to, sewage and waste disposal, water  
2225 supply, and storm drainage, will be provided and the person or  
2226 entity furnishing them.

2227 (20) An explanation of the manner in which the  
2228 apportionment of common expenses and ownership of the common  
2229 elements has been determined.

2230 (21) An estimated operating budget for the condominium and  
2231 the association, and a schedule of the unit owner's expenses  
2232 shall be attached as an exhibit and shall contain the following  
2233 information:

11-00846-14

20141348\_\_

2234 (a) The estimated monthly and annual expenses of the  
2235 condominium and the association that are collected from unit  
2236 owners by assessments.

2237 (b) The estimated monthly and annual expenses of each unit  
2238 owner for a unit, other than common expenses paid by all unit  
2239 owners, payable by the unit owner to persons or entities other  
2240 than the association, as well as to the association, including  
2241 fees assessed pursuant to s. 718.113(1) for maintenance of  
2242 limited common elements where such costs are shared only by  
2243 those entitled to use the limited common element, and the total  
2244 estimated monthly and annual expense. There may be excluded from  
2245 this estimate expenses which are not provided for or  
2246 contemplated by the condominium documents, including, but not  
2247 limited to, the costs of private telephone; maintenance of the  
2248 interior of condominium units, which is not the obligation of  
2249 the association; maid or janitorial services privately  
2250 contracted for by the unit owners; utility bills billed directly  
2251 to each unit owner for utility services to his or her unit;  
2252 insurance premiums other than those incurred for policies  
2253 obtained by the condominium; and similar personal expenses of  
2254 the unit owner. A unit owner's estimated payments for  
2255 assessments shall also be stated in the estimated amounts for  
2256 the times when they will be due.

2257 (c) The estimated items of expenses of the condominium and  
2258 the association, except as excluded under paragraph (b),  
2259 including, but not limited to, the following items, which shall  
2260 be stated as an association expense collectible by assessments  
2261 or as unit owners' expenses payable to persons other than the  
2262 association:

11-00846-14

20141348\_\_

- 2263 1. Expenses for the association and condominium:
- 2264 a. Administration of the association.
- 2265 b. Management fees.
- 2266 c. Maintenance.
- 2267 d. Rent for recreational and other commonly used
- 2268 facilities.
- 2269 e. Taxes upon association property.
- 2270 f. Taxes upon leased areas.
- 2271 g. Insurance.
- 2272 h. Security provisions.
- 2273 i. Other expenses.
- 2274 j. Operating capital.
- 2275 k. Reserves.
- 2276 1. Fees payable to the division.
- 2277 2. Expenses for a unit owner:
- 2278 a. Rent for the unit, if subject to a lease.
- 2279 b. Rent payable by the unit owner directly to the lessor or
- 2280 agent under any recreational lease or lease for the use of
- 2281 commonly used facilities, which use and payment is a mandatory
- 2282 condition of ownership and is not included in the common expense
- 2283 or assessments for common maintenance paid by the unit owners to
- 2284 the association.
- 2285 (d) The following statement in conspicuous type: THE BUDGET
- 2286 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 2287 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
- 2288 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 2289 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 2290 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 2291 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN

11-00846-14

20141348\_\_

2292 THE OFFERING.

2293 (e) Each budget for an association prepared by a developer  
2294 consistent with this subsection shall be prepared in good faith  
2295 and shall reflect accurate estimated amounts for the required  
2296 items in paragraph (c) at the time of the filing of the offering  
2297 circular with the division, and subsequent increased amounts of  
2298 any item included in the association's estimated budget that are  
2299 beyond the control of the developer may ~~shall~~ not be considered  
2300 an amendment that would give rise to rescission rights set forth  
2301 in s. 718.503(1)(a) or (b), nor shall such increases modify,  
2302 void, or otherwise affect any guarantee of the developer  
2303 contained in the offering circular or any purchase contract. It  
2304 is the intent of this paragraph to clarify existing law.

2305 (f) The estimated amounts shall be stated for a period of  
2306 at least 12 months and may distinguish between the period prior  
2307 to the time unit owners other than the developer elect a  
2308 majority of the board of administration and the period after  
2309 that date.

2310 (22) A schedule of estimated closing expenses to be paid by  
2311 a buyer or lessee of a unit and a statement of whether title  
2312 opinion or title insurance policy is available to the buyer and,  
2313 if so, at whose expense.

2314 (23) The identity of the developer and the chief operating  
2315 officer or principal directing the creation and sale of the  
2316 condominium and a statement of its and his or her experience in  
2317 this field.

2318 (24) Copies of the following, to the extent they are  
2319 applicable, shall be included as exhibits:

2320 (a) The declaration of condominium, or the proposed



11-00846-14

20141348\_\_

- 2321 declaration if the declaration has not been recorded.
- 2322 (b) The articles of incorporation creating the association.
- 2323 (c) The bylaws of the association.
- 2324 (d) The ground lease or other underlying lease of the
- 2325 condominium.
- 2326 (e) The management agreement and all maintenance and other
- 2327 contracts for management of the association and operation of the
- 2328 condominium and facilities used by the unit owners having a
- 2329 service term in excess of 1 year.
- 2330 (f) The estimated operating budget for the condominium and
- 2331 the required schedule of unit owners' expenses.
- 2332 (g) A copy of the floor plan of the unit and the plot plan
- 2333 showing the location of the residential buildings and the
- 2334 recreation and other common areas.
- 2335 (h) The lease of recreational and other facilities that
- 2336 will be used only by unit owners of the subject condominium.
- 2337 (i) The lease of facilities used by owners and others.
- 2338 (j) The form of unit lease, if the offer is of a leasehold.
- 2339 (k) A declaration of servitude of properties serving the
- 2340 condominium but not owned by unit owners or leased to them or
- 2341 the association.
- 2342 (l) The statement of condition of the existing building or
- 2343 buildings, if the offering is of units in an operation being
- 2344 converted to condominium ownership.
- 2345 (m) The statement of inspection for termite damage and
- 2346 treatment of the existing improvements, if the condominium is a
- 2347 conversion.
- 2348 (n) The form of agreement for sale or lease of units.
- 2349 (o) A copy of the agreement for escrow of payments made to

11-00846-14

20141348\_\_

2350 the developer prior to closing.

2351 (p) A copy of the documents containing any restrictions on  
2352 use of the property required by subsection (17).

2353 (25) Any prospectus or offering circular complying, prior  
2354 to the effective date of this act, with the provisions of former  
2355 ss. 711.69 and 711.802 may continue to be used without amendment  
2356 or may be amended to comply with this chapter.

2357 (26) A brief narrative description of the location and  
2358 effect of all existing and intended easements located or to be  
2359 located on the condominium property other than those described  
2360 in the declaration.

2361 (27) If the developer is required by state or local  
2362 authorities to obtain acceptance or approval of any dock or  
2363 marina facilities intended to serve the condominium, a copy of  
2364 any such acceptance or approval acquired by the time of filing  
2365 with the division under s. 718.502(1) or a statement that such  
2366 acceptance or approval has not been acquired or received.

2367 (28) Evidence demonstrating that the developer has an  
2368 ownership, leasehold, or contractual interest in the land upon  
2369 which the condominium is to be developed.

2370 Section 33. Section 718.508, Florida Statutes, is amended  
2371 to read:

2372 718.508 Regulation by Division of Hotels and Restaurants.—  
2373 In addition to the authority, regulation, or control exercised  
2374 by the Division of Florida Condominiums, Homeowners'  
2375 Associations, Timeshares, and Mobile Homes pursuant to this act  
2376 with respect to condominiums, buildings included in a  
2377 condominium property are subject to the authority, regulation,  
2378 or control of the Division of Hotels and Restaurants of the

11-00846-14

20141348\_\_

2379 Department of Business and Professional Regulation, to the  
2380 extent provided in chapter 399.

2381 Section 34. Paragraph (a) of subsection (2) of section  
2382 718.608, Florida Statutes, is amended to read:

2383 718.608 Notice of intended conversion; time of delivery;  
2384 content.—

2385 (2) (a) Each notice of intended conversion shall be dated  
2386 and in writing. The notice shall contain the following  
2387 statement, with the phrases of the following statement which  
2388 appear in upper case printed in conspicuous type:

2389

2390 These apartments are being converted to condominium by  
2391 ...(name of developer)..., the developer.

2392 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
2393 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
2394 AGREEMENT AS FOLLOWS:

2395 a. If you have continuously been a resident of these  
2396 apartments during the last 180 days and your rental agreement  
2397 expires during the next 270 days, you may extend your rental  
2398 agreement for up to 270 days after the date of this notice.

2399 b. If you have not been a continuous resident of these  
2400 apartments for the last 180 days and your rental agreement  
2401 expires during the next 180 days, you may extend your rental  
2402 agreement for up to 180 days after the date of this notice.

2403 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
2404 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
2405 DATE OF THIS NOTICE.

2406 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
2407 you may extend your rental agreement for up to 45 days after the

11-00846-14

20141348\_\_

2408 date of this notice while you decide whether to extend your  
2409 rental agreement as explained above. To do so, you must notify  
2410 the developer in writing. You will then have the full 45 days to  
2411 decide whether to extend your rental agreement as explained  
2412 above.

2413 3. During the extension of your rental agreement you will  
2414 be charged the same rent that you are now paying.

2415 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
2416 OF THE RENTAL AGREEMENT AS FOLLOWS:

2417 a. If your rental agreement began or was extended or  
2418 renewed after May 1, 1980, and your rental agreement, including  
2419 extensions and renewals, has an unexpired term of 180 days or  
2420 less, you may cancel your rental agreement upon 30 days' written  
2421 notice and move. Also, upon 30 days' written notice, you may  
2422 cancel any extension of the rental agreement.

2423 b. If your rental agreement was not begun or was not  
2424 extended or renewed after May 1, 1980, you may not cancel the  
2425 rental agreement without the consent of the developer. If your  
2426 rental agreement, including extensions and renewals, has an  
2427 unexpired term of 180 days or less, you may, however, upon 30  
2428 days' written notice cancel any extension of the rental  
2429 agreement.

2430 5. All notices must be given in writing and sent by mail,  
2431 return receipt requested, or delivered in person to the  
2432 developer at this address: ...(name and address of  
2433 developer)....

2434 6. If you have continuously been a resident of these  
2435 apartments during the last 180 days:

2436 a. You have the right to purchase your apartment and will

11-00846-14

20141348\_\_

2437 have 45 days to decide whether to purchase. If you do not buy  
2438 the unit at that price and the unit is later offered at a lower  
2439 price, you will have the opportunity to buy the unit at the  
2440 lower price. However, in all events your right to purchase the  
2441 unit ends when the rental agreement or any extension of the  
2442 rental agreement ends or when you waive this right in writing.

2443 b. Within 90 days you will be provided purchase information  
2444 relating to your apartment, including the price of your unit and  
2445 the condition of the building. If you do not receive this  
2446 information within 90 days, your rental agreement and any  
2447 extension will be extended 1 day for each day over 90 days until  
2448 you are given the purchase information. If you do not want this  
2449 rental agreement extension, you must notify the developer in  
2450 writing.

2451 7. If you have any questions regarding this conversion or  
2452 the Condominium Act, you may contact the developer or the state  
2453 agency which regulates condominiums: The Division of Florida  
2454 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
2455 Homes, ... (Tallahassee address and telephone number of  
2456 division)....

2457 Section 35. Subsection (17) of section 719.103, Florida  
2458 Statutes, is amended to read:

2459 719.103 Definitions.—As used in this chapter:

2460 (17) "Division" means the Division of Florida Condominiums,  
2461 Homeowners' Associations, Timeshares, and Mobile Homes of the  
2462 Department of Business and Professional Regulation.

2463 Section 36. Section 719.1255, Florida Statutes, is amended  
2464 to read:

2465 719.1255 Alternative resolution of disputes.—The Division

11-00846-14

20141348\_\_

2466 of Florida Condominiums, Homeowners' Associations, Timeshares,  
2467 and Mobile Homes of the Department of Business and Professional  
2468 Regulation shall provide for alternative dispute resolution in  
2469 accordance with s. 718.1255.

2470 Section 37. Section 719.501, Florida Statutes, is amended  
2471 to read:

2472 719.501 Powers and duties of Division of Florida  
2473 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
2474 Homes.—

2475 (1) The Division of Florida Condominiums, Homeowners'  
2476 Associations, Timeshares, and Mobile Homes of the Department of  
2477 Business and Professional Regulation, referred to as the  
2478 "division" in this part, in addition to other powers and duties  
2479 prescribed by chapter 718, has the power to enforce and ensure  
2480 compliance with this chapter and adopted rules relating to the  
2481 development, construction, sale, lease, ownership, operation,  
2482 and management of residential cooperative units. In performing  
2483 its duties, the division shall have the following powers and  
2484 duties:

2485 (a) The division may make necessary public or private  
2486 investigations within or outside this state to determine whether  
2487 any person has violated this chapter or any rule or order  
2488 hereunder, to aid in the enforcement of this chapter, or to aid  
2489 in the adoption of rules or forms hereunder.

2490 (b) The division may require or permit any person to file a  
2491 statement in writing, under oath or otherwise, as the division  
2492 determines, as to the facts and circumstances concerning a  
2493 matter to be investigated.

2494 (c) For the purpose of any investigation under this

11-00846-14

20141348\_\_

2495 chapter, the division director or any officer or employee  
2496 designated by the division director may administer oaths or  
2497 affirmations, subpoena witnesses and compel their attendance,  
2498 take evidence, and require the production of any matter which is  
2499 relevant to the investigation, including the existence,  
2500 description, nature, custody, condition, and location of any  
2501 books, documents, or other tangible things and the identity and  
2502 location of persons having knowledge of relevant facts or any  
2503 other matter reasonably calculated to lead to the discovery of  
2504 material evidence. Upon failure by a person to obey a subpoena  
2505 or to answer questions propounded by the investigating officer  
2506 and upon reasonable notice to all persons affected thereby, the  
2507 division may apply to the circuit court for an order compelling  
2508 compliance.

2509 (d) Notwithstanding any remedies available to unit owners  
2510 and associations, if the division has reasonable cause to  
2511 believe that a violation of any provision of this chapter or  
2512 related rule has occurred, the division may institute  
2513 enforcement proceedings in its own name against a developer,  
2514 association, officer, or member of the board, or its assignees  
2515 or agents, as follows:

2516 1. The division may permit a person whose conduct or  
2517 actions may be under investigation to waive formal proceedings  
2518 and enter into a consent proceeding whereby orders, rules, or  
2519 letters of censure or warning, whether formal or informal, may  
2520 be entered against the person.

2521 2. The division may issue an order requiring the developer,  
2522 association, officer, or member of the board, or its assignees  
2523 or agents, to cease and desist from the unlawful practice and

11-00846-14

20141348\_\_

2524 take such affirmative action as in the judgment of the division  
2525 will carry out the purposes of this chapter. Such affirmative  
2526 action may include, but is not limited to, an order requiring a  
2527 developer to pay moneys determined to be owed to a condominium  
2528 association.

2529         3. The division may bring an action in circuit court on  
2530 behalf of a class of unit owners, lessees, or purchasers for  
2531 declaratory relief, injunctive relief, or restitution.

2532         4. The division may impose a civil penalty against a  
2533 developer or association, or its assignees or agents, for any  
2534 violation of this chapter or related rule. The division may  
2535 impose a civil penalty individually against any officer or board  
2536 member who willfully and knowingly violates a provision of this  
2537 chapter, a rule adopted pursuant to this chapter, or a final  
2538 order of the division. The term "willfully and knowingly" means  
2539 that the division informed the officer or board member that his  
2540 or her action or intended action violates this chapter, a rule  
2541 adopted under this chapter, or a final order of the division,  
2542 and that the officer or board member refused to comply with the  
2543 requirements of this chapter, a rule adopted under this chapter,  
2544 or a final order of the division. The division, prior to  
2545 initiating formal agency action under chapter 120, shall afford  
2546 the officer or board member an opportunity to voluntarily comply  
2547 with this chapter, a rule adopted under this chapter, or a final  
2548 order of the division. An officer or board member who complies  
2549 within 10 days is not subject to a civil penalty. A penalty may  
2550 be imposed on the basis of each day of continuing violation, but  
2551 in no event shall the penalty for any offense exceed \$5,000. By  
2552 January 1, 1998, the division shall adopt, by rule, penalty



11-00846-14

20141348\_\_

2553 guidelines applicable to possible violations or to categories of  
2554 violations of this chapter or rules adopted by the division. The  
2555 guidelines must specify a meaningful range of civil penalties  
2556 for each such violation of the statute and rules and must be  
2557 based upon the harm caused by the violation, the repetition of  
2558 the violation, and upon such other factors deemed relevant by  
2559 the division. For example, the division may consider whether the  
2560 violations were committed by a developer or owner-controlled  
2561 association, the size of the association, and other factors. The  
2562 guidelines must designate the possible mitigating or aggravating  
2563 circumstances that justify a departure from the range of  
2564 penalties provided by the rules. It is the legislative intent  
2565 that minor violations be distinguished from those which endanger  
2566 the health, safety, or welfare of the cooperative residents or  
2567 other persons and that such guidelines provide reasonable and  
2568 meaningful notice to the public of likely penalties that may be  
2569 imposed for proscribed conduct. This subsection does not limit  
2570 the ability of the division to informally dispose of  
2571 administrative actions or complaints by stipulation, agreed  
2572 settlement, or consent order. All amounts collected shall be  
2573 deposited with the Chief Financial Officer to the credit of the  
2574 Division of Florida Condominiums, Homeowners' Associations,  
2575 Timeshares, and Mobile Homes Trust Fund. If a developer fails to  
2576 pay the civil penalty, the division shall ~~thereupon~~ issue an  
2577 order directing that the ~~such~~ developer cease and desist from  
2578 further operation until such time as the civil penalty is paid  
2579 or shall ~~may~~ pursue enforcement of the penalty in a court of  
2580 competent jurisdiction. If an association fails to pay the civil  
2581 penalty, the division shall thereupon pursue enforcement in a

11-00846-14

20141348\_\_

2582 court of competent jurisdiction, and the order imposing the  
2583 civil penalty or the cease and desist order does ~~shall~~ not  
2584 become effective until 20 days after the date of such order. Any  
2585 action commenced by the division shall be brought in the county  
2586 in which the division has its executive offices or in the county  
2587 where the violation occurred.

2588 (e) The division may prepare and disseminate a prospectus  
2589 and other information to assist prospective owners, purchasers,  
2590 lessees, and developers of residential cooperatives in assessing  
2591 the rights, privileges, and duties pertaining thereto.

2592 (f) The division has authority to adopt rules pursuant to  
2593 ss. 120.536(1) and 120.54 to implement and enforce the  
2594 provisions of this chapter.

2595 (g) The division shall establish procedures for providing  
2596 notice to an association when the division is considering the  
2597 issuance of a declaratory statement with respect to the  
2598 cooperative documents governing such cooperative community.

2599 (h) The division shall furnish each association which pays  
2600 the fees required by paragraph (2) (a) a copy of this act,  
2601 subsequent changes to this act on an annual basis, an amended  
2602 version of this act as it becomes available from the Secretary  
2603 of State's office on a biennial basis, and the rules adopted  
2604 thereto on an annual basis.

2605 (i) The division shall annually provide each association  
2606 with a summary of declaratory statements and formal legal  
2607 opinions relating to the operations of cooperatives which were  
2608 rendered by the division during the previous year.

2609 (j) The division shall adopt uniform accounting principles,  
2610 policies, and standards to be used by all associations in the

11-00846-14

20141348\_\_

2611 preparation and presentation of all financial statements  
2612 required by this chapter. The principles, policies, and  
2613 standards shall take into consideration the size of the  
2614 association and the total revenue collected by the association.

2615 (k) The division shall provide training and educational  
2616 programs for cooperative association board members and unit  
2617 owners. The training may, in the division's discretion, include  
2618 web-based electronic media, and live training and seminars in  
2619 various locations throughout the state. The division may review  
2620 and approve education and training programs for board members  
2621 and unit owners offered by providers and shall maintain a  
2622 current list of approved programs and providers and make such  
2623 list available to board members and unit owners in a reasonable  
2624 and cost-effective manner.

2625 (l) The division shall maintain a toll-free telephone  
2626 number accessible to cooperative unit owners.

2627 (m) When a complaint is made to the division, the division  
2628 shall conduct its inquiry with reasonable dispatch and with due  
2629 regard to the interests of the affected parties. Within 30 days  
2630 after receipt of a complaint, the division shall acknowledge the  
2631 complaint in writing and notify the complainant whether the  
2632 complaint is within the jurisdiction of the division and whether  
2633 additional information is needed by the division from the  
2634 complainant. The division shall conduct its investigation and  
2635 shall, within 90 days after receipt of the original complaint or  
2636 timely requested additional information, take action upon the  
2637 complaint. However, the failure to complete the investigation  
2638 within 90 days does not prevent the division from continuing the  
2639 investigation, accepting or considering evidence obtained or

11-00846-14

20141348\_\_

2640 received after 90 days, or taking administrative action if  
2641 reasonable cause exists to believe that a violation of this  
2642 chapter or a rule of the division has occurred. If an  
2643 investigation is not completed within the time limits  
2644 established in this paragraph, the division shall, on a monthly  
2645 basis, notify the complainant in writing of the status of the  
2646 investigation. When reporting its action to the complainant, the  
2647 division shall inform the complainant of any right to a hearing  
2648 pursuant to ss. 120.569 and 120.57.

2649 (n) The division shall develop a program to certify both  
2650 volunteer and paid mediators to provide mediation of cooperative  
2651 disputes. The division shall provide, upon request, a list of  
2652 such mediators to any association, unit owner, or other  
2653 participant in arbitration proceedings under s. 718.1255  
2654 requesting a copy of the list. The division shall include on the  
2655 list of voluntary mediators only persons who have received at  
2656 least 20 hours of training in mediation techniques or have  
2657 mediated at least 20 disputes. In order to become initially  
2658 certified by the division, paid mediators must be certified by  
2659 the Supreme Court to mediate court cases in county or circuit  
2660 courts. However, the division may adopt, by rule, additional  
2661 factors for the certification of paid mediators, which factors  
2662 must be related to experience, education, or background. Any  
2663 person initially certified as a paid mediator by the division  
2664 must, in order to continue to be certified, comply with the  
2665 factors or requirements imposed by rules adopted by the  
2666 division.

2667 (2) (a) Each cooperative association shall pay to the  
2668 division, on or before January 1 of each year, an annual fee in

11-00846-14

20141348\_\_

2669 the amount of \$4 for each residential unit in cooperatives  
2670 operated by the association. If the fee is not paid by March 1,  
2671 then the association shall be assessed a penalty of 10 percent  
2672 of the amount due, and the association shall not have the  
2673 standing to maintain or defend any action in the courts of this  
2674 state until the amount due is paid.

2675 (b) All fees shall be deposited in the Division of Florida  
2676 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
2677 Homes Trust Fund as provided by law.

2678 Section 38. Paragraph (a) of subsection (2) of section  
2679 719.502, Florida Statutes, is amended to read:

2680 719.502 Filing prior to sale or lease.—

2681 (2) (a) Prior to filing as required by subsection (1), and  
2682 prior to acquiring an ownership, leasehold, or contractual  
2683 interest in the land upon which the cooperative is to be  
2684 developed, a developer may ~~shall~~ not offer a contract for  
2685 purchase or lease of a unit for more than 5 years. However, the  
2686 developer may accept deposits for reservations upon the approval  
2687 of a fully executed escrow agreement and reservation agreement  
2688 form properly filed with the Division of Florida Condominiums,  
2689 Homeowners' Associations, Timeshares, and Mobile Homes. Each  
2690 filing of a proposed reservation program shall be accompanied by  
2691 a filing fee of \$250. Reservations may ~~shall~~ not be taken on a  
2692 proposed cooperative unless the developer has an ownership,  
2693 leasehold, or contractual interest in the land upon which the  
2694 cooperative is to be developed. The division shall notify the  
2695 developer within 20 days of receipt of the reservation filing of  
2696 any deficiencies contained therein. Such notification does ~~shall~~  
2697 not preclude the determination of reservation filing

11-00846-14

20141348\_\_

2698 deficiencies at a later date, nor shall it relieve the developer  
2699 of any responsibility under the law. The escrow agreement and  
2700 the reservation agreement form shall include a statement of the  
2701 right of the prospective purchaser to an immediate unqualified  
2702 refund of the reservation deposit moneys upon written request to  
2703 the escrow agent by the prospective purchaser or the developer.

2704 Section 39. Section 719.504, Florida Statutes, is amended  
2705 to read:

2706 719.504 Prospectus or offering circular.—Every developer of  
2707 a residential cooperative which contains more than 20  
2708 residential units, or which is part of a group of residential  
2709 cooperatives which will be served by property to be used in  
2710 common by unit owners of more than 20 residential units, shall  
2711 prepare a prospectus or offering circular and file it with the  
2712 Division of Florida Condominiums, Homeowners' Associations,  
2713 Timeshares, and Mobile Homes prior to entering into an  
2714 enforceable contract of purchase and sale of any unit or lease  
2715 of a unit for more than 5 years and shall furnish a copy of the  
2716 prospectus or offering circular to each buyer. In addition to  
2717 the prospectus or offering circular, each buyer shall be  
2718 furnished a separate page entitled "Frequently Asked Questions  
2719 and Answers," which must be in accordance with a format approved  
2720 by the division. This page must, in readable language: inform  
2721 prospective purchasers regarding their voting rights and unit  
2722 use restrictions, including restrictions on the leasing of a  
2723 unit; indicate whether and in what amount the unit owners or the  
2724 association is obligated to pay rent or land use fees for  
2725 recreational or other commonly used facilities; contain a  
2726 statement identifying that amount of assessment which, pursuant

11-00846-14

20141348\_\_

2727 to the budget, would be levied upon each unit type, exclusive of  
2728 any special assessments, and which identifies the basis upon  
2729 which assessments are levied, whether monthly, quarterly, or  
2730 otherwise; state and identify any court cases in which the  
2731 association is currently a party of record in which the  
2732 association may face liability in excess of \$100,000; and state  
2733 whether membership in a recreational facilities association is  
2734 mandatory and, if so, identify the fees currently charged per  
2735 unit type. The division shall by rule require such other  
2736 disclosure as in its judgment will assist prospective  
2737 purchasers. The prospectus or offering circular may include more  
2738 than one cooperative, although not all such units are being  
2739 offered for sale as of the date of the prospectus or offering  
2740 circular. The prospectus or offering circular must contain the  
2741 following information:

2742 (1) The front cover or the first page must contain only:

2743 (a) The name of the cooperative.

2744 (b) The following statements in conspicuous type:

2745 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
2746 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2747 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
2748 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
2749 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
2750 MATERIALS.

2751 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
2752 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
2753 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
2754 REPRESENTATIONS.

2755 (2) Summary: The next page must contain all statements

11-00846-14

20141348\_\_

2756 required to be in conspicuous type in the prospectus or offering  
2757 circular.

2758 (3) A separate index of the contents and exhibits of the  
2759 prospectus.

2760 (4) Beginning on the first page of the text (not including  
2761 the summary and index), a description of the cooperative,  
2762 including, but not limited to, the following information:

2763 (a) Its name and location.

2764 (b) A description of the cooperative property, including,  
2765 without limitation:

2766 1. The number of buildings, the number of units in each  
2767 building, the number of bathrooms and bedrooms in each unit, and  
2768 the total number of units, if the cooperative is not a phase  
2769 cooperative; or, if the cooperative is a phase cooperative, the  
2770 maximum number of buildings that may be contained within the  
2771 cooperative, the minimum and maximum number of units in each  
2772 building, the minimum and maximum number of bathrooms and  
2773 bedrooms that may be contained in each unit, and the maximum  
2774 number of units that may be contained within the cooperative.

2775 2. The page in the cooperative documents where a copy of  
2776 the survey and plot plan of the cooperative is located.

2777 3. The estimated latest date of completion of constructing,  
2778 finishing, and equipping. In lieu of a date, a statement that  
2779 the estimated date of completion of the cooperative is in the  
2780 purchase agreement and a reference to the article or paragraph  
2781 containing that information.

2782 (c) The maximum number of units that will use facilities in  
2783 common with the cooperative. If the maximum number of units will  
2784 vary, a description of the basis for variation and the minimum



11-00846-14

20141348\_\_

2785 amount of dollars per unit to be spent for additional  
2786 recreational facilities or enlargement of such facilities. If  
2787 the addition or enlargement of facilities will result in a  
2788 material increase of a unit owner's maintenance expense or  
2789 rental expense, if any, the maximum increase and limitations  
2790 thereon shall be stated.

2791 (5) (a) A statement in conspicuous type describing whether  
2792 the cooperative is created and being sold as fee simple  
2793 interests or as leasehold interests. If the cooperative is  
2794 created or being sold on a leasehold, the location of the lease  
2795 in the disclosure materials shall be stated.

2796 (b) If timeshare estates are or may be created with respect  
2797 to any unit in the cooperative, a statement in conspicuous type  
2798 stating that timeshare estates are created and being sold in  
2799 such specified units in the cooperative.

2800 (6) A description of the recreational and other common  
2801 areas that will be used only by unit owners of the cooperative,  
2802 including, but not limited to, the following:

2803 (a) Each room and its intended purposes, location,  
2804 approximate floor area, and capacity in numbers of people.

2805 (b) Each swimming pool, as to its general location,  
2806 approximate size and depths, approximate deck size and capacity,  
2807 and whether heated.

2808 (c) Additional facilities, as to the number of each  
2809 facility, its approximate location, approximate size, and  
2810 approximate capacity.

2811 (d) A general description of the items of personal property  
2812 and the approximate number of each item of personal property  
2813 that the developer is committing to furnish for each room or

11-00846-14

20141348\_\_

2814 other facility or, in the alternative, a representation as to  
2815 the minimum amount of expenditure that will be made to purchase  
2816 the personal property for the facility.

2817 (e) The estimated date when each room or other facility  
2818 will be available for use by the unit owners.

2819 (f)1. An identification of each room or other facility to  
2820 be used by unit owners that will not be owned by the unit owners  
2821 or the association;

2822 2. A reference to the location in the disclosure materials  
2823 of the lease or other agreements providing for the use of those  
2824 facilities; and

2825 3. A description of the terms of the lease or other  
2826 agreements, including the length of the term; the rent payable,  
2827 directly or indirectly, by each unit owner, and the total rent  
2828 payable to the lessor, stated in monthly and annual amounts for  
2829 the entire term of the lease; and a description of any option to  
2830 purchase the property leased under any such lease, including the  
2831 time the option may be exercised, the purchase price or how it  
2832 is to be determined, the manner of payment, and whether the  
2833 option may be exercised for a unit owner's share or only as to  
2834 the entire leased property.

2835 (g) A statement as to whether the developer may provide  
2836 additional facilities not described above, their general  
2837 locations and types, improvements or changes that may be made,  
2838 the approximate dollar amount to be expended, and the maximum  
2839 additional common expense or cost to the individual unit owners  
2840 that may be charged during the first annual period of operation  
2841 of the modified or added facilities.

2842

11-00846-14

20141348\_\_

2843 Descriptions as to locations, areas, capacities, numbers,  
2844 volumes, or sizes may be stated as approximations or minimums.

2845 (7) A description of the recreational and other facilities  
2846 that will be used in common with other cooperatives, community  
2847 associations, or planned developments which require the payment  
2848 of the maintenance and expenses of such facilities, directly or  
2849 indirectly, by the unit owners. The description shall include,  
2850 but not be limited to, the following:

2851 (a) Each building and facility committed to be built.

2852 (b) Facilities not committed to be built except under  
2853 certain conditions, and a statement of those conditions or  
2854 contingencies.

2855 (c) As to each facility committed to be built, or which  
2856 will be committed to be built upon the happening of one of the  
2857 conditions in paragraph (b), a statement of whether it will be  
2858 owned by the unit owners having the use thereof or by an  
2859 association or other entity which will be controlled by them, or  
2860 others, and the location in the exhibits of the lease or other  
2861 document providing for use of those facilities.

2862 (d) The year in which each facility will be available for  
2863 use by the unit owners or, in the alternative, the maximum  
2864 number of unit owners in the project at the time each of all of  
2865 the facilities is committed to be completed.

2866 (e) A general description of the items of personal  
2867 property, and the approximate number of each item of personal  
2868 property, that the developer is committing to furnish for each  
2869 room or other facility or, in the alternative, a representation  
2870 as to the minimum amount of expenditure that will be made to  
2871 purchase the personal property for the facility.

11-00846-14

20141348\_\_

2872 (f) If there are leases, a description thereof, including  
2873 the length of the term, the rent payable, and a description of  
2874 any option to purchase.

2875  
2876 Descriptions shall include location, areas, capacities, numbers,  
2877 volumes, or sizes and may be stated as approximations or  
2878 minimums.

2879 (8) Recreation lease or associated club membership:

2880 (a) If any recreational facilities or other common areas  
2881 offered by the developer and available to, or to be used by,  
2882 unit owners are to be leased or have club membership associated,  
2883 the following statement in conspicuous type shall be included:  
2884 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
2885 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
2886 COOPERATIVE. There shall be a reference to the location in the  
2887 disclosure materials where the recreation lease or club  
2888 membership is described in detail.

2889 (b) If it is mandatory that unit owners pay a fee, rent,  
2890 dues, or other charges under a recreational facilities lease or  
2891 club membership for the use of facilities, there shall be in  
2892 conspicuous type the applicable statement:

2893 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
2894 MANDATORY FOR UNIT OWNERS; or

2895 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
2896 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2897 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS  
2898 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,  
2899 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE  
2900 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

11-00846-14

20141348\_\_

2901 4. A similar statement of the nature of the organization or  
2902 manner in which the use rights are created, and that unit owners  
2903 are required to pay.

2904  
2905 Immediately following the applicable statement, the location in  
2906 the disclosure materials where the development is described in  
2907 detail shall be stated.

2908 (c) If the developer, or any other person other than the  
2909 unit owners and other persons having use rights in the  
2910 facilities, reserves, or is entitled to receive, any rent, fee,  
2911 or other payment for the use of the facilities, then there shall  
2912 be the following statement in conspicuous type: THE UNIT OWNERS  
2913 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
2914 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this  
2915 statement, the location in the disclosure materials where the  
2916 rent or land use fees are described in detail shall be stated.

2917 (d) If, in any recreation format, whether leasehold, club,  
2918 or other, any person other than the association has the right to  
2919 a lien on the units to secure the payment of assessments, rent,  
2920 or other exactions, there shall appear a statement in  
2921 conspicuous type in substantially the following form:

2922 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2923 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
2924 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
2925 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2926 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2927 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
2928 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
2929 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE

11-00846-14

20141348\_\_

2930 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2931  
2932 Immediately following the applicable statement, the location in  
2933 the disclosure materials where the lien or lien right is  
2934 described in detail shall be stated.

2935 (9) If the developer or any other person has the right to  
2936 increase or add to the recreational facilities at any time after  
2937 the establishment of the cooperative whose unit owners have use  
2938 rights therein, without the consent of the unit owners or  
2939 associations being required, there shall appear a statement in  
2940 conspicuous type in substantially the following form:

2941 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
2942 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
2943 statement, the location in the disclosure materials where such  
2944 reserved rights are described shall be stated.

2945 (10) A statement of whether the developer's plan includes a  
2946 program of leasing units rather than selling them, or leasing  
2947 units and selling them subject to such leases. If so, there  
2948 shall be a description of the plan, including the number and  
2949 identification of the units and the provisions and term of the  
2950 proposed leases, and a statement in boldfaced type that: THE  
2951 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2952 (11) The arrangements for management of the association and  
2953 maintenance and operation of the cooperative property and of  
2954 other property that will serve the unit owners of the  
2955 cooperative property, and a description of the management  
2956 contract and all other contracts for these purposes having a  
2957 term in excess of 1 year, including the following:

2958 (a) The names of contracting parties.

11-00846-14

20141348\_\_

2959 (b) The term of the contract.

2960 (c) The nature of the services included.

2961 (d) The compensation, stated on a monthly and annual basis,  
2962 and provisions for increases in the compensation.

2963 (e) A reference to the volumes and pages of the cooperative  
2964 documents and of the exhibits containing copies of such  
2965 contracts.

2966

2967 Copies of all described contracts shall be attached as exhibits.  
2968 If there is a contract for the management of the cooperative  
2969 property, then a statement in conspicuous type in substantially  
2970 the following form shall appear, identifying the proposed or  
2971 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
2972 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE  
2973 CONTRACT MANAGER). Immediately following this statement, the  
2974 location in the disclosure materials of the contract for  
2975 management of the cooperative property shall be stated.

2976 (12) If the developer or any other person or persons other  
2977 than the unit owners has the right to retain control of the  
2978 board of administration of the association for a period of time  
2979 which can exceed 1 year after the closing of the sale of a  
2980 majority of the units in that cooperative to persons other than  
2981 successors or alternate developers, then a statement in  
2982 conspicuous type in substantially the following form shall be  
2983 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
2984 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
2985 HAVE BEEN SOLD. Immediately following this statement, the  
2986 location in the disclosure materials where this right to control  
2987 is described in detail shall be stated.

11-00846-14

20141348\_\_

2988 (13) If there are any restrictions upon the sale, transfer,  
2989 conveyance, or leasing of a unit, then a statement in  
2990 conspicuous type in substantially the following form shall be  
2991 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
2992 CONTROLLED. Immediately following this statement, the location  
2993 in the disclosure materials where the restriction, limitation,  
2994 or control on the sale, lease, or transfer of units is described  
2995 in detail shall be stated.

2996 (14) If the cooperative is part of a phase project, the  
2997 following shall be stated:

2998 (a) A statement in conspicuous type in substantially the  
2999 following form shall be included: THIS IS A PHASE COOPERATIVE.  
3000 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
3001 Immediately following this statement, the location in the  
3002 disclosure materials where the phasing is described shall be  
3003 stated.

3004 (b) A summary of the provisions of the declaration  
3005 providing for the phasing.

3006 (c) A statement as to whether or not residential buildings  
3007 and units which are added to the cooperative may be  
3008 substantially different from the residential buildings and units  
3009 originally in the cooperative, and, if the added residential  
3010 buildings and units may be substantially different, there shall  
3011 be a general description of the extent to which such added  
3012 residential buildings and units may differ, and a statement in  
3013 conspicuous type in substantially the following form shall be  
3014 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE  
3015 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
3016 UNITS IN THE COOPERATIVE. Immediately following this statement,



11-00846-14

20141348\_\_

3017 the location in the disclosure materials where the extent to  
3018 which added residential buildings and units may substantially  
3019 differ is described shall be stated.

3020 (d) A statement of the maximum number of buildings  
3021 containing units, the maximum and minimum number of units in  
3022 each building, the maximum number of units, and the minimum and  
3023 maximum square footage of the units that may be contained within  
3024 each parcel of land which may be added to the cooperative.

3025 (15) If the cooperative is created by conversion of  
3026 existing improvements, the following information shall be  
3027 stated:

3028 (a) The information required by s. 719.616.

3029 (b) A caveat that there are no express warranties unless  
3030 they are stated in writing by the developer.

3031 (16) A summary of the restrictions, if any, to be imposed  
3032 on units concerning the use of any of the cooperative property,  
3033 including statements as to whether there are restrictions upon  
3034 children and pets, and reference to the volumes and pages of the  
3035 cooperative documents where such restrictions are found, or if  
3036 such restrictions are contained elsewhere, then a copy of the  
3037 documents containing the restrictions shall be attached as an  
3038 exhibit.

3039 (17) If there is any land that is offered by the developer  
3040 for use by the unit owners and that is neither owned by them nor  
3041 leased to them, the association, or any entity controlled by  
3042 unit owners and other persons having the use rights to such  
3043 land, a statement shall be made as to how such land will serve  
3044 the cooperative. If any part of such land will serve the  
3045 cooperative, the statement shall describe the land and the

11-00846-14

20141348\_\_

3046 nature and term of service, and the cooperative documents or  
3047 other instrument creating such servitude shall be included as an  
3048 exhibit.

3049 (18) The manner in which utility and other services,  
3050 including, but not limited to, sewage and waste disposal, water  
3051 supply, and storm drainage, will be provided and the person or  
3052 entity furnishing them.

3053 (19) An explanation of the manner in which the  
3054 apportionment of common expenses and ownership of the common  
3055 areas have been determined.

3056 (20) An estimated operating budget for the cooperative and  
3057 the association, and a schedule of the unit owner's expenses  
3058 shall be attached as an exhibit and shall contain the following  
3059 information:

3060 (a) The estimated monthly and annual expenses of the  
3061 cooperative and the association that are collected from unit  
3062 owners by assessments.

3063 (b) The estimated monthly and annual expenses of each unit  
3064 owner for a unit, other than assessments payable to the  
3065 association, payable by the unit owner to persons or entities  
3066 other than the association, and the total estimated monthly and  
3067 annual expense. There may be excluded from this estimate  
3068 expenses that are personal to unit owners, which are not  
3069 uniformly incurred by all unit owners, or which are not provided  
3070 for or contemplated by the cooperative documents, including, but  
3071 not limited to, the costs of private telephone; maintenance of  
3072 the interior of cooperative units, which is not the obligation  
3073 of the association; maid or janitorial services privately  
3074 contracted for by the unit owners; utility bills billed directly

11-00846-14

20141348\_\_

3075 to each unit owner for utility services to his or her unit;  
3076 insurance premiums other than those incurred for policies  
3077 obtained by the cooperative; and similar personal expenses of  
3078 the unit owner. A unit owner's estimated payments for  
3079 assessments shall also be stated in the estimated amounts for  
3080 the times when they will be due.

3081 (c) The estimated items of expenses of the cooperative and  
3082 the association, except as excluded under paragraph (b),  
3083 including, but not limited to, the following items, which shall  
3084 be stated as an association expense collectible by assessments  
3085 or as unit owners' expenses payable to persons other than the  
3086 association:

3087 1. Expenses for the association and cooperative:

3088 a. Administration of the association.

3089 b. Management fees.

3090 c. Maintenance.

3091 d. Rent for recreational and other commonly used areas.

3092 e. Taxes upon association property.

3093 f. Taxes upon leased areas.

3094 g. Insurance.

3095 h. Security provisions.

3096 i. Other expenses.

3097 j. Operating capital.

3098 k. Reserves.

3099 1. Fee payable to the division.

3100 2. Expenses for a unit owner:

3101 a. Rent for the unit, if subject to a lease.

3102 b. Rent payable by the unit owner directly to the lessor or  
3103 agent under any recreational lease or lease for the use of

11-00846-14

20141348\_\_

3104 commonly used areas, which use and payment are a mandatory  
3105 condition of ownership and are not included in the common  
3106 expense or assessments for common maintenance paid by the unit  
3107 owners to the association.

3108 (d) The following statement in conspicuous type: THE BUDGET  
3109 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
3110 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE  
3111 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
3112 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
3113 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
3114 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
3115 THE OFFERING.

3116 (e) Each budget for an association prepared by a developer  
3117 consistent with this subsection shall be prepared in good faith  
3118 and shall reflect accurate estimated amounts for the required  
3119 items in paragraph (c) at the time of the filing of the offering  
3120 circular with the division, and subsequent increased amounts of  
3121 any item included in the association's estimated budget that are  
3122 beyond the control of the developer may ~~shall~~ not be considered  
3123 an amendment that would give rise to rescission rights set forth  
3124 in s. 719.503(1)(a) or (b), nor shall such increases modify,  
3125 void, or otherwise affect any guarantee of the developer  
3126 contained in the offering circular or any purchase contract. It  
3127 is the intent of this paragraph to clarify existing law.

3128 (f) The estimated amounts shall be stated for a period of  
3129 at least 12 months and may distinguish between the period prior  
3130 to the time unit owners other than the developer elect a  
3131 majority of the board of administration and the period after  
3132 that date.

11-00846-14

20141348\_\_

3133 (21) A schedule of estimated closing expenses to be paid by  
3134 a buyer or lessee of a unit and a statement of whether title  
3135 opinion or title insurance policy is available to the buyer and,  
3136 if so, at whose expense.

3137 (22) The identity of the developer and the chief operating  
3138 officer or principal directing the creation and sale of the  
3139 cooperative and a statement of its and his or her experience in  
3140 this field.

3141 (23) Copies of the following, to the extent they are  
3142 applicable, shall be included as exhibits:

3143 (a) The cooperative documents, or the proposed cooperative  
3144 documents if the documents have not been recorded.

3145 (b) The articles of incorporation creating the association.

3146 (c) The bylaws of the association.

3147 (d) The ground lease or other underlying lease of the  
3148 cooperative.

3149 (e) The management agreement and all maintenance and other  
3150 contracts for management of the association and operation of the  
3151 cooperative and facilities used by the unit owners having a  
3152 service term in excess of 1 year.

3153 (f) The estimated operating budget for the cooperative and  
3154 the required schedule of unit owners' expenses.

3155 (g) A copy of the floor plan of the unit and the plot plan  
3156 showing the location of the residential buildings and the  
3157 recreation and other common areas.

3158 (h) The lease of recreational and other facilities that  
3159 will be used only by unit owners of the subject cooperative.

3160 (i) The lease of facilities used by owners and others.

3161 (j) The form of unit lease, if the offer is of a leasehold.

11-00846-14

20141348\_\_

3162 (k) A declaration of servitude of properties serving the  
3163 cooperative but not owned by unit owners or leased to them or  
3164 the association.

3165 (l) The statement of condition of the existing building or  
3166 buildings, if the offering is of units in an operation being  
3167 converted to cooperative ownership.

3168 (m) The statement of inspection for termite damage and  
3169 treatment of the existing improvements, if the cooperative is a  
3170 conversion.

3171 (n) The form of agreement for sale or lease of units.

3172 (o) A copy of the agreement for escrow of payments made to  
3173 the developer prior to closing.

3174 (p) A copy of the documents containing any restrictions on  
3175 use of the property required by subsection (16).

3176 (24) Any prospectus or offering circular complying with the  
3177 provisions of former ss. 711.69 and 711.802 may continue to be  
3178 used without amendment, or may be amended to comply with this  
3179 chapter.

3180 (25) A brief narrative description of the location and  
3181 effect of all existing and intended easements located or to be  
3182 located on the cooperative property other than those in the  
3183 declaration.

3184 (26) If the developer is required by state or local  
3185 authorities to obtain acceptance or approval of any dock or  
3186 marina facility intended to serve the cooperative, a copy of  
3187 such acceptance or approval acquired by the time of filing with  
3188 the division pursuant to s. 719.502 or a statement that such  
3189 acceptance has not been acquired or received.

3190 (27) Evidence demonstrating that the developer has an

11-00846-14

20141348\_\_

3191 ownership, leasehold, or contractual interest in the land upon  
3192 which the cooperative is to be developed.

3193 Section 40. Section 719.508, Florida Statutes, is amended  
3194 to read:

3195 719.508 Regulation by Division of Hotels and Restaurants.—  
3196 In addition to the authority, regulation, or control exercised  
3197 by the Division of Florida Condominiums, Homeowners'  
3198 Associations, Timeshares, and Mobile Homes pursuant to this act  
3199 with respect to cooperatives, buildings included in a  
3200 cooperative property shall be subject to the authority,  
3201 regulation, or control of the Division of Hotels and Restaurants  
3202 of the Department of Business and Professional Regulation, to  
3203 the extent provided in chapters 399 and 509.

3204 Section 41. Paragraph (a) of subsection (2) of section  
3205 719.608, Florida Statutes, is amended to read:

3206 719.608 Notice of intended conversion; time of delivery;  
3207 content.—

3208 (2) (a) Each notice of intended conversion shall be dated  
3209 and in writing. The notice shall contain the following  
3210 statement, with the phrases of the following statement which  
3211 appear in upper case printed in conspicuous type:

3212

3213 These apartments are being converted to cooperative by  
3214 ... (name of developer) ..., the developer.

3215 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
3216 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
3217 AGREEMENT AS FOLLOWS:

3218 a. If you have continuously been a resident of these  
3219 apartments during the last 180 days and your rental agreement

11-00846-14

20141348\_\_

3220 expires during the next 270 days, you may extend your rental  
3221 agreement for up to 270 days after the date of this notice.

3222 b. If you have not been a continuous resident of these  
3223 apartments for the last 180 days and your rental agreement  
3224 expires during the next 180 days, you may extend your rental  
3225 agreement for up to 180 days after the date of this notice.

3226 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
3227 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
3228 DATE OF THIS NOTICE.

3229 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
3230 you may extend your rental agreement for up to 45 days after the  
3231 date of this notice while you decide whether to extend your  
3232 rental agreement as explained above. To do so, you must notify  
3233 the developer in writing. You will then have the full 45 days to  
3234 decide whether to extend your rental agreement as explained  
3235 above.

3236 3. During the extension of your rental agreement you will  
3237 be charged the same rent that you are now paying.

3238 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
3239 OF THE RENTAL AGREEMENT AS FOLLOWS:

3240 a. If your rental agreement began or was extended or  
3241 renewed after May 1, 1980, and your rental agreement, including  
3242 extensions and renewals, has an unexpired term of 180 days or  
3243 less, you may cancel your rental agreement upon 30 days' written  
3244 notice and move. Also, upon 30 days' written notice, you may  
3245 cancel any extension of the rental agreement.

3246 b. If your rental agreement was not begun or was not  
3247 extended or renewed after May 1, 1980, you may not cancel the  
3248 rental agreement without the consent of the developer. If your



11-00846-14

20141348\_\_

3249 rental agreement, including extensions and renewals, has an  
3250 unexpired term of 180 days or less, you may, however, upon 30  
3251 days' written notice cancel any extension of the rental  
3252 agreement.

3253 5. All notices must be given in writing and sent by mail,  
3254 return receipt requested, or delivered in person to the  
3255 developer at this address: ...(name and address of  
3256 developer)....

3257 6. If you have continuously been a resident of these  
3258 apartments during the last 180 days:

3259 a. You have the right to purchase your apartment and will  
3260 have 45 days to decide whether to purchase. If you do not buy  
3261 the unit at that price and the unit is later offered at a lower  
3262 price, you will have the opportunity to buy the unit at the  
3263 lower price. However, in all events your right to purchase the  
3264 unit ends when the rental agreement or any extension of the  
3265 rental agreement ends or when you waive this right in writing.

3266 b. Within 90 days you will be provided purchase information  
3267 relating to your apartment, including the price of your unit and  
3268 the condition of the building. If you do not receive this  
3269 information within 90 days, your rental agreement and any  
3270 extension will be extended 1 day for each day over 90 days until  
3271 you are given the purchase information. If you do not want this  
3272 rental agreement extension, you must notify the developer in  
3273 writing.

3274 7. If you have any questions regarding this conversion or  
3275 the Cooperative Act, you may contact the developer or the state  
3276 agency which regulates cooperatives: The Division of Florida  
3277 Condominiums, Homeowners' Associations, Timeshares, and Mobile

11-00846-14

20141348\_\_

3278 Homes, ... (Tallahassee address and telephone number of  
3279 division)....

3280 Section 42. Subsection (11) of section 721.05, Florida  
3281 Statutes, is amended to read:

3282 721.05 Definitions.—As used in this chapter, the term:

3283 (11) "Division" means the Division of Florida Condominiums,  
3284 Homeowners' Associations, Timeshares, and Mobile Homes of the  
3285 Department of Business and Professional Regulation.

3286 Section 43. Paragraph (d) of subsection (2) of section  
3287 721.07, Florida Statutes, is amended to read:

3288 721.07 Public offering statement.—Prior to offering any  
3289 timeshare plan, the developer must submit a filed public  
3290 offering statement to the division for approval as prescribed by  
3291 s. 721.03, s. 721.55, or this section. Until the division  
3292 approves such filing, any contract regarding the sale of that  
3293 timeshare plan is subject to cancellation by the purchaser  
3294 pursuant to s. 721.10.

3295 (2)

3296 (d) A developer shall have the authority to deliver to  
3297 purchasers any purchaser public offering statement that is not  
3298 yet approved by the division, provided that the following shall  
3299 apply:

3300 1. At the time the developer delivers an unapproved  
3301 purchaser public offering statement to a purchaser pursuant to  
3302 this paragraph, the developer shall deliver a fully completed  
3303 and executed copy of the purchase contract required by s. 721.06  
3304 that contains the following statement in conspicuous type in  
3305 substantially the following form which shall replace the  
3306 statements required by s. 721.06(1)(g):

11-00846-14

20141348\_\_

3307

3308 *The developer is delivering to you a public offering statement*  
3309 *that has been filed with but not yet approved by the Division of*  
3310 *Florida Condominiums, Homeowners' Associations, Timeshares, and*  
3311 *Mobile Homes. Any revisions to the unapproved public offering*  
3312 *statement you have received must be delivered to you, but only*  
3313 *if the revisions materially alter or modify the offering in a*  
3314 *manner adverse to you. After the division approves the public*  
3315 *offering statement, you will receive notice of the approval from*  
3316 *the developer and the required revisions, if any.*

3317

3318 *Your statutory right to cancel this transaction without any*  
3319 *penalty or obligation expires 10 calendar days after the date*  
3320 *you signed your purchase contract or the date on which you*  
3321 *receive the last of all documents required to be given to you*  
3322 *pursuant to section 721.07(6), Florida Statutes, or 10 calendar*  
3323 *days after you receive revisions required to be delivered to*  
3324 *you, if any, whichever is later. If you decide to cancel this*  
3325 *contract, you must notify the seller in writing of your intent*  
3326 *to cancel. Your notice of cancellation shall be effective upon*  
3327 *the date sent and shall be sent to ... (Name of Seller) ... at*  
3328 *... (Address of Seller) .... Any attempt to obtain a waiver of*  
3329 *your cancellation right is void and of no effect. While you may*  
3330 *execute all closing documents in advance, the closing, as*  
3331 *evidenced by delivery of the deed or other document, before*  
3332 *expiration of your 10-day cancellation period, is prohibited.*

3333

3334 *2. After receipt of approval from the division and prior to*  
3335 *closing, if any revisions made to the documents contained in the*

11-00846-14

20141348\_\_

3336 purchaser public offering statement materially alter or modify  
3337 the offering in a manner adverse to a purchaser, the developer  
3338 shall send the purchaser such revisions, together with a notice  
3339 containing a statement in conspicuous type in substantially the  
3340 following form:

3341  
3342 *The unapproved public offering statement previously delivered to*  
3343 *you, together with the enclosed revisions, has been approved by*  
3344 *the Division of Florida Condominiums, Homeowners' Associations,*  
3345 *Timeshares, and Mobile Homes. Accordingly, your cancellation*  
3346 *right expires 10 calendar days after you sign your purchase*  
3347 *contract or 10 calendar days after you receive these revisions,*  
3348 *whichever is later. If you have any questions regarding your*  
3349 *cancellation rights, you may contact the division at [insert*  
3350 *division's current address].*

3351  
3352 3. After receipt of approval from the division and prior to  
3353 closing, if no revisions have been made to the documents  
3354 contained in the unapproved purchaser public offering statement,  
3355 or if such revisions do not materially alter or modify the  
3356 offering in a manner adverse to a purchaser, the developer shall  
3357 send the purchaser a notice containing a statement in  
3358 conspicuous type in substantially the following form:

3359  
3360 *The unapproved public offering statement previously delivered to*  
3361 *you has been approved by the Division of Florida Condominiums,*  
3362 *Homeowners' Associations, Timeshares, and Mobile Homes.*  
3363 *Revisions made to the unapproved public offering statement, if*  
3364 *any, are not required to be delivered to you or are not deemed*

11-00846-14

20141348\_\_

3365 *by the developer, in its opinion, to materially alter or modify*  
3366 *the offering in a manner that is adverse to you. Accordingly,*  
3367 *your cancellation right expired 10 days after you signed your*  
3368 *purchase contract. A complete copy of the approved public*  
3369 *offering statement is available through the managing entity for*  
3370 *inspection as part of the books and records of the plan. If you*  
3371 *have any questions regarding your cancellation rights, you may*  
3372 *contact the division at [insert division's current address].*

3373 Section 44. Subsection (8) of section 721.08, Florida  
3374 Statutes, is amended to read:

3375 721.08 Escrow accounts; nondisturbance instruments;  
3376 alternate security arrangements; transfer of legal title.—

3377 (8) An escrow agent holding escrowed funds pursuant to this  
3378 chapter that have not been claimed for a period of 5 years after  
3379 the date of deposit shall make at least one reasonable attempt  
3380 to deliver such unclaimed funds to the purchaser who submitted  
3381 such funds to escrow. In making such attempt, an escrow agent is  
3382 entitled to rely on a purchaser's last known address as set  
3383 forth in the books and records of the escrow agent and is not  
3384 required to conduct any further search for the purchaser. If an  
3385 escrow agent's attempt to deliver unclaimed funds to any  
3386 purchaser is unsuccessful, the escrow agent may deliver such  
3387 unclaimed funds to the division and the division shall deposit  
3388 such unclaimed funds in the Division of Florida Condominiums,  
3389 Homeowners' Associations, Timeshares, and Mobile Homes Trust  
3390 Fund, 30 days after giving notice in a publication of general  
3391 circulation in the county in which the timeshare property  
3392 containing the purchaser's timeshare interest is located. The  
3393 purchaser may claim the same at any time prior to the delivery

11-00846-14

20141348\_\_

3394 of such funds to the division. After delivery of such funds to  
3395 the division, the purchaser shall have no more rights to the  
3396 unclaimed funds. The escrow agent is ~~shall~~ not ~~be~~ liable for any  
3397 claims from any party arising out of the escrow agent's delivery  
3398 of the unclaimed funds to the division pursuant to this section.

3399 Section 45. Paragraph (e) of subsection (5) of section  
3400 721.26, Florida Statutes, is amended to read:

3401 721.26 Regulation by division.—The division has the power  
3402 to enforce and ensure compliance with this chapter, except for  
3403 parts III and IV, using the powers provided in this chapter, as  
3404 well as the powers prescribed in chapters 718 and 719. In  
3405 performing its duties, the division shall have the following  
3406 powers and duties:

3407 (5) Notwithstanding any remedies available to purchasers,  
3408 if the division has reasonable cause to believe that a violation  
3409 of this chapter, or of any division rule adopted or order issued  
3410 pursuant to this chapter, has occurred, the division may  
3411 institute enforcement proceedings in its own name against any  
3412 regulated party, as such term is defined in this subsection:

3413 (e)1. The division may impose a penalty against any  
3414 regulated party for a violation of this chapter or any rule  
3415 adopted thereunder. A penalty may be imposed on the basis of  
3416 each day of continuing violation, but in no event may the  
3417 penalty for any offense exceed \$10,000. All accounts collected  
3418 shall be deposited with the Chief Financial Officer to the  
3419 credit of the Division of Florida Condominiums, Homeowners'  
3420 Associations, Timeshares, and Mobile Homes Trust Fund.

3421 2.a. If a regulated party fails to pay a penalty, the  
3422 division shall thereupon issue an order directing that such

11-00846-14

20141348\_\_

3423 regulated party cease and desist from further operation until  
3424 such time as the penalty is paid; or the division may pursue  
3425 enforcement of the penalty in a court of competent jurisdiction.

3426 b. If an owners' association or managing entity fails to  
3427 pay a civil penalty, the division may pursue enforcement in a  
3428 court of competent jurisdiction.

3429 Section 46. Section 721.28, Florida Statutes, is amended to  
3430 read:

3431 721.28 Division of Florida Condominiums, Homeowners'  
3432 Associations, Timeshares, and Mobile Homes Trust Fund.—All funds  
3433 collected by the division and any amounts paid as fees or  
3434 penalties under this chapter shall be deposited in the State  
3435 Treasury to the credit of the Division of Florida Condominiums,  
3436 Homeowners' Associations, Timeshares, and Mobile Homes Trust  
3437 Fund created by s. 718.509.

3438 Section 47. Paragraph (c) of subsection (1) of section  
3439 721.301, Florida Statutes, is amended to read:

3440 721.301 Florida Timesharing, Vacation Club, and Hospitality  
3441 Program.—

3442 (1)

3443 (c) The director may designate funds from the Division of  
3444 Florida Condominiums, Homeowners' Associations, Timeshares, and  
3445 Mobile Homes Trust Fund, not to exceed \$50,000 annually, to  
3446 support the projects and proposals undertaken pursuant to  
3447 paragraph (b). All state trust funds to be expended pursuant to  
3448 this section must be matched equally with private moneys and  
3449 shall comprise no more than half of the total moneys expended  
3450 annually.

3451 Section 48. Subsection (1) of section 723.003, Florida

11-00846-14

20141348\_\_

3452 Statutes, is amended to read:

3453       723.003 Definitions.—As used in this chapter, the following  
3454 words and terms have the following meanings unless clearly  
3455 indicated otherwise:

3456       (1) The term "division" means the Division of Florida  
3457 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
3458 Homes of the Department of Business and Professional Regulation.

3459       Section 49. Paragraph (e) of subsection (5) of section  
3460 723.006, Florida Statutes, is amended to read:

3461       723.006 Powers and duties of division.—In performing its  
3462 duties, the division has the following powers and duties:

3463       (5) Notwithstanding any remedies available to mobile home  
3464 owners, mobile home park owners, and homeowners' associations,  
3465 if the division has reasonable cause to believe that a violation  
3466 of any provision of this chapter or related rule has occurred,  
3467 the division may institute enforcement proceedings in its own  
3468 name against a developer, mobile home park owner, or homeowners'  
3469 association, or its assignee or agent, as follows:

3470       (e)1. The division may impose a civil penalty against a  
3471 mobile home park owner or homeowners' association, or its  
3472 assignee or agent, for any violation of this chapter, a properly  
3473 adopted park rule or regulation, or a rule adopted pursuant  
3474 hereto. A penalty may be imposed on the basis of each separate  
3475 violation and, if the violation is a continuing one, for each  
3476 day of continuing violation, but in no event may the penalty for  
3477 each separate violation or for each day of continuing violation  
3478 exceed \$5,000. All amounts collected shall be deposited with the  
3479 Chief Financial Officer to the credit of the Division of Florida  
3480 Condominiums, Homeowners' Associations, Timeshares, and Mobile



11-00846-14

20141348\_\_

3481 Homes Trust Fund.

3482       2. If a violator fails to pay the civil penalty, the  
3483 division shall thereupon issue an order directing that such  
3484 violator cease and desist from further violation until such time  
3485 as the civil penalty is paid or may pursue enforcement of the  
3486 penalty in a court of competent jurisdiction. If a homeowners'  
3487 association fails to pay the civil penalty, the division shall  
3488 ~~thereupon~~ pursue enforcement in a court of competent  
3489 jurisdiction, and the order imposing the civil penalty or the  
3490 cease and desist order does ~~shall~~ not become effective until 20  
3491 days after the date of such order. Any action commenced by the  
3492 division shall be brought in the county in which the division  
3493 has its executive offices or in which the violation occurred.

3494       Section 50. Section 723.009, Florida Statutes, is amended  
3495 to read:

3496       723.009 Division of Florida Condominiums, Homeowners'  
3497 Associations, Timeshares, and Mobile Homes Trust Fund.—All  
3498 proceeds from the fees, penalties, and fines imposed pursuant to  
3499 this chapter shall be deposited into the Division of Florida  
3500 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
3501 Homes Trust Fund created by s. 718.509. Moneys in this fund, as  
3502 appropriated by the Legislature pursuant to chapter 216, may be  
3503 used to defray the expenses incurred by the division in  
3504 administering the provisions of this chapter.

3505       Section 51. Paragraph (c) of subsection (2) of section  
3506 723.0611, Florida Statutes, is amended to read:

3507       723.0611 Florida Mobile Home Relocation Corporation.—

3508       (2)

3509       (c) The corporation shall, for purposes of s. 768.28, be

11-00846-14

20141348\_\_

3510 considered an agency of the state. Agents or employees of the  
3511 corporation, members of the board of directors of the  
3512 corporation, or representatives of the Division of Florida  
3513 Condominiums, Homeowners' Associations, Timeshares, and Mobile  
3514 Homes shall be considered officers, employees, or agents of the  
3515 state, and actions against them and the corporation shall be  
3516 governed by s. 768.28.

3517 Section 52. This act shall take effect July 1, 2014.