

By the Committees on Judiciary; Regulated Industries; and  
Senators Jones and Bennett

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

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

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

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

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117 be stated on the certificate; providing for the  
118 establishment of such fees; providing for payment of the  
119 fee; requiring that the fee be refunded if a planned sale  
120 or mortgage does not occur; providing that any such refund  
121 is the obligation of the unit owner and is collectable in  
122 the same manner as an assessment; amending s. 20.165,  
123 F.S.; changing the name of the Division of Florida Land  
124 Sales, Condominiums, and Mobile Homes to the Division of  
125 Florida Condominiums, Timeshares, and Mobile Homes and the  
126 Division of Technology, Licensure, and Testing to the  
127 Division of Technology; amending s. 215.20, F.S.;  
128 conforming the name of the division's trust fund to  
129 correspond to the name change of the division; amending s.  
130 450.33, F.S.; removing the requirement for a farm labor  
131 contractor to file a set of fingerprints with the  
132 department; amending s. 455.203, F.S.; authorizing the  
133 department to close and terminate deficient license  
134 applications and to approve professional license  
135 applications meeting certain criteria; amending s.  
136 455.217, F.S.; conforming terminology to changes made by  
137 the act; amending s. 455.2273, F.S.; authorizing the  
138 section to apply to disciplinary guidelines adopted by all  
139 boards and divisions; amending s. 468.841, F.S.;  
140 clarifying exemption provisions for license provisions  
141 governing mold-related services; amending s. 475.17, F.S.;  
142 revising requirements for licensure as a real estate  
143 broker; amending s. 475.451, F.S.; deleting requirements  
144 relating to the submission of certain real estate course  
145 rosters to the department; amending s. 489.105, F.S.;

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146 clarifying that individuals and business entities that  
147 sell manufactured and factory-built buildings can legally  
148 enter into contracts for those sales; amending s. 489.511,  
149 F.S.; revising requirements for taking the electrical or  
150 alarm system contractor certification examination;  
151 providing requirements for certification; amending s.  
152 489.515, F.S.; revising requirements for certification as  
153 a certified contractor by the Electrical Contractors'  
154 Licensing Board to reflect changes made to s. 489.511,  
155 F.S., by this act; renumbering s. 498.009, F.S., relating  
156 to the location of the division's offices; amending and  
157 renumbering s. 498.011, F.S., relating to payment of per  
158 diem, mileage, and other expenses for division employees;  
159 providing for reimbursement of expenses for on-site  
160 review; deleting the expense reimbursement for inspection  
161 of subdivided lands; renumbering s. 498.013, F.S.,  
162 relating to the authentication of records; amending and  
163 renumbering s. 498.057, F.S., relating to service of  
164 process; deleting provision that service may be made by  
165 delivering a copy of the process to the division director;  
166 providing that the division can be the petitioner or the  
167 plaintiff; repealing ss. 498.001, 498.003, 498.005,  
168 498.007, 498.017, 498.021, 498.022, 498.023, 498.024,  
169 498.025, 498.027, 498.028, 498.029, 498.031, 498.033,  
170 498.035, 498.037, 498.039, 498.041, 498.047, 498.049,  
171 498.051, 498.053, 498.059, 498.061, and 498.063, F.S.,  
172 relating to regulation of land sales practices; amending  
173 s. 548.0065, F.S.; including amateur mixed martial arts in  
174 a provision relating to the authority of the Florida State

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175 Boxing Commission to suspend amateur matches for violation  
176 of certain health and safety standards; amending s.  
177 548.008, F.S.; removing prohibition against holding  
178 amateur mixed martial arts matches in this state; amending  
179 s. 548.041, F.S.; providing additional licensure  
180 requirements for boxing participants; amending s. 718.501,  
181 F.S.; providing additional powers and duties of the  
182 division; providing for additional enforcement proceedings  
183 for carrying out the purposes of ch. 718, F.S.; deleting  
184 the payment of money by a developer to a condominium  
185 association as a permissible affirmative action; providing  
186 for actions of conservator or receiver; providing for  
187 application to circuit court for an order of restitution;  
188 providing for imposition of civil penalties and award of  
189 court costs, attorney's fees, and costs of investigation  
190 under certain circumstances; providing for contracting for  
191 investigative services; providing for acceptance of  
192 grants-in-aid; requiring the cooperation with similar  
193 agencies on establishment of certain procedures,  
194 standards, and forms; providing what constitutes  
195 completeness of notice; authorizing the division to issue  
196 a notice to show cause; providing conforming changes;  
197 amending s. 718.509, F.S., and transferring, renumbering,  
198 and amending s. 498.019, F.S.; consolidating and revising  
199 provisions relating to the creation, purposes, and sources  
200 of funds of the Division of Florida Condominiums,  
201 Timeshares, and Mobile Homes Trust Fund; revising  
202 provisions to conform to the change in division name;  
203 providing for the deposit of moneys resulting from an

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204 administrative final order; amending s. 721.03, F.S.;

205 clarifying that timeshare plan includes a nonspecific

206 multisite timeshare plan; amending ss. 73.073, 190.009,

207 192.037, 213.053, 326.002, 326.006, 380.05, 380.06,

208 380.0651, 381.0065, 455.116, 475.455, 494.008, 509.512,

209 517.301, 559.935, 718.103, 718.105, 718.1255, 718.5011,

210 718.502, 718.504, 718.508, 718.608, 719.103, 719.1255,

211 719.501, 719.502, 719.504, 719.508, 719.608, 720.301,

212 720.401, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301,

213 721.50, 723.003, 723.006, 723.009, and 723.0611, F.S., to

214 conform; amending s. 849.094, F.S.; providing that certain

215 provisions related to game promotion in connection with

216 the sale of consumer products or services do not apply to

217 pari-mutuel permitholders licensed to conduct slot machine

218 gaming; providing effective dates.

219

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

221

222 Section 1. Subsection (11) of section 718.111, Florida

223 Statutes, is amended to read:

224 718.111 The association.--

225 (11) INSURANCE.--In order to protect the safety, health,

226 and welfare of the people of the State of Florida and to ensure

227 consistency in the provision of insurance coverage to

228 condominiums and their unit owners, this subsection applies

229 ~~paragraphs (a), (b), and (c) are deemed to apply~~ to every

230 residential condominium in the state, regardless of the date of

231 its declaration of condominium. It is the intent of the

232 Legislature to encourage lower or stable insurance premiums for



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233 associations described in this subsection ~~section~~.

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

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

244 2. The association may also provide adequate hazard  
245 insurance coverage individually or for a group of no fewer than  
246 three communities created and operating under this chapter,  
247 chapter 719, chapter 720, or chapter 721 by obtaining and  
248 maintaining for such communities insurance coverage sufficient to  
249 cover an amount equal to the probable maximum loss for the  
250 communities for a 250-year windstorm event. Such probable maximum  
251 loss must be determined through the use of a competent model that  
252 has been accepted by the Florida Commission on Hurricane Loss  
253 Projection Methodology. No policy or program providing such  
254 coverage shall be issued or renewed after July 1, 2008, unless it  
255 has been reviewed and approved by the Office of Insurance  
256 Regulation. The review and approval shall include approval of  
257 the policy and related forms pursuant to ss. 627.410 and 627.411,  
258 approval of the rates pursuant to s. 627.062, a determination  
259 that the loss model approved by the Commission was accurately and  
260 appropriately applied to the insured structures to determine the  
261 250-year probable maximum loss, and a determination that complete

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262 and accurate disclosure of all material provisions is provided  
263 to condominium unit owners prior to execution of the agreement by  
264 a condominium association.

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

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

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

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

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

286 3. The board shall establish the amount of deductibles  
287 based upon the level of available funds and predetermined  
288 assessment authority at a meeting of the board. Such meeting  
289 shall be open to all unit owners in the manner set forth in s.  
290 718.112(2)(e). The notice of such meeting must state the proposed

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291 deductible and the available funds and the assessment authority  
292 relied upon by the board and estimate any potential assessment  
293 amount against each unit, if any. The meeting described in this  
294 paragraph may be held in conjunction with a meeting to consider  
295 the proposed budget or an amendment thereto.

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

302 (e) The declaration of condominium as originally recorded,  
303 or as amended pursuant to procedures provided therein, may  
304 provide that condominium property consisting of freestanding  
305 buildings comprised of no more than one building in or on such  
306 unit need not be insured by the association if the declaration  
307 requires the unit owner to obtain adequate insurance for the  
308 condominium property. An association may also obtain and maintain  
309 liability insurance for directors and officers, insurance for the  
310 benefit of association employees, and flood insurance for common  
311 elements, association property, and units.

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

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

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

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

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

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

342       2. The association shall require each owner to provide  
343 evidence of a currently effective policy of hazard and liability  
344 insurance upon request, but not more than once per year. Upon the  
345 failure of an owner to provide a certificate of insurance issued  
346 by an insurer approved to write such insurance in this state  
347 within 30 days after the date on which a written request is  
348 delivered, the association may purchase a policy of insurance on

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349 behalf of an owner. The cost of such a policy, together with  
350 reconstruction costs undertaken by the association but which are  
351 the responsibility of the unit owner, may be collected in the  
352 manner provided for the collection of assessments in s. 718.116.

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

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

371 5. A multicondominium association may elect, by a majority  
372 vote of the collective members of the condominiums operated by  
373 the association, to operate such condominiums as a single  
374 condominium for purposes of insurance matters, including, but not  
375 limited to, the purchase of the hazard insurance required by this  
376 section and the apportionment of deductibles and damages in  
377 excess of coverage. The election to aggregate the treatment of

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378 insurance premiums, deductibles, and excess damages constitutes  
379 an amendment to the declaration of all condominiums operated by  
380 the association, and the costs of insurance shall be stated in  
381 the association budget. The amendments shall be recorded as  
382 required by s. 718.110.

383 (h) The association shall maintain insurance or fidelity  
384 bonding of all persons who control or disburse funds of the  
385 association. The insurance policy or fidelity bond must cover the  
386 maximum funds that will be in the custody of the association or  
387 its management agent at any one time. As used in this paragraph,  
388 the term "persons who control or disburse funds of the  
389 association" includes, but is not limited to, those individuals  
390 authorized to sign checks on behalf of the association, and the  
391 president, secretary, and treasurer of the association. The  
392 association shall bear the cost of any such bonding.

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

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

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

415       2. The provisions of subparagraph 1. regarding the  
416 financial responsibility of a unit owner for the costs of  
417 repairing or replacing other portions of the condominium property  
418 also applies to the costs of repair or replacement of personal  
419 property of other unit owners or the association, as well as  
420 other property, whether real or personal, which the unit owners  
421 are required to insure under paragraph (g).

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

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

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

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

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

461        (n) The association is not obligated to pay for any  
462 reconstruction or repair expenses due to casualty loss to any  
463 improvements installed by a current or former owner of the unit  
464 or by the developer if the improvement benefits only the unit for



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465 which it was installed and is not part of the standard  
466 improvements installed by the developer on all units as part of  
467 original construction, whether or not such improvement is located  
468 within the unit. This paragraph does not relieve any party of its  
469 obligations regarding recovery due under any insurance  
470 implemented specifically for any such improvements.

471 (o) The provisions of this subsection shall not apply to  
472 timeshare condominium associations. Insurance for timeshare  
473 condominium associations shall be maintained pursuant to s.  
474 721.165.

475 ~~Therefore, the Legislature requires a report to be prepared by~~  
476 ~~the Office of Insurance Regulation of the Department of Financial~~  
477 ~~Services for publication 18 months from the effective date of~~  
478 ~~this act, evaluating premium increases or decreases for~~  
479 ~~associations, unit owner premium increases or decreases,~~  
480 ~~recommended changes to better define common areas, or any other~~  
481 ~~information the Office of Insurance Regulation deems appropriate.~~

482 ~~(a) A unit owner controlled association operating a~~  
483 ~~residential condominium shall use its best efforts to obtain and~~  
484 ~~maintain adequate insurance to protect the association, the~~  
485 ~~association property, the common elements, and the condominium~~  
486 ~~property required to be insured by the association pursuant to~~  
487 ~~paragraph (b). If the association is developer controlled, the~~  
488 ~~association shall exercise due diligence to obtain and maintain~~  
489 ~~such insurance. Failure to obtain and maintain adequate insurance~~  
490 ~~during any period of developer control shall constitute a breach~~  
491 ~~of fiduciary responsibility by the developer-appointed members of~~  
492 ~~the board of directors of the association, unless said members~~  
493 ~~can show that despite such failure, they have exercised due~~

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494 ~~diligence. The declaration of condominium as originally recorded,~~  
495 ~~or amended pursuant to procedures provided therein, may require~~  
496 ~~that condominium property consisting of freestanding buildings~~  
497 ~~where there is no more than one building in or on such unit need~~  
498 ~~not be insured by the association if the declaration requires the~~  
499 ~~unit owner to obtain adequate insurance for the condominium~~  
500 ~~property. An association may also obtain and maintain liability~~  
501 ~~insurance for directors and officers, insurance for the benefit~~  
502 ~~of association employees, and flood insurance for common~~  
503 ~~elements, association property, and units. Adequate insurance,~~  
504 ~~regardless of any requirement in the declaration of condominium~~  
505 ~~for coverage by the association for "full insurable value,"~~  
506 ~~"replacement cost," or the like, may include reasonable~~  
507 ~~deductibles as determined by the board based upon available funds~~  
508 ~~or predetermined assessment authority at the time that the~~  
509 ~~insurance is obtained.~~

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

521 ~~2. An association or group of associations may self-insure~~  
522 ~~against claims against the association, the association property,~~

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523 ~~and the condominium property required to be insured by an~~  
524 ~~association, upon compliance with the applicable provisions of~~  
525 ~~ss. 624.460-624.488, which shall be considered adequate insurance~~  
526 ~~for the purposes of this section. A copy of each policy of~~  
527 ~~insurance in effect shall be made available for inspection by~~  
528 ~~unit owners at reasonable times.~~

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

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

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

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

542  
543 ~~Anything to the contrary notwithstanding, the terms "condominium~~  
544 ~~property," "building," "improvements," "insurable improvements,"~~  
545 ~~"common elements," "association property," or any other term~~  
546 ~~found in the declaration of condominium which defines the scope~~  
547 ~~of property or casualty insurance that a condominium association~~  
548 ~~must obtain shall exclude all floor, wall, and ceiling coverings,~~  
549 ~~electrical fixtures, appliances, air conditioner or heating~~  
550 ~~equipment, water heaters, water filters, built-in cabinets and~~  
551 ~~countertops, and window treatments, including curtains, drapes,~~

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

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

579 ~~(d) The association shall obtain and maintain adequate~~  
580 ~~insurance or fidelity bonding of all persons who control or~~

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581 | ~~disburse funds of the association. The insurance policy or~~  
582 | ~~fidelity bond must cover the maximum funds that will be in the~~  
583 | ~~custody of the association or its management agent at any one~~  
584 | ~~time. As used in this paragraph, the term "persons who control or~~  
585 | ~~disburse funds of the association" includes, but is not limited~~  
586 | ~~to, those individuals authorized to sign checks and the~~  
587 | ~~president, secretary, and treasurer of the association. The~~  
588 | ~~association shall bear the cost of bonding.~~

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

591 |       718.115 Common expenses and common surplus.--

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

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

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

621 718.116 Assessments; liability; lien and priority;  
622 interest; collection.--

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

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

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

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

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

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

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

657 718.117 Termination of condominium.--

658 (17) DISTRIBUTION.--

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

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

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

667 3. To purchase-money lienholders on units to the extent

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668 necessary to satisfy their liens; however, the distribution may  
669 not exceed a unit owner's share of the proceeds.

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

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

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

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

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

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

692 720.30851 Estoppel certificates.--Within 15 days after the  
693 date on which a request for an estoppel certificate is received  
694 from a parcel owner or mortgagee, or his or her designee, the  
695 association shall provide a certificate signed by an officer or  
696 authorized agent of the association stating all assessments and



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697 other moneys owed to the association by the parcel owner or  
698 mortgagee with respect to the parcel. An association may charge a  
699 fee for the preparation of such certificate, and the amount of  
700 such fee must be stated on the certificate.

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

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

707 (3) The authority to charge a fee for a certificate  
708 required by this section shall be established by written  
709 resolution adopted by the board or provided by written  
710 management, bookkeeping, or maintenance contract. The fee is  
711 payable upon the preparation of the certificate, and, if the  
712 certificate is requested in conjunction with the sale or mortgage  
713 of a unit and the closing does not occur, the fee shall be  
714 refunded promptly upon written notice from the person requesting  
715 the certificate stating that the sale or mortgage did not occur.  
716 Any such refund is the obligation of the unit owner and is  
717 collectible in the same manner as an assessment as provided in  
718 this section.

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

721 20.165 Department of Business and Professional  
722 Regulation.--There is created a Department of Business and  
723 Professional Regulation.

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

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

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

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

731 73.073 Eminent domain procedure with respect to condominium  
732 common elements.--

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

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

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

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

750 (d) The appraisal value of the property.

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

754 (f) A clear, concise statement relating to the power of the

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755 association to convey the property on behalf of the unit owners  
756 if no objection to the taking or appraisal value is raised, and  
757 the effects of this alternative on the unit owner.

758

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

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

766 190.009 Disclosure of public financing.--

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

771 (2) ~~(3)~~ The Department of Community Affairs shall keep a  
772 current list of districts and their disclosures pursuant to this  
773 act and shall make such studies and reports and take such actions  
774 as it deems necessary.

775 Section 9. Paragraph (e) of subsection (6) of section  
776 192.037, Florida Statutes, is amended to read:

777 192.037 Fee timeshare real property; taxes and assessments;  
778 escrow.--

779 (6)

780 (e) On or before May 1 of each year, a statement of  
781 receipts and disbursements of the escrow account must be filed  
782 with the Division of Florida ~~Land Sales~~, Condominiums,  
783 Timeshares, and Mobile Homes of the Department of Business and

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784 Professional Regulation, which may enforce this paragraph  
785 pursuant to s. 721.26. This statement must appropriately show the  
786 amount of principal and interest in such account.

787 Section 10. Paragraph (i) of subsection (8) of section  
788 213.053, Florida Statutes, is amended to read:

789 213.053 Confidentiality and information sharing.--

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

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

796  
797 Disclosure of information under this subsection shall be pursuant  
798 to a written agreement between the executive director and the  
799 agency. Such agencies, governmental or nongovernmental, shall be  
800 bound by the same requirements of confidentiality as the  
801 Department of Revenue. Breach of confidentiality is a misdemeanor  
802 of the first degree, punishable as provided by s. 775.082 or s.  
803 775.083.

804 Section 11. Paragraph (d) of subsection (4) of section  
805 215.20, Florida Statutes, is amended to read:

806 215.20 Certain income and certain trust funds to contribute  
807 to the General Revenue Fund.--

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

812 (d) Within the Department of Business and Professional

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813 Regulation:

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

825

826 The enumeration of the foregoing moneys or trust funds shall not

827 prohibit the applicability ~~thereto~~ of s. 215.24 should the

828 Governor determine that for the reasons mentioned in s. 215.24

829 the money or trust funds should be exempt herefrom, as it is the

830 purpose of this law to exempt income from its force and effect

831 when, by the operation of this law, federal matching funds or

832 contributions or private grants to any trust fund would be lost

833 to the state.

834 Section 12. Subsection (2) of section 326.002, Florida

835 Statutes, is amended to read:

836 326.002 Definitions.--As used in ss. 326.001-326.006, the

837 term:

838 (2) "Division" means the Division of Florida ~~Land Sales~~,

839 Condominiums, Timeshares, and Mobile Homes of the Department of

840 Business and Professional Regulation.

841 Section 13. Paragraph (d) of subsection (2) and subsection

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

843 326.006 Powers and duties of division.--

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

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

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

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

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

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

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

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

895 380.05 Areas of critical state concern.--

896 (18) Neither the designation of an area of critical state  
897 concern nor the adoption of any regulations for such an area  
898 shall in any way limit or modify the rights of any person to  
899 complete any development that was ~~has been~~ authorized by

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900 registration of a subdivision pursuant to former chapter 498 or  
901 former chapter 478, by recordation pursuant to local subdivision  
902 plat law, or by a building permit or other authorization to  
903 commence development on which there has been reliance and a  
904 change of position, and which registration or recordation was  
905 accomplished, or which permit or authorization was issued, prior  
906 to the approval under subsection (6), or the adoption under  
907 subsection (8), of land development regulations for the area of  
908 critical state concern. If a developer has by his or her actions  
909 in reliance on prior regulations obtained vested or other legal  
910 rights that in law would have prevented a local government from  
911 changing those regulations in a way adverse to the developer's  
912 interests, nothing in this chapter authorizes any governmental  
913 agency to abridge those rights.

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

916 380.06 Developments of regional impact.--

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



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929 | the developer's interests, nothing in this chapter authorizes any  
930 | governmental agency to abridge those rights.

931 |       (a) For the purpose of determining the vesting of rights  
932 | under this subsection, approval pursuant to local subdivision  
933 | plat law, ordinances, or regulations of a subdivision plat by  
934 | formal vote of a county or municipal governmental body having  
935 | jurisdiction after August 1, 1967, and prior to July 1, 1973, is  
936 | sufficient to vest all property rights for the purposes of this  
937 | subsection; and no action in reliance on, or change of position  
938 | concerning, such local governmental approval is required for  
939 | vesting to take place. Anyone claiming vested rights under this  
940 | paragraph must ~~se~~ notify the department in writing by January 1,  
941 | 1986. Such notification shall include information adequate to  
942 | document the rights established by this subsection. When such  
943 | notification requirements are met, in order for the vested rights  
944 | authorized pursuant to this paragraph to remain valid after June  
945 | 30, 1990, development of the vested plan must be commenced prior  
946 | to that date upon the property that the state land planning  
947 | agency has determined to have acquired vested rights following  
948 | the notification or in a binding letter of interpretation. When  
949 | the notification requirements have not been met, the vested  
950 | rights authorized by this paragraph shall expire June 30, 1986,  
951 | unless development commenced prior to that date.

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

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958 Section 16. Paragraph (a) of subsection (4) of section  
959 380.0651, Florida Statutes, is amended to read:

960 380.0651 Statewide guidelines and standards.--

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

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

969 1.a. The same person has retained or shared control of the  
970 developments;

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

973 c. There is common management of the developments  
974 controlling the form of physical development or disposition of  
975 parcels of the development.

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

981 3. A master plan or series of plans or drawings exists  
982 covering the developments sought to be aggregated which have been  
983 submitted to a local general-purpose government, water management  
984 district, the Florida Department of Environmental Protection, or  
985 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
986 Mobile Homes for authorization to commence development. The

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987 | existence or implementation of a utility's master utility plan  
988 | required by the Public Service Commission or general-purpose  
989 | local government or a master drainage plan shall not be the sole  
990 | determinant of the existence of a master plan.

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

999 |       5. There is a common advertising scheme or promotional plan  
1000 | in effect for the developments sought to be aggregated.

1001 |       Section 17. Paragraph (c) of subsection (4) of section  
1002 | 381.0065, Florida Statutes, is amended to read:

1003 |       381.0065 Onsite sewage treatment and disposal systems;  
1004 | regulation.--

1005 |       (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may  
1006 | not construct, repair, modify, abandon, or operate an onsite  
1007 | sewage treatment and disposal system without first obtaining a  
1008 | permit approved by the department. The department may issue  
1009 | permits to carry out this section, but shall not make the  
1010 | issuance of such permits contingent upon prior approval by the  
1011 | Department of Environmental Protection, except that the issuance  
1012 | of a permit for work seaward of the coastal construction control  
1013 | line established under s. 161.053 shall be contingent upon  
1014 | receipt of any required coastal construction control line permit  
1015 | from the Department of Environmental Protection. A construction

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1016 permit is valid for 18 months from the issuance date and may be  
1017 extended by the department for one 90-day period under rules  
1018 adopted by the department. A repair permit is valid for 90 days  
1019 from the date of issuance. An operating permit must be obtained  
1020 prior to the use of any aerobic treatment unit or if the  
1021 establishment generates commercial waste. Buildings or  
1022 establishments that use an aerobic treatment unit or generate  
1023 commercial waste shall be inspected by the department at least  
1024 annually to assure compliance with the terms of the operating  
1025 permit. The operating permit for a commercial wastewater system  
1026 is valid for 1 year from the date of issuance and must be renewed  
1027 annually. The operating permit for an aerobic treatment unit is  
1028 valid for 2 years from the date of issuance and must be renewed  
1029 every 2 years. If all information pertaining to the siting,  
1030 location, and installation conditions or repair of an onsite  
1031 sewage treatment and disposal system remains the same, a  
1032 construction or repair permit for the onsite sewage treatment and  
1033 disposal system may be transferred to another person, if the  
1034 transferee files, within 60 days after the transfer of ownership,  
1035 an amended application providing all corrected information and  
1036 proof of ownership of the property. There is no fee associated  
1037 with the processing of this supplemental information. A person  
1038 may not contract to construct, modify, alter, repair, service,  
1039 abandon, or maintain any portion of an onsite sewage treatment  
1040 and disposal system without being registered under part III of  
1041 chapter 489. A property owner who personally performs  
1042 construction, maintenance, or repairs to a system serving his or  
1043 her own owner-occupied single-family residence is exempt from  
1044 registration requirements for performing such construction,

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1045 maintenance, or repairs on that residence, but is subject to all  
1046 permitting requirements. A municipality or political subdivision  
1047 of the state may not issue a building or plumbing permit for any  
1048 building that requires the use of an onsite sewage treatment and  
1049 disposal system unless the owner or builder has received a  
1050 construction permit for such system from the department. A  
1051 building or structure may not be occupied and a municipality,  
1052 political subdivision, or any state or federal agency may not  
1053 authorize occupancy until the department approves the final  
1054 installation of the onsite sewage treatment and disposal system.  
1055 A municipality or political subdivision of the state may not  
1056 approve any change in occupancy or tenancy of a building that  
1057 uses an onsite sewage treatment and disposal system until the  
1058 department has reviewed the use of the system with the proposed  
1059 change, approved the change, and amended the operating permit.

1060 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and  
1061 (b), for subdivisions platted of record on or before October 1,  
1062 1991, when a developer or other appropriate entity has previously  
1063 made or makes provisions, including financial assurances or other  
1064 commitments, acceptable to the Department of Health, that a  
1065 central water system will be installed by a regulated public  
1066 utility based on a density formula, private potable wells may be  
1067 used with onsite sewage treatment and disposal systems until the  
1068 agreed-upon densities are reached. ~~The department may consider~~  
1069 ~~assurances filed with the Department of Business and Professional~~  
1070 ~~Regulation under chapter 498 in determining the adequacy of the~~  
1071 ~~financial assurance required by this paragraph.~~ In a subdivision  
1072 regulated by this paragraph, the average daily sewage flow may  
1073 not exceed 2,500 gallons per acre per day. This section does not

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1074 affect the validity of existing prior agreements. After October  
1075 1, 1991, the exception provided under this paragraph is not  
1076 available to a developer or other appropriate entity.

1077 Section 18. Subsections (8) through (12) of section 450.33,  
1078 Florida Statutes, are amended to read:

1079 450.33 Duties of farm labor contractor.--Every farm labor  
1080 contractor must:

1081 ~~(8) File, within such time as the department may prescribe,~~  
1082 ~~a set of his or her fingerprints.~~

1083 (8)~~(9)~~ Produce evidence to the department that each vehicle  
1084 he or she uses for the transportation of employees complies with  
1085 the requirements and specifications established in chapter 316,  
1086 s. 316.622, or Pub. L. No. 93-518 as amended by Pub. L. No. 97-  
1087 470 meeting Department of Transportation requirements or, in lieu  
1088 thereof, bears a valid inspection sticker showing that the  
1089 vehicle has passed the inspection in the state in which the  
1090 vehicle is registered.

1091 (9)~~(10)~~ Comply with all applicable statutes, rules, and  
1092 regulations of the United States and of the State of Florida for  
1093 the protection or benefit of labor, including, but not limited  
1094 to, those providing for wages, hours, fair labor standards,  
1095 social security, workers' compensation, unemployment  
1096 compensation, child labor, and transportation.

1097 (10)~~(11)~~ Maintain accurate daily field records for each  
1098 employee actually paid by the farm labor contractor reflecting  
1099 the hours worked for the farm labor contractor and, if paid by  
1100 unit, the number of units harvested and the amount paid per unit.

1101 (11)~~(12)~~ Clearly display on each vehicle used to transport  
1102 migrant or seasonal farm workers a display sticker issued by the

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1103 | department, which states that the vehicle is authorized by the  
1104 | department to transport farm workers and the expiration date of  
1105 | the authorization.

1106 |       Section 19. Subsection (10) is added to section 455.203,  
1107 | Florida Statutes, to read:

1108 |       455.203 Department; powers and duties.--The department, for  
1109 | the boards under its jurisdiction, shall:

1110 |       (10) Have authority to:

1111 |       (a) Close and terminate deficient license application files  
1112 | 2 years after the board or the department notifies the applicant  
1113 | of the deficiency; and

1114 |       (b) Approve applications for professional licenses that  
1115 | meet all statutory and rule requirements for licensure.

1116 |       Section 20. Subsection (5) of section 455.116, Florida  
1117 | Statutes, is amended to read:

1118 |       455.116 Regulation trust funds.--The following trust funds  
1119 | shall be placed in the department:

1120 |       (5) Division of Florida ~~Land Sales~~, Condominiums,  
1121 | Timeshares, and Mobile Homes Trust Fund.

1122 |       Section 21. Subsection (1) of section 455.217, Florida  
1123 | Statutes, is amended to read:

1124 |       455.217 Examinations.--This section shall be read in  
1125 | conjunction with the appropriate practice act associated with  
1126 | each regulated profession under this chapter.

1127 |       (1) The Division of Technology, ~~Licensure, and Testing~~ of  
1128 | the Department of Business and Professional Regulation shall  
1129 | provide, contract, or approve services for the development,  
1130 | preparation, administration, scoring, score reporting, and  
1131 | evaluation of all examinations. The division shall seek the

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1132 advice of the appropriate board in providing such services.

1133 (a) The department, acting in conjunction with the Division  
1134 of Technology, ~~Licensure, and Testing~~ and the Division of Real  
1135 Estate, as appropriate, shall ensure that examinations adequately  
1136 and reliably measure an applicant's ability to practice the  
1137 profession regulated by the department. After an examination  
1138 developed or approved by the department has been administered,  
1139 the board or department may reject any question which does not  
1140 reliably measure the general areas of competency specified in the  
1141 rules of the board or department, when there is no board. The  
1142 department shall use professional testing services for the  
1143 development, preparation, and evaluation of examinations, when  
1144 such services are available and approved by the board.

1145 (b) For each examination developed by the department or  
1146 contracted vendor, to the extent not otherwise specified by  
1147 statute, the board or the department when there is no board,  
1148 shall by rule specify the general areas of competency to be  
1149 covered by the examination, the relative weight to be assigned in  
1150 grading each area tested, the score necessary to achieve a  
1151 passing grade, and the fees, where applicable, to cover the  
1152 actual cost for any purchase, development, and administration of  
1153 the required examination. However, statutory fee caps in each  
1154 practice act shall apply. This subsection does not apply to  
1155 national examinations approved and administered pursuant to  
1156 paragraph (d).

1157 (c) If a practical examination is deemed to be necessary,  
1158 rules shall specify the criteria by which examiners are to be  
1159 selected, the grading criteria to be used by the examiner, the  
1160 relative weight to be assigned in grading each criterion, and the



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1161 | score necessary to achieve a passing grade. When a mandatory  
1162 | standardization exercise for a practical examination is required  
1163 | by law, the board may conduct such exercise. Therefore, board  
1164 | members may serve as examiners at a practical examination with  
1165 | the consent of the board.

1166 |       (d) A board, or the department when there is no board, may  
1167 | approve by rule the use of any national examination which the  
1168 | department has certified as meeting requirements of national  
1169 | examinations and generally accepted testing standards pursuant to  
1170 | department rules. Providers of examinations, which may be either  
1171 | profit or nonprofit entities, seeking certification by the  
1172 | department shall pay the actual costs incurred by the department  
1173 | in making a determination regarding the certification. The  
1174 | department shall use any national examination which is available,  
1175 | certified by the department, and approved by the board. The name  
1176 | and number of a candidate may be provided to a national  
1177 | contractor for the limited purpose of preparing the grade tape  
1178 | and information to be returned to the board or department or, to  
1179 | the extent otherwise specified by rule, the candidate may apply  
1180 | directly to the vendor of the national examination. The  
1181 | department may delegate to the board the duty to provide and  
1182 | administer the examination. Any national examination approved by  
1183 | a board, or the department when there is no board, prior to  
1184 | October 1, 1997, is deemed certified under this paragraph. Any  
1185 | licensing or certification examination that is not developed or  
1186 | administered by the department in-house or provided as a national  
1187 | examination shall be competitively bid.

1188 |       (e) The department shall adopt rules regarding the security  
1189 | and monitoring of examinations. In order to maintain the security

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1190 of examinations, the department may employ the procedures set  
1191 forth in s. 455.228 to seek fines and injunctive relief against  
1192 an examinee who violates the provisions of s. 455.2175 or the  
1193 rules adopted pursuant to this paragraph. The department, or any  
1194 agent thereof, may, for the purposes of investigation, confiscate  
1195 any written, photographic, or recording material or device in the  
1196 possession of the examinee at the examination site which the  
1197 department deems necessary to enforce such provisions or rules.

1198 (f) If the professional board with jurisdiction over an  
1199 examination concurs, the department may, for a fee, share with  
1200 any other state's licensing authority an examination developed by  
1201 or for the department unless prohibited by a contract entered  
1202 into by the department for development or purchase of the  
1203 examination. The department, with the concurrence of the  
1204 appropriate board, shall establish guidelines that ensure  
1205 security of a shared exam and shall require that any other  
1206 state's licensing authority comply with those guidelines. Those  
1207 guidelines shall be approved by the appropriate professional  
1208 board. All fees paid by the user shall be applied to the  
1209 department's examination and development program for professions  
1210 regulated by this chapter. All fees paid by the user for  
1211 professions not regulated by this chapter shall be applied to  
1212 offset the fees for the development and administration of that  
1213 profession's examination. If both a written and a practical  
1214 examination are given, an applicant shall be required to retake  
1215 only the portion of the examination for which he or she failed to  
1216 achieve a passing grade, if he or she successfully passes that  
1217 portion within a reasonable time of his or her passing the other  
1218 portion.

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1219 Section 22. Subsection (6) is added to section 455.2273,  
1220 Florida Statutes, to read:

1221 455.2273 Disciplinary guidelines.--

1222 (6) Notwithstanding s. 455.017, this section applies to  
1223 disciplinary guidelines adopted by all boards or divisions within  
1224 the department.

1225 Section 23. Effective July 1, 2010, paragraph (d) of  
1226 subsection (1) and paragraph (d) of subsection (2) of section  
1227 468.841, Florida Statutes, are amended to read:

1228 468.841 Exemptions.--

1229 (1) The following persons are not required to comply with  
1230 any provisions of this part relating to mold assessment:

1231 (d) Persons or business organizations acting within the  
1232 scope of the respective licenses required under chapter 471, part  
1233 I of chapter 481, chapter 482, ~~or~~ chapter 489, or part XV of this  
1234 chapter, are acting on behalf of an insurer under part VI of  
1235 chapter 626, or are persons in the manufactured housing industry  
1236 who are licensed under chapter 320, except when any such persons  
1237 or business organizations hold themselves out for hire to the  
1238 public as a "certified mold assessor ~~remediator,~~" "registered  
1239 mold assessor ~~remediator,~~" "licensed mold assessor ~~remediator,~~"  
1240 "mold assessor ~~remediator,~~" "professional mold assessor  
1241 ~~remediator,~~" or any combination thereof stating or implying  
1242 licensure under this part.

1243 (2) The following persons are not required to comply with  
1244 any provisions of this part relating to mold remediation:

1245 (d) Persons or business organizations that are acting  
1246 within the scope of the respective licenses required under  
1247 chapter 471, part I of chapter 481, chapter 482, ~~or~~ chapter 489,

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1248 or part XV of this chapter, are acting on behalf of an insurer  
1249 under part VI of chapter 626, or are persons in the manufactured  
1250 housing industry who are licensed under chapter 320, except when  
1251 any such persons or business organizations hold themselves out  
1252 for hire to the public as a "certified mold remediator ~~assessor,~~"  
1253 "registered mold remediator ~~assessor,~~" "licensed mold remediator  
1254 ~~assessor,~~" "mold remediator ~~assessor,~~" "professional mold  
1255 remediator ~~assessor,~~" or any combination thereof stating or  
1256 implying licensure under this part.

1257 Section 24. Paragraph (b) of subsection (2) of section  
1258 475.17, Florida Statutes, is amended to read:

1259 475.17 Qualifications for practice.--

1260 (2)

1261 (b) A person may not be licensed as a real estate broker  
1262 unless, in addition to the other requirements of law, the person  
1263 has held:

1264 1. An active real estate sales associate's license for at  
1265 least 24 ~~12~~ months during the preceding 5 years in the office of  
1266 one or more real estate brokers licensed in this state or any  
1267 other state, territory, or jurisdiction of the United States or  
1268 in any foreign national jurisdiction;

1269 2. A current and valid real estate sales associate's  
1270 license for at least 24 ~~12~~ months during the preceding 5 years in  
1271 the employ of a governmental agency for a salary and performing  
1272 the duties authorized in this part for real estate licensees; or

1273 3. A current and valid real estate broker's license for at  
1274 least 24 ~~12~~ months during the preceding 5 years in any other  
1275 state, territory, or jurisdiction of the United States or in any  
1276 foreign national jurisdiction.

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1277  
1278 ~~This paragraph does not apply to a person employed as a real~~  
1279 ~~estate investigator by the Division of Real Estate, provided the~~  
1280 ~~person has been employed as a real estate investigator for at~~  
1281 ~~least 24 months. The person must be currently employed as a real~~  
1282 ~~estate investigator to sit for the real estate broker's~~  
1283 ~~examination and have held a valid and current sales associate's~~  
1284 ~~license for at least 12 months.~~

1285 Section 25. Subsection (9) of section 475.451, Florida  
1286 Statutes, is amended to read:

1287 475.451 Schools teaching real estate practice.--

1288 ~~(9) (a) Each school permitholder of a proprietary real~~  
1289 ~~estate school, each chief administrative person of such an~~  
1290 ~~institution, or each course sponsor shall deliver to the~~  
1291 ~~department, in a format acceptable to the department, a copy of~~  
1292 ~~the classroom course roster of courses that require satisfactory~~  
1293 ~~completion of an examination no later than 30 days beyond the end~~  
1294 ~~of the calendar month in which the course was completed.~~

1295 ~~(b) The course roster shall consist of the institution or~~  
1296 ~~school name and permit number, if applicable, the instructor's~~  
1297 ~~name and permit number, if applicable, course title, beginning~~  
1298 ~~and ending dates of the course, number of course hours, course~~  
1299 ~~location, if applicable, each student's full name and license~~  
1300 ~~number, if applicable, each student's mailing address, and the~~  
1301 ~~numerical grade each student achieved. The course roster shall~~  
1302 ~~also include the signature of the school permitholder, the chief~~  
1303 ~~administrative person, or the course sponsor.~~

1304 Section 26. Section 475.455, Florida Statutes, is amended  
1305 to read:

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1306           475.455 Exchange of disciplinary information.--The  
1307 commission shall inform the Division of Florida ~~Land Sales,~~  
1308 Condominiums, Timeshares, and Mobile Homes of the Department of  
1309 Business and Professional Regulation of any disciplinary action  
1310 the commission has taken against any of its licensees. The  
1311 division shall inform the commission of any disciplinary action  
1312 the division has taken against any broker or sales associate  
1313 registered with the division.

1314           Section 27. Subsection (6) of section 489.105, Florida  
1315 Statutes, is amended to read:

1316           489.105 Definitions.--As used in this part:

1317           (6) "Contracting" means, except as exempted in this part,  
1318 engaging in business as a contractor and includes, but is not  
1319 limited to, performance of any of the acts as set forth in  
1320 subsection (3) which define types of contractors. The attempted  
1321 sale of contracting services and the negotiation or bid for a  
1322 contract on these services also constitutes contracting. If the  
1323 services offered require licensure or agent qualification, the  
1324 offering, negotiation for a bid, or attempted sale of these  
1325 services requires the corresponding licensure. However, the term  
1326 "contracting" shall not extend to an individual, partnership,  
1327 corporation, trust, or other legal entity that offers to sell or  
1328 sells completed residences on property on which the individual or  
1329 business entity has any legal or equitable interest, or to the  
1330 individual or business entity that offers to sell or sells  
1331 manufactured or factory-built buildings that will be completed on  
1332 site on property on which either party to a contract has any  
1333 legal or equitable interest, if the services of a qualified  
1334 contractor certified or registered pursuant to the requirements

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1335 of this chapter have been or will be retained for the purpose of  
1336 constructing or completing such residences.

1337 Section 28. Section 489.511, Florida Statutes, is amended  
1338 to read:

1339 489.511 Certification; application; examinations;  
1340 endorsement.--

1341 (1) (a) Any person who is at least 18 years of age may take  
1342 the certification examination.

1343 (b) Any person desiring to be certified as a contractor  
1344 shall apply to the department in writing and must meet the  
1345 following criteria: to take the certification examination.

1346 ~~(2) (a) A person shall be entitled to take the certification~~  
1347 ~~examination for the purpose of determining whether he or she is~~  
1348 ~~qualified to engage in contracting throughout the state as a~~  
1349 ~~contractor if the person:~~

1350 ~~1. Is at least 18 years of age;~~

1351 ~~1.2. Be~~ Be ~~is~~ of good moral character;

1352 2. Pass the certification examination, achieving a passing  
1353 grade as established by board rule; and

1354 3. Meet ~~Meets~~ eligibility requirements according to one of  
1355 the following criteria:

1356 a. Has, within the 6 years immediately preceding the filing  
1357 of the application, at least 3 years' proven management  
1358 experience in the trade or education equivalent thereto, or a  
1359 combination thereof, but not more than one-half of such  
1360 experience may be educational equivalent;

1361 b. Has, within the 8 years immediately preceding the filing  
1362 of the application, at least 4 years' experience as a supervisor  
1363 or contractor in the trade for which he or she is making

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1364 application;

1365 c. Has, within the 12 years immediately preceding the  
1366 filing of the application, at least 6 years of comprehensive  
1367 training, technical education, or supervisory experience  
1368 associated with an electrical or alarm system contracting  
1369 business, or at least 6 years of technical experience in  
1370 electrical or alarm system work with the Armed Forces or a  
1371 governmental entity;

1372 d. Has, within the 12 years immediately preceding the  
1373 filing of the application, been licensed for 3 years as a  
1374 professional engineer who is qualified by education, training, or  
1375 experience to practice electrical engineering; or

1376 e. Has any combination of qualifications under sub-  
1377 subparagraphs a.-c. totaling 6 years of experience.

1378 (c) ~~(b)~~ For purposes of this subsection, "supervisor" means  
1379 a person having the experience gained while having the general  
1380 duty of overseeing the technical duties of the trade, provided  
1381 that such experience is gained by a person who is able to perform  
1382 the technical duties of the trade without supervision.

1383 (d) ~~(e)~~ For purposes of this subsection, at least 40 percent  
1384 of the work experience for an alarm system contractor I must be  
1385 in the types of fire alarm systems typically used in a commercial  
1386 setting.

1387 (2) ~~(3)~~ The board may determine by rule the number of times  
1388 per year the applicant may take the examination and after three  
1389 unsuccessful attempts may ~~On or after October 1, 1998, every~~  
1390 ~~applicant who is qualified shall be allowed to take the~~  
1391 ~~examination three times, notwithstanding the number of times the~~  
1392 ~~applicant has previously failed the examination. If an applicant~~



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1393 ~~fails the examination three times after October 1, 1998, the~~  
1394 ~~board shall~~ require the applicant to complete additional college-  
1395 level or technical education courses in the areas of deficiency,  
1396 as determined by the board, as a condition of future eligibility  
1397 to take the examination. ~~The applicant must also submit a new~~  
1398 ~~application that meets all certification requirements at the time~~  
1399 ~~of its submission and must pay all appropriate fees.~~

1400 (3)~~(4)~~(a) "Good moral character" means a personal history  
1401 of honesty, fairness, and respect for the rights of others and  
1402 for laws of this state and nation.

1403 (b) The board may determine that an individual applying for  
1404 certification is ineligible ~~to take the examination~~ for failure  
1405 to satisfy the requirement of good moral character only if:

1406 1. There is a substantial connection between the lack of  
1407 good moral character of the individual and the professional  
1408 responsibilities of a certified contractor; and

1409 2. The finding by the board of lack of good moral character  
1410 is supported by clear and convincing evidence.

1411 (c) When an individual is found to be unqualified for  
1412 certification examination ~~examination~~ because of a lack of good moral  
1413 character, the board shall furnish such individual a statement  
1414 containing the findings of the board, a complete record of the  
1415 evidence upon which the determination was based, and a notice of  
1416 the rights of the individual to a rehearing and appeal.

1417 (4)~~(5)~~ The board shall, by rule, designate those types of  
1418 specialty electrical or alarm system contractors who may be  
1419 certified under this part. The limit of the scope of work and  
1420 responsibility of a certified specialty contractor shall be  
1421 established by board rule. A certified specialty contractor

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1422 category exists as an optional statewide licensing category.  
1423 Qualification for certification in a specialty category created  
1424 by rule shall be the same as set forth in paragraph (1) (b)  
1425 ~~(2) (a)~~. The existence of a specialty category created by rule  
1426 does not itself create any licensing requirement; however,  
1427 neither does its optional nature remove any licensure requirement  
1428 established elsewhere in this part.

1429 (5) ~~(6)~~ The board shall certify as qualified for  
1430 certification by endorsement any individual applying for  
1431 certification who:

1432 (a) Meets the requirements for certification as set forth  
1433 in this section; has passed a national, regional, state, or  
1434 United States territorial licensing examination that is  
1435 substantially equivalent to the examination required by this  
1436 part; and has satisfied the requirements set forth in s. 489.521;  
1437 or

1438 (b) Holds a valid license to practice electrical or alarm  
1439 system contracting issued by another state or territory of the  
1440 United States, if the criteria for issuance of such license was  
1441 substantially equivalent to the certification criteria that  
1442 existed in this state at the time the certificate was issued.

1443 (6) ~~(7)~~ Upon the issuance of a certificate, any previously  
1444 issued registered licenses for the classification in which the  
1445 certification is issued are rendered void.

1446 Section 29. Paragraph (b) of subsection (1) of section  
1447 489.515, Florida Statutes, is amended to read:

1448 489.515 Issuance of certificates; registrations.--

1449 (1)

1450 (b) The board shall certify as qualified for certification

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1451 any person who satisfies the requirements of s. 489.511, ~~who~~  
1452 ~~successfully passes the certification examination administered by~~  
1453 ~~the department, achieving a passing grade as established by board~~  
1454 ~~rule,~~ and who submits satisfactory evidence that he or she has  
1455 obtained both workers' compensation insurance or an acceptable  
1456 exemption certificate issued by the department and public  
1457 liability and property damage insurance for the health, safety,  
1458 and welfare of the public in amounts determined by rule of the  
1459 board, and furnishes evidence of financial responsibility,  
1460 credit, and business reputation of either himself or herself or  
1461 the business organization he or she desires to qualify.

1462 Section 30. Section 494.008, Florida Statutes, is amended  
1463 to read:

1464 494.008 Mortgages offered by land developers ~~licensed~~  
1465 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~  
1466 requirements; prohibitions.--No mortgage loan which has a face  
1467 amount of \$35,000 or less and is secured by vacant land  
1468 ~~registered under the Florida Uniform Land Sales Practices Law,~~  
1469 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial  
1470 institution, by any person unless all of the following  
1471 requirements are met:

1472 (1) Each mortgage securing a note or other obligation sold  
1473 or offered for sale shall be eligible for a recordation as a  
1474 first mortgage.

1475 (2) Each mortgage negotiated pursuant to this section must  
1476 include a mortgagee's title insurance policy or an opinion of  
1477 title, from an attorney who is licensed to practice law in this  
1478 state, on each parcel of land which is described in the mortgage.  
1479 The policy or opinion shall reflect that there are no other

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1480 mortgages on the property. A notice stating the priority of the  
1481 mortgage shall be placed on the face of each mortgage in an  
1482 amount over \$35,000 issued pursuant to this section.

1483 (3) Contracts to purchase a mortgage loan shall contain,  
1484 immediately above the purchaser's signature line, the statement  
1485 in 10-point boldfaced type: "This mortgage is secured by vacant  
1486 land subject to development at a future time." This statement  
1487 shall also be typed or printed in 10-point type on the face of  
1488 the note and mortgage sold.

1489 (4) The most recent assessment for tax purposes made by the  
1490 county property appraiser of each parcel of land described in the  
1491 mortgage shall be furnished to each mortgagee.

1492 (5) The mortgage broker shall record or cause to be  
1493 recorded all mortgages or other similar documents prior to  
1494 delivery of the note and mortgage to the mortgagee.

1495 (6) All funds received by the mortgage broker pursuant to  
1496 this section shall promptly be deposited in the broker's trust  
1497 account where they shall remain until the note and mortgage are  
1498 fully executed and recorded.

1499 (7) Willful failure to comply with any of the above  
1500 provisions shall subject the person to the penalties of s.  
1501 494.05.

1502 Section 31. Section 498.009, Florida Statutes, is  
1503 renumbered as section 718.50152, Florida Statutes.

1504 Section 32. Section 498.011, Florida Statutes, is  
1505 renumbered as section 718.50153, Florida Statutes, and amended to  
1506 read:

1507 718.50153 ~~498.011~~ Payment of per diem, mileage, and other  
1508 expenses to division employees.--The amount of per diem and

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1509 | mileage and expense money paid to employees shall be as provided  
1510 | in s. 112.061, except that the division shall establish by rule  
1511 | the standards for reimbursement of actual verified expenses  
1512 | incurred in connection with an on-site review ~~inspection~~ or  
1513 | investigation ~~of subdivided lands~~.

1514 |       Section 33. Section 498.013, Florida Statutes, is  
1515 | renumbered as section 718.50154, Florida Statutes.

1516 |       Section 34. Section 498.057, Florida Statutes, is  
1517 | renumbered as section 718.50155, Florida Statutes, and amended,  
1518 | to read:

1519 |       718.50155 ~~498.057~~ Service of process.--

1520 |       (1) In addition to the methods of service provided for in  
1521 | the Florida Rules of Civil Procedure and the Florida Statutes,  
1522 | service may be made and ~~by delivering a copy of the process to~~  
1523 | ~~the director of the division, which~~ shall be binding upon the  
1524 | defendant or respondent if:

1525 |       (a) The division ~~plaintiff~~, which is acting as the  
1526 | petitioner or plaintiff ~~may be the division~~, immediately sends a  
1527 | copy of the process and of the pleading by certified mail to the  
1528 | defendant or respondent at his or her last known address;; ~~and~~

1529 |       (b) The division ~~plaintiff~~ files an affidavit of compliance  
1530 | with this section on or before the return date of the process or  
1531 | within the time set by the court.

1532 |       (2) If any person, including any nonresident of this state,  
1533 | allegedly engages in conduct prohibited by this chapter, or any  
1534 | rule or order of the division, and has not filed a consent to  
1535 | service of process, and personal jurisdiction over him or her  
1536 | cannot otherwise be obtained in this state, the director shall be  
1537 | authorized to receive service of process in any noncriminal

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1538 proceeding against that person or his or her successor which  
1539 grows out of the conduct and which is brought by the division  
1540 under this chapter or any rule or order of the division. The  
1541 process shall have the same force and validity as if personally  
1542 served. Notice shall be given as provided in subsection (1).

1543 Section 35. Sections 498.001, 498.003, 498.005, 498.007,  
1544 498.017, 498.021, 498.022, 498.023, 498.024, 498.025, 498.027,  
1545 498.028, 498.029, 498.031, 498.033, 498.035, 498.037, 498.039,  
1546 498.041, 498.047, 498.049, 498.051, 498.053, 498.059, 498.061,  
1547 and 498.063, Florida Statutes, are repealed.

1548 Section 36. Section 509.512, Florida Statutes, is amended  
1549 to read:

1550 509.512 Timeshare plan developer and exchange company  
1551 exemption.--Sections 509.501-509.511 do not apply to a developer  
1552 of a timeshare plan or an exchange company approved by the  
1553 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
1554 Mobile Homes pursuant to chapter 721, but only to the extent that  
1555 the developer or exchange company engages in conduct regulated  
1556 under chapter 721.

1557 Section 37. Subsection (2) of section 517.301, Florida  
1558 Statutes, is amended to read:

1559 517.301 Fraudulent transactions; falsification or  
1560 concealment of facts.--

1561 (2) For purposes of ss. 517.311 and 517.312 and this  
1562 section, the term "investment" means any commitment of money or  
1563 property principally induced by a representation that an economic  
1564 benefit may be derived from such commitment, except that the term  
1565 ~~"investment"~~ does not include a commitment of money or property  
1566 for:

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1567 (a) The purchase of a business opportunity, business  
1568 enterprise, or real property through a person licensed under  
1569 chapter 475 or registered under former chapter 498; or

1570 (b) The purchase of tangible personal property through a  
1571 person not engaged in telephone solicitation, where said property  
1572 is offered and sold in accordance with the following conditions:

1573 1. There are no specific representations or guarantees made  
1574 by the offeror or seller as to the economic benefit to be derived  
1575 from the purchase;

1576 2. The tangible property is delivered to the purchaser  
1577 within 30 days after sale, except that such 30-day period may be  
1578 extended by the office if market conditions so warrant; and

1579 3. The seller has offered the purchaser a full refund  
1580 policy in writing, exercisable by the purchaser within 10 days of  
1581 the date of delivery of such tangible personal property, except  
1582 that the amount of such refund may not ~~in no event shall~~ exceed  
1583 the bid price in effect at the time the property is returned to  
1584 the seller. If the applicable sellers' market is closed at the  
1585 time the property is returned to the seller for a refund, the  
1586 amount of such refund shall be based on the bid price for such  
1587 property at the next opening of such market.

1588 Section 38. Subsection (4) of section 548.0065, Florida  
1589 Statutes, is amended to read:

1590 548.0065 Amateur matches; sanctioning and supervision;  
1591 health and safety standards; compliance checks; continuation,  
1592 suspension, and revocation of sanctioning approval.--

1593 (4) Any member of the commission or the executive director  
1594 of the commission may suspend the approval of an amateur  
1595 sanctioning organization for failure to supervise amateur matches

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1596 or to enforce the approved health and safety standards required  
1597 under this chapter, provided that the suspension complies with  
1598 the procedures for summary suspensions in s. 120.60(6). At any  
1599 amateur boxing, ~~or~~ kickboxing, or mixed martial arts contest, any  
1600 member of the commission or a representative of the commission  
1601 may immediately suspend one or more matches in an event whenever  
1602 it appears that the match or matches violate the health and  
1603 safety standards established by rule as required by this chapter.  
1604 A law enforcement officer may assist any member of the commission  
1605 or a representative of the commission to enforce an order to stop  
1606 a contest if called upon to do so by a member of the commission  
1607 or a representative of the commission.

1608 Section 39. Subsections (2), (3), and (4) of section  
1609 548.008, Florida Statutes, are amended to read:

1610 548.008 Prohibited competitions.--

1611 ~~(2) No amateur mixed martial arts match may be held in this~~  
1612 ~~state.~~

1613 (2)~~(3)~~ No professional match may be held in this state  
1614 unless it meets the requirements for holding the match as  
1615 provided in this chapter and the rules adopted by the commission.

1616 (3)~~(4)~~(a) Any person participating in a match prohibited  
1617 under this section, knowing the match to be prohibited, commits a  
1618 misdemeanor of the second degree, punishable as provided in s.  
1619 775.082 or s. 775.083.

1620 (b) Any person holding, promoting, or sponsoring a match  
1621 prohibited under this section commits a felony of the third  
1622 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1623 775.084.

1624 Section 40. Subsection (1) of section 548.041, Florida



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1625 Statutes, is amended to read:

1626 548.041 Age, condition, and suspension of participants.--

1627 (1) A person may ~~shall~~ not be licensed as a participant,  
1628 and the license of a ~~any~~ participant shall be suspended or  
1629 revoked, if such person:

1630 (a) Is under the age of 18;

1631 (b) Has participated in a match in this state which was not  
1632 sanctioned by the commission or by a Native American commission  
1633 properly constituted under federal law; ~~or~~

1634 (c) Does not meet certain health and medical examination  
1635 conditions as required by rule of the commission;;

1636 (d) Has not competed in a minimum number of amateur boxing  
1637 events as determined by commission rule prior to licensure; or

1638 (e) Has not participated in a minimum number of amateur  
1639 mixed martial arts events as determined by commission rule prior  
1640 to licensure.

1641 Section 41. Subsection (1) of section 559.935, Florida  
1642 Statutes, is amended to read:

1643 559.935 Exemptions.--

1644 (1) This part does not apply to:

1645 (a) A bona fide employee of a seller of travel who is  
1646 engaged solely in the business of her or his employer;

1647 (b) Any direct common carrier of passengers or property  
1648 regulated by an agency of the Federal Government or employees of  
1649 such carrier when engaged solely in the transportation business  
1650 of the carrier as identified in the carrier's certificate;

1651 (c) An intrastate common carrier of passengers or property  
1652 selling only transportation as defined in the applicable state or  
1653 local registration or certification, or employees of such carrier

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1654 | when engaged solely in the transportation business of the  
1655 | carrier;

1656 |         (d) Hotels, motels, or other places of public accommodation  
1657 | selling public accommodations, or employees of such hotels,  
1658 | motels, or other places of public accommodation, when engaged  
1659 | solely in making arrangements for lodging, accommodations, or  
1660 | sightseeing tours within the state, or taking reservations for  
1661 | the traveler with times, dates, locations, and accommodations  
1662 | certain at the time the reservations are made, provided that  
1663 | hotels and motels registered with the Department of Business and  
1664 | Professional Regulation pursuant to chapter 509 are excluded from  
1665 | the provisions of this chapter;

1666 |         (e) Persons involved solely in the rental, leasing, or sale  
1667 | of residential property;

1668 |         (f) Persons involved solely in the rental, leasing, or sale  
1669 | of transportation vehicles;

1670 |         (g) Persons who make travel arrangements for themselves;  
1671 | for their employees or agents; for distributors, franchisees, or  
1672 | dealers of the persons' products or services; for entities which  
1673 | are financially related to the persons; or for the employees or  
1674 | agents of the distributor, franchisee, or dealer or financially  
1675 | related entity;

1676 |         (h) A developer of a timeshare plan or an exchange company  
1677 | approved by the Division of Florida ~~Land Sales~~, Condominiums,  
1678 | Timeshares, and Mobile Homes pursuant to chapter 721, but only to  
1679 | the extent that the developer or exchange company engages in  
1680 | conduct regulated under chapter 721; or

1681 |         (i) Persons or entities engaged solely in offering diving  
1682 | services, including classes and sales or rentals of equipment,

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1683 when engaged in making any prearranged travel-related or tourist-  
1684 related services in conjunction with a primarily dive-related  
1685 event.

1686 Section 42. Subsection (17) of section 718.103, Florida  
1687 Statutes, is amended to read:

1688 718.103 Definitions.--As used in this chapter, the term:

1689 (17) "Division" means the Division of Florida ~~Land Sales,~~  
1690 Condominiums, Timeshares, and Mobile Homes of the Department of  
1691 Business and Professional Regulation.

1692 Section 43. Paragraph (c) of subsection (4) of section  
1693 718.105, Florida Statutes, is amended to read:

1694 718.105 Recording of declaration.--

1695 (4)

1696 (c) If the sum of money held by the clerk has not been paid  
1697 to the developer or association as provided in paragraph (b)  
1698 within ~~by~~ 3 years after the date the declaration was originally  
1699 recorded, the clerk ~~in his or her discretion~~ may notify, in  
1700 writing, the registered agent of the association that the sum is  
1701 still available and the purpose for which it was deposited. If  
1702 the association does not record the certificate within 90 days  
1703 after the clerk has given the notice, the clerk may disburse the  
1704 money to the developer. If the developer cannot be located, the  
1705 clerk shall disburse the money to the Division of Florida ~~Land~~  
1706 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes for deposit in  
1707 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
1708 Mobile Homes Trust Fund.

1709 Section 44. Subsection (4) of section 718.1255, Florida  
1710 Statutes, is amended to read:

1711 718.1255 Alternative dispute resolution; voluntary

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1712 mediation; mandatory nonbinding arbitration; legislative  
1713 findings.--

1714 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
1715 DISPUTES.--The Division of Florida ~~Land Sales~~, Condominiums,  
1716 Timeshares, and Mobile Homes of the Department of Business and  
1717 Professional Regulation shall employ full-time attorneys to act  
1718 as arbitrators to conduct the arbitration hearings provided by  
1719 this chapter. The division may also certify attorneys who are not  
1720 employed by the division to act as arbitrators to conduct the  
1721 arbitration hearings provided by this section. No person may be  
1722 employed by the department as a full-time arbitrator unless he or  
1723 she is a member in good standing of The Florida Bar. The  
1724 department shall adopt ~~promulgate~~ rules of procedure to govern  
1725 such arbitration hearings including mediation incident thereto.  
1726 The decision of an arbitrator shall be final; however, ~~such~~ a  
1727 decision shall not be deemed final agency action. Nothing in this  
1728 provision shall be construed to foreclose parties from proceeding  
1729 in a trial de novo unless the parties have agreed that the  
1730 arbitration is binding. If ~~such~~ judicial proceedings are  
1731 initiated, the final decision of the arbitrator shall be  
1732 admissible in evidence in the trial de novo.

1733 (a) Prior to the institution of court litigation, a party  
1734 to a dispute shall petition the division for nonbinding  
1735 arbitration. The petition must be accompanied by a filing fee in  
1736 the amount of \$50. Filing fees collected under this section must  
1737 be used to defray the expenses of the alternative dispute  
1738 resolution program.

1739 (b) The petition must recite, and have attached thereto,  
1740 supporting proof that the petitioner gave the respondents:

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1741 1. Advance written notice of the specific nature of the  
1742 dispute;

1743 2. A demand for relief, and a reasonable opportunity to  
1744 comply or to provide the relief; and

1745 3. Notice of the intention to file an arbitration petition  
1746 or other legal action in the absence of a resolution of the  
1747 dispute.

1748  
1749 Failure to include the allegations or proof of compliance with  
1750 these prerequisites requires dismissal of the petition without  
1751 prejudice.

1752 (c) Upon receipt, the petition shall be promptly reviewed  
1753 by the division to determine the existence of a dispute and  
1754 compliance with the requirements of paragraphs (a) and (b). If  
1755 emergency relief is required and is not available through  
1756 arbitration, a motion to stay the arbitration may be filed. The  
1757 motion must be accompanied by a verified petition alleging facts  
1758 that, if proven, would support entry of a temporary injunction,  
1759 and if an appropriate motion and supporting papers are filed, the  
1760 division may abate the arbitration pending a court hearing and  
1761 disposition of a motion for temporary injunction.

1762 (d) Upon determination by the division that a dispute  
1763 exists and that the petition substantially meets the requirements  
1764 of paragraphs (a) and (b) and any other applicable rules, a copy  
1765 of the petition shall ~~forthwith~~ be served by the division upon  
1766 all respondents.

1767 (e) ~~Either~~ Before or after the filing of the respondents'  
1768 answer to the petition, any party may request that the arbitrator  
1769 refer the case to mediation under this section and any rules

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1770 adopted by the division. Upon receipt of a request for mediation,  
1771 the division shall promptly contact the parties to determine if  
1772 there is agreement that mediation would be appropriate. If all  
1773 parties agree, the dispute must be referred to mediation.  
1774 Notwithstanding a lack of an agreement by all parties, the  
1775 arbitrator may refer a dispute to mediation at any time.

1776 (f) Upon referral of a case to mediation, the parties must  
1777 select a mutually acceptable mediator. To assist in the  
1778 selection, the arbitrator shall provide the parties with a list  
1779 of both volunteer and paid mediators that have been certified by  
1780 the division under s. 718.501. If the parties are unable to agree  
1781 on a mediator within the time allowed by the arbitrator, the  
1782 arbitrator shall appoint a mediator from the list of certified  
1783 mediators. If a case is referred to mediation, the parties shall  
1784 attend a mediation conference, as scheduled by the parties and  
1785 the mediator. If any party fails to attend a duly noticed  
1786 mediation conference, without the permission or approval of the  
1787 arbitrator or mediator, the arbitrator must impose sanctions  
1788 against the party, including the striking of any pleadings filed,  
1789 the entry of an order of dismissal or default if appropriate, and  
1790 the award of costs and attorneys' fees incurred by the other  
1791 parties. Unless otherwise agreed to by the parties or as provided  
1792 by order of the arbitrator, a party is deemed to have appeared at  
1793 a mediation conference by the physical presence of the party or  
1794 its representative having full authority to settle without  
1795 further consultation, provided that an association may comply by  
1796 having one or more representatives present with full authority to  
1797 negotiate a settlement and recommend that the board of  
1798 administration ratify and approve such a settlement within 5 days

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1799 | from the date of the mediation conference. The parties shall  
1800 | share equally the expense of mediation, unless they agree  
1801 | otherwise.

1802 |         (g) The purpose of mediation as provided for by this  
1803 | section is to present the parties with an opportunity to resolve  
1804 | the underlying dispute in good faith, and with a minimum  
1805 | expenditure of time and resources.

1806 |         (h) Mediation proceedings must generally be conducted in  
1807 | accordance with the Florida Rules of Civil Procedure, and these  
1808 | proceedings are privileged and confidential to the same extent as  
1809 | court-ordered mediation. Persons who are not parties to the  
1810 | dispute are not allowed to attend the mediation conference  
1811 | without the consent of all parties, with the exception of counsel  
1812 | for the parties and corporate representatives designated to  
1813 | appear for a party. If the mediator declares an impasse after a  
1814 | mediation conference has been held, the arbitration proceeding  
1815 | terminates, unless all parties agree in writing to continue the  
1816 | arbitration proceeding, in which case the arbitrator's decision  
1817 | shall be ~~either~~ binding or nonbinding, as agreed upon by the  
1818 | parties; in the arbitration proceeding, the arbitrator shall not  
1819 | consider any evidence relating to the unsuccessful mediation  
1820 | except in a proceeding to impose sanctions for failure to appear  
1821 | at the mediation conference. If the parties do not agree to  
1822 | continue arbitration, the arbitrator shall enter an order of  
1823 | dismissal, and either party may institute a suit in a court of  
1824 | competent jurisdiction. The parties may seek to recover any costs  
1825 | and attorneys' fees incurred in connection with arbitration and  
1826 | mediation proceedings under this section as part of the costs and  
1827 | fees that may be recovered by the prevailing party in any

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1828 subsequent litigation.

1829 (i) Arbitration shall be conducted according to rules  
1830 adopted ~~promulgated~~ by the division. The filing of a petition for  
1831 arbitration shall toll the applicable statute of limitations.

1832 (j) At the request of any party to the arbitration, the  
1833 ~~such~~ arbitrator shall issue subpoenas for the attendance of  
1834 witnesses and the production of books, records, documents, and  
1835 other evidence and any party on whose behalf a subpoena is issued  
1836 may apply to the court for orders compelling such attendance and  
1837 production. Subpoenas shall be served and shall be enforceable in  
1838 the manner provided by the Florida Rules of Civil Procedure.  
1839 Discovery may, in the discretion of the arbitrator, be permitted  
1840 in the manner provided by the Florida Rules of Civil Procedure.  
1841 Rules adopted by the division may authorize any reasonable  
1842 sanctions except contempt for a violation of the arbitration  
1843 procedural rules of the division or for the failure of a party to  
1844 comply with a reasonable nonfinal order issued by an arbitrator  
1845 which is not under judicial review.

1846 (k) The arbitration decision shall be presented to the  
1847 parties in writing. An arbitration decision is final in those  
1848 disputes in which the parties have agreed to be bound. An  
1849 arbitration decision is also final if a complaint for a trial de  
1850 novo is not filed in a court of competent jurisdiction in which  
1851 the condominium is located within 30 days. The right to file for  
1852 a trial de novo entitles the parties to file a complaint in the  
1853 appropriate trial court for a judicial resolution of the dispute.  
1854 The prevailing party in an arbitration proceeding shall be  
1855 awarded the costs of the arbitration and reasonable attorney's  
1856 fees in an amount determined by the arbitrator. Such an award



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1857 shall include the costs and reasonable attorney's fees incurred  
1858 in the arbitration proceeding as well as the costs and reasonable  
1859 attorney's fees incurred in preparing for and attending any  
1860 scheduled mediation.

1861 (l) The party who files a complaint for a trial de novo  
1862 shall be assessed the other party's arbitration costs, court  
1863 costs, and other reasonable costs, including attorney's fees,  
1864 investigation expenses, and expenses for expert or other  
1865 testimony or evidence incurred after the arbitration hearing if  
1866 the judgment upon the trial de novo is not more favorable than  
1867 the arbitration decision. If the judgment is more favorable, the  
1868 party who filed a complaint for trial de novo shall be awarded  
1869 reasonable court costs and attorney's fees.

1870 (m) Any party to an arbitration proceeding may enforce an  
1871 arbitration award by filing a petition in a court of competent  
1872 jurisdiction in which the condominium is located. A petition may  
1873 not be granted unless the time for appeal by the filing of a  
1874 complaint for trial de novo has expired. If a complaint for a  
1875 trial de novo has been filed, a petition may not be granted with  
1876 respect to an arbitration award that has been stayed. If the  
1877 petition for enforcement is granted, the petitioner shall recover  
1878 reasonable attorney's fees and costs incurred in enforcing the  
1879 arbitration award. A mediation settlement may also be enforced  
1880 through the county or circuit court, as applicable, and any costs  
1881 and fees incurred in the enforcement of a settlement agreement  
1882 reached at mediation must be awarded to the prevailing party in  
1883 any enforcement action.

1884 Section 45. Section 718.501, Florida Statutes, is amended  
1885 to read:

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1886           718.501 Powers and duties of Division of Florida ~~Land~~  
1887 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1888           (1) The Division of Florida ~~Land Sales~~, Condominiums,  
1889 Timeshares, and Mobile Homes of the Department of Business and  
1890 Professional Regulation, referred to as the "division" in this  
1891 part, ~~in addition to other powers and duties prescribed by~~  
1892 ~~chapter 498~~, has the power to enforce and ensure compliance with  
1893 the provisions of this chapter and rules ~~promulgated pursuant~~  
1894 ~~hereto~~ relating to the development, construction, sale, lease,  
1895 ownership, operation, and management of residential condominium  
1896 units. In performing its duties, the division has the following  
1897 powers and duties:

1898           (a)1. The division may make necessary public or private  
1899 investigations within or outside this state to determine whether  
1900 any person has violated this chapter or any rule or order  
1901 hereunder, to aid in the enforcement of this chapter, or to aid  
1902 in the adoption of rules or forms hereunder.

1903           2. The division may submit any official written report,  
1904 worksheet, or other related paper, or a duly certified copy  
1905 thereof, compiled, prepared, drafted, or otherwise made by and  
1906 duly authenticated by a financial examiner or analyst to be  
1907 admitted as competent evidence in any hearing in which the  
1908 financial examiner or analyst is available for cross-examination  
1909 and attests under oath that such documents were prepared as a  
1910 result of an examination or inspection conducted pursuant to this  
1911 chapter.

1912           (b) The division may require or permit any person to file a  
1913 statement in writing, under oath or otherwise, as the division  
1914 determines, as to the facts and circumstances concerning a matter

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1915 | to be investigated.

1916 |       (c) For the purpose of any investigation under this  
1917 | chapter, the division director or any officer or employee  
1918 | designated by the division director may administer oaths or  
1919 | affirmations, subpoena witnesses and compel their attendance,  
1920 | take evidence, and require the production of any matter which is  
1921 | relevant to the investigation, including the existence,  
1922 | description, nature, custody, condition, and location of any  
1923 | books, documents, or other tangible things and the identity and  
1924 | location of persons having knowledge of relevant facts or any  
1925 | other matter reasonably calculated to lead to the discovery of  
1926 | material evidence. Upon the failure by a person to obey a  
1927 | subpoena or to answer questions propounded by the investigating  
1928 | officer and upon reasonable notice to all persons affected  
1929 | thereby, the division may apply to the circuit court for an order  
1930 | compelling compliance.

1931 |       (d) Notwithstanding any remedies available to unit owners  
1932 | and associations, if the division has reasonable cause to believe  
1933 | that a violation of any provision of this chapter or related rule  
1934 | ~~promulgated pursuant hereto~~ has occurred, the division may  
1935 | institute enforcement proceedings in its own name against any  
1936 | developer, association, officer, or member of the board of  
1937 | administration, or its assignees or agents, as follows:

1938 |       1. The division may permit a person whose conduct or  
1939 | actions may be under investigation to waive formal proceedings  
1940 | and enter into a consent proceeding whereby orders, rules, or  
1941 | letters of censure or warning, whether formal or informal, may be  
1942 | entered against the person.

1943 |       2. The division may issue an order requiring the developer,

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1944 association, officer, or member of the board of administration,  
1945 or its assignees or agents, to cease and desist from the unlawful  
1946 practice and take such affirmative action as in the judgment of  
1947 the division will carry out the purposes of this chapter. ~~Such~~  
1948 ~~affirmative action may include, but is not limited to, an order~~  
1949 ~~requiring a developer to pay moneys determined to be owed to a~~  
1950 ~~condominium association.~~ If the division finds that a developer,  
1951 association, officer, or member of the board of administration,  
1952 or its assignees or agents, is violating or is about to violate  
1953 any provision of this chapter, any rule adopted or order issued  
1954 by the division, or any written agreement entered into with the  
1955 division, and presents an immediate danger to the public  
1956 requiring an immediate final order, it may issue an emergency  
1957 cease and desist order reciting with particularity the facts  
1958 underlying such findings. The emergency cease and desist order is  
1959 effective for 90 days. If the division begins nonemergency cease  
1960 and desist proceedings, the emergency cease and desist order  
1961 remains effective until the conclusion of the proceedings under  
1962 ss. 120.569 and 120.57.

1963 3. The division may bring an action in circuit court on  
1964 behalf of a class of unit owners, lessees, or purchasers for  
1965 declaratory relief, injunctive relief, or restitution.

1966 4. The division may petition the court for the appointment  
1967 of a receiver or conservator. If appointed, the receiver or  
1968 conservator may take action to implement the court order to  
1969 ensure the performance of the order and to remedy any breach  
1970 thereof. In addition to all other means provided by law for the  
1971 enforcement of an injunction or temporary restraining order, the  
1972 circuit court may impound or sequester the property of a party

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1973 defendant, including books, papers, documents, and related  
1974 records, and allow the examination and use of the property by the  
1975 division and a court-appointed receiver or conservator.

1976 5. The division may apply to the circuit court for an order  
1977 of restitution whereby the defendant in an action brought  
1978 pursuant to subparagraph 4. shall be ordered to make restitution  
1979 of those sums shown by the division to have been obtained by the  
1980 defendant in violation of this chapter. Such restitution shall,  
1981 at the option of the court, be payable to the conservator or  
1982 receiver appointed pursuant to subparagraph 4. or directly to the  
1983 persons whose funds or assets were obtained in violation of this  
1984 chapter.

1985 6.4. The division may impose a civil penalty against a  
1986 developer or association, or its assignee or agent, for any  
1987 violation of this chapter or a rule adopted under this chapter  
1988 ~~promulgated pursuant hereto~~. The division may impose a civil  
1989 penalty individually against any officer or board member who  
1990 willfully and knowingly violates a provision of this chapter,  
1991 adopted a rule ~~adopted pursuant hereto~~, or a final order of the  
1992 division. The term "willfully and knowingly" means that the  
1993 division informed the officer or board member that his or her  
1994 action or intended action violates this chapter, a rule adopted  
1995 under this chapter, or a final order of the division and that the  
1996 officer or board member refused to comply with the requirements  
1997 of this chapter, a rule adopted under this chapter, or a final  
1998 order of the division. The division, prior to initiating formal  
1999 agency action under chapter 120, shall afford the officer or  
2000 board member an opportunity to voluntarily comply with this  
2001 chapter, a rule adopted under this chapter, or a final order of

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2002 | the division. An officer or board member who complies within 10  
2003 | days is not subject to a civil penalty. A penalty may be imposed  
2004 | on the basis of each day of continuing violation, but in no event  
2005 | shall the penalty for any offense exceed \$5,000. By January 1,  
2006 | 1998, the division shall adopt, by rule, penalty guidelines  
2007 | applicable to possible violations or to categories of violations  
2008 | of this chapter or rules adopted by the division. The guidelines  
2009 | must specify a meaningful range of civil penalties for each such  
2010 | violation of the statute and rules and must be based upon the  
2011 | harm caused by the violation, the repetition of the violation,  
2012 | and upon such other factors deemed relevant by the division. For  
2013 | example, the division may consider whether the violations were  
2014 | committed by a developer or owner-controlled association, the  
2015 | size of the association, and other factors. The guidelines must  
2016 | designate the possible mitigating or aggravating circumstances  
2017 | that justify a departure from the range of penalties provided by  
2018 | the rules. It is the legislative intent that minor violations be  
2019 | distinguished from those which endanger the health, safety, or  
2020 | welfare of the condominium residents or other persons and that  
2021 | such guidelines provide reasonable and meaningful notice to the  
2022 | public of likely penalties that may be imposed for proscribed  
2023 | conduct. This subsection does not limit the ability of the  
2024 | division to informally dispose of administrative actions or  
2025 | complaints by stipulation, agreed settlement, or consent order.  
2026 | All amounts collected shall be deposited with the Chief Financial  
2027 | Officer to the credit of the Division of Florida ~~Land Sales,~~  
2028 | Condominiums, Timeshares, and Mobile Homes Trust Fund. If a  
2029 | developer fails to pay the civil penalty, the division shall  
2030 | ~~thereupon~~ issue an order directing that such developer cease and

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2031 desist from further operation until such time as the civil  
2032 penalty is paid or may pursue enforcement of the penalty in a  
2033 court of competent jurisdiction. If an association fails to pay  
2034 the civil penalty, the division shall ~~thereupon~~ pursue  
2035 enforcement in a court of competent jurisdiction, and the order  
2036 imposing the civil penalty or the cease and desist order will not  
2037 become effective until 20 days after the date of such order. Any  
2038 action commenced by the division shall be brought in the county  
2039 in which the division has its executive offices or in the county  
2040 where the violation occurred.

2041 7. In addition to subparagraph 6., the division may seek  
2042 the imposition of a civil penalty through the circuit court for  
2043 any violation for which the division may issue a notice to show  
2044 cause under paragraph (q). The civil penalty shall be at least  
2045 \$500 but no more than \$5,000 for each violation. The court may  
2046 also award to the prevailing party court costs and reasonable  
2047 attorney's fees and, if the division prevails, may also award  
2048 reasonable costs of investigation.

2049 (e) The division may ~~is authorized to~~ prepare and  
2050 disseminate a prospectus and other information to assist  
2051 prospective owners, purchasers, lessees, and developers of  
2052 residential condominiums in assessing the rights, privileges, and  
2053 duties pertaining thereto.

2054 (f) The division has authority to adopt rules pursuant to  
2055 ss. 120.536(1) and 120.54 to implement and enforce the provisions  
2056 of this chapter.

2057 (g) The division shall establish procedures for providing  
2058 notice to an association when the division is considering the  
2059 issuance of a declaratory statement with respect to the

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2060 | declaration of condominium or any related document governing in  
2061 | such condominium community.

2062 |         (h) The division shall furnish each association which pays  
2063 | the fees required by paragraph (2) (a) a copy of this act,  
2064 | subsequent changes to this act on an annual basis, an amended  
2065 | version of this act as it becomes available from the Secretary of  
2066 | State's office on a biennial basis, and the rules adopted  
2067 | ~~promulgated pursuant~~ thereto on an annual basis.

2068 |         (i) The division shall annually provide each association  
2069 | with a summary of declaratory statements and formal legal  
2070 | opinions relating to the operations of condominiums which were  
2071 | rendered by the division during the previous year.

2072 |         (j) The division shall provide training programs for  
2073 | condominium association board members and unit owners.

2074 |         (k) The division shall maintain a toll-free telephone  
2075 | number accessible to condominium unit owners.

2076 |         (l) The division shall develop a program to certify both  
2077 | volunteer and paid mediators to provide mediation of condominium  
2078 | disputes. The division shall provide, upon request, a list of  
2079 | such mediators to any association, unit owner, or other  
2080 | participant in arbitration proceedings under s. 718.1255  
2081 | requesting a copy of the list. The division shall include on the  
2082 | list of volunteer mediators only the names of persons who have  
2083 | received at least 20 hours of training in mediation techniques or  
2084 | who have mediated at least 20 disputes. In order to become  
2085 | initially certified by the division, paid mediators must be  
2086 | certified by the Supreme Court to mediate court cases in ~~either~~  
2087 | county or circuit courts. However, the division may adopt, by  
2088 | rule, additional factors for the certification of paid mediators,



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2089 | which factors must be related to experience, education, or  
2090 | background. Any person initially certified as a paid mediator by  
2091 | the division must, in order to continue to be certified, comply  
2092 | with the factors or requirements imposed by rules adopted by the  
2093 | division.

2094 |       (m) When a complaint is made, the division shall conduct  
2095 | its inquiry with due regard to the interests of the affected  
2096 | parties. Within 30 days after receipt of a complaint, the  
2097 | division shall acknowledge the complaint in writing and notify  
2098 | the complainant whether the complaint is within the jurisdiction  
2099 | of the division and whether additional information is needed by  
2100 | the division from the complainant. The division shall conduct its  
2101 | investigation and shall, within 90 days after receipt of the  
2102 | original complaint or of timely requested additional information,  
2103 | take action upon the complaint. However, the failure to complete  
2104 | the investigation within 90 days does not prevent the division  
2105 | from continuing the investigation, accepting or considering  
2106 | evidence obtained or received after 90 days, or taking  
2107 | administrative action if reasonable cause exists to believe that  
2108 | a violation of this chapter or a rule of the division has  
2109 | occurred. If an investigation is not completed within the time  
2110 | limits established in this paragraph, the division shall, on a  
2111 | monthly basis, notify the complainant in writing of the status of  
2112 | the investigation. When reporting its action to the complainant,  
2113 | the division shall inform the complainant of any right to a  
2114 | hearing pursuant to ss. 120.569 and 120.57.

2115 |       (n) The division may:

2116 |       1. Contract with agencies in this state or other  
2117 | jurisdictions to perform investigative functions; or

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2118 2. Accept grants-in-aid from any source.

2119 (o) The division shall cooperate with similar agencies in  
2120 other jurisdictions to establish uniform filing procedures and  
2121 forms, public offering statements, advertising standards, and  
2122 rules and common administrative practices.

2123 (p) The division shall consider notice to a developer to be  
2124 complete when it is delivered to the developer's address  
2125 currently on file with the division.

2126 (q) In addition to its enforcement authority, the division  
2127 may issue a notice to show cause, which shall provide for a  
2128 hearing, upon written request, in accordance with chapter 120.

2129 (2) (a) Effective January 1, 1992, Each condominium  
2130 association which operates more than two units shall pay to the  
2131 division an annual fee in the amount of \$4 for each residential  
2132 unit in condominiums operated by the association. If the fee is  
2133 not paid by March 1, ~~then~~ the association shall be assessed a  
2134 penalty of 10 percent of the amount due, and the association will  
2135 not have standing to maintain or defend any action in the courts  
2136 of this state until the amount due, plus any penalty, is paid.

2137 (b) All fees shall be deposited in the Division of Florida  
2138 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund  
2139 as provided by law.

2140 Section 46. Subsection (1) of section 718.5011, Florida  
2141 Statutes, is amended to read:

2142 718.5011 Ombudsman; appointment; administration.--

2143 (1) There is created an Office of the Condominium  
2144 Ombudsman, to be located for administrative purposes within the  
2145 Division of Florida ~~Land Sales,~~ Timeshares, and  
2146 Mobile Homes. The functions of the office shall be funded by the

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2147 | Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
2148 | Mobile Homes Trust Fund. The ombudsman shall be a bureau chief of  
2149 | the division, and the office shall be set within the division in  
2150 | the same manner as any other bureau is staffed and funded.

2151 |       Section 47. Paragraph (a) of subsection (2) of section  
2152 | 718.502, Florida Statutes, is amended to read:

2153 |       718.502 Filing prior to sale or lease.--

2154 |       (2) (a) Prior to filing as required by subsection (1), and  
2155 | prior to acquiring an ownership, leasehold, or contractual  
2156 | interest in the land upon which the condominium is to be  
2157 | developed, a developer shall not offer a contract for purchase of  
2158 | a unit or lease of a unit for more than 5 years. However, the  
2159 | developer may accept deposits for reservations upon the approval  
2160 | of a fully executed escrow agreement and reservation agreement  
2161 | form properly filed with the Division of Florida ~~Land Sales,~~  
2162 | Condominiums, Timeshares, and Mobile Homes. Each filing of a  
2163 | proposed reservation program shall be accompanied by a filing fee  
2164 | of \$250. Reservations shall not be taken on a proposed  
2165 | condominium unless the developer has an ownership, leasehold, or  
2166 | contractual interest in the land upon which the condominium is to  
2167 | be developed. The division shall notify the developer within 20  
2168 | days of receipt of the reservation filing of any deficiencies  
2169 | contained therein. Such notification shall not preclude the  
2170 | determination of reservation filing deficiencies at a later date,  
2171 | nor shall it relieve the developer of any responsibility under  
2172 | the law. The escrow agreement and the reservation agreement form  
2173 | shall include a statement of the right of the prospective  
2174 | purchaser to an immediate unqualified refund of the reservation  
2175 | deposit moneys upon written request to the escrow agent by the

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2176 prospective purchaser or the developer.

2177 Section 48. Section 718.504, Florida Statutes, is amended  
2178 to read:

2179 718.504 Prospectus or offering circular.--Every developer  
2180 of a residential condominium which contains more than 20  
2181 residential units, or which is part of a group of residential  
2182 condominiums which will be served by property to be used in  
2183 common by unit owners of more than 20 residential units, shall  
2184 prepare a prospectus or offering circular and file it with the  
2185 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
2186 Mobile Homes prior to entering into an enforceable contract of  
2187 purchase and sale of any unit or lease of a unit for more than 5  
2188 years and shall furnish a copy of the prospectus or offering  
2189 circular to each buyer. In addition to the prospectus or offering  
2190 circular, each buyer shall be furnished a separate page entitled  
2191 "Frequently Asked Questions and Answers," which shall be in  
2192 accordance with a format approved by the division and a copy of  
2193 the financial information required by s. 718.111. This page  
2194 shall, in readable language, inform prospective purchasers  
2195 regarding their voting rights and unit use restrictions,  
2196 including restrictions on the leasing of a unit; shall indicate  
2197 whether and in what amount the unit owners or the association is  
2198 obligated to pay rent or land use fees for recreational or other  
2199 commonly used facilities; shall contain a statement identifying  
2200 that amount of assessment which, pursuant to the budget, would be  
2201 levied upon each unit type, exclusive of any special assessments,  
2202 and which shall further identify the basis upon which assessments  
2203 are levied, whether monthly, quarterly, or otherwise; shall state  
2204 and identify any court cases in which the association is

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2205 | currently a party of record in which the association may face  
2206 | liability in excess of \$100,000; and which shall further state  
2207 | whether membership in a recreational facilities association is  
2208 | mandatory, and if so, shall identify the fees currently charged  
2209 | per unit type. The division shall by rule require such other  
2210 | disclosure as in its judgment will assist prospective purchasers.  
2211 | The prospectus or offering circular may include more than one  
2212 | condominium, although not all such units are being offered for  
2213 | sale as of the date of the prospectus or offering circular. The  
2214 | prospectus or offering circular must contain the following  
2215 | information:

2216 |       (1) The front cover or the first page must contain only:

2217 |       (a) The name of the condominium.

2218 |       (b) The following statements in conspicuous type:

2219 |       1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
2220 | MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2221 |       2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
2222 | NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
2223 | ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

2224 |       3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
2225 | STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
2226 | PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
2227 | REPRESENTATIONS.

2228 |       (2) Summary: The next page must contain all statements  
2229 | required to be in conspicuous type in the prospectus or offering  
2230 | circular.

2231 |       (3) A separate index of the contents and exhibits of the  
2232 | prospectus.

2233 |       (4) Beginning on the first page of the text (not including

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2234 the summary and index), a description of the condominium,  
2235 including, but not limited to, the following information:

2236 (a) Its name and location.

2237 (b) A description of the condominium property, including,  
2238 without limitation:

2239 1. The number of buildings, the number of units in each  
2240 building, the number of bathrooms and bedrooms in each unit, and  
2241 the total number of units, if the condominium is not a phase  
2242 condominium, or the maximum number of buildings that may be  
2243 contained within the condominium, the minimum and maximum numbers  
2244 of units in each building, the minimum and maximum numbers of  
2245 bathrooms and bedrooms that may be contained in each unit, and  
2246 the maximum number of units that may be contained within the  
2247 condominium, if the condominium is a phase condominium.

2248 2. The page in the condominium documents where a copy of  
2249 the plot plan and survey of the condominium is located.

2250 3. The estimated latest date of completion of constructing,  
2251 finishing, and equipping. In lieu of a date, the description  
2252 shall include a statement that the estimated date of completion  
2253 of the condominium is in the purchase agreement and a reference  
2254 to the article or paragraph containing that information.

2255 (c) The maximum number of units that will use facilities in  
2256 common with the condominium. If the maximum number of units will  
2257 vary, a description of the basis for variation and the minimum  
2258 amount of dollars per unit to be spent for additional  
2259 recreational facilities or enlargement of such facilities. If the  
2260 addition or enlargement of facilities will result in a material  
2261 increase of a unit owner's maintenance expense or rental expense,  
2262 if any, the maximum increase and limitations thereon shall be

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2263 | stated.

2264 |       (5) (a) A statement in conspicuous type describing whether  
2265 | the condominium is created and being sold as fee simple interests  
2266 | or as leasehold interests. If the condominium is created or being  
2267 | sold on a leasehold, the location of the lease in the disclosure  
2268 | materials shall be stated.

2269 |       (b) If timeshare estates are or may be created with respect  
2270 | to any unit in the condominium, a statement in conspicuous type  
2271 | stating that timeshare estates are created and being sold in  
2272 | units in the condominium.

2273 |       (6) A description of the recreational and other commonly  
2274 | used facilities that will be used only by unit owners of the  
2275 | condominium, including, but not limited to, the following:

2276 |       (a) Each room and its intended purposes, location,  
2277 | approximate floor area, and capacity in numbers of people.

2278 |       (b) Each swimming pool, as to its general location,  
2279 | approximate size and depths, approximate deck size and capacity,  
2280 | and whether heated.

2281 |       (c) Additional facilities, as to the number of each  
2282 | facility, its approximate location, approximate size, and  
2283 | approximate capacity.

2284 |       (d) A general description of the items of personal property  
2285 | and the approximate number of each item of personal property that  
2286 | the developer is committing to furnish for each room or other  
2287 | facility or, in the alternative, a representation as to the  
2288 | minimum amount of expenditure that will be made to purchase the  
2289 | personal property for the facility.

2290 |       (e) The estimated date when each room or other facility  
2291 | will be available for use by the unit owners.

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2292 (f)1. An identification of each room or other facility to  
2293 be used by unit owners that will not be owned by the unit owners  
2294 or the association;

2295 2. A reference to the location in the disclosure materials  
2296 of the lease or other agreements providing for the use of those  
2297 facilities; and

2298 3. A description of the terms of the lease or other  
2299 agreements, including the length of the term; the rent payable,  
2300 directly or indirectly, by each unit owner, and the total rent  
2301 payable to the lessor, stated in monthly and annual amounts for  
2302 the entire term of the lease; and a description of any option to  
2303 purchase the property leased under any such lease, including the  
2304 time the option may be exercised, the purchase price or how it is  
2305 to be determined, the manner of payment, and whether the option  
2306 may be exercised for a unit owner's share or only as to the  
2307 entire leased property.

2308 (g) A statement as to whether the developer may provide  
2309 additional facilities not described above; their general  
2310 locations and types; improvements or changes that may be made;  
2311 the approximate dollar amount to be expended; and the maximum  
2312 additional common expense or cost to the individual unit owners  
2313 that may be charged during the first annual period of operation  
2314 of the modified or added facilities.

2315  
2316 Descriptions as to locations, areas, capacities, numbers,  
2317 volumes, or sizes may be stated as approximations or minimums.

2318 (7) A description of the recreational and other facilities  
2319 that will be used in common with other condominiums, community  
2320 associations, or planned developments which require the payment



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2321 of the maintenance and expenses of such facilities, ~~either~~  
2322 directly or indirectly, by the unit owners. The description shall  
2323 include, but not be limited to, the following:

2324 (a) Each building and facility committed to be built.

2325 (b) Facilities not committed to be built except under  
2326 certain conditions, and a statement of those conditions or  
2327 contingencies.

2328 (c) As to each facility committed to be built, or which  
2329 will be committed to be built upon the happening of one of the  
2330 conditions in paragraph (b), a statement of whether it will be  
2331 owned by the unit owners having the use thereof or by an  
2332 association or other entity which will be controlled by them, or  
2333 others, and the location in the exhibits of the lease or other  
2334 document providing for use of those facilities.

2335 (d) The year in which each facility will be available for  
2336 use by the unit owners or, in the alternative, the maximum number  
2337 of unit owners in the project at the time each of all of the  
2338 facilities is committed to be completed.

2339 (e) A general description of the items of personal  
2340 property, and the approximate number of each item of personal  
2341 property, that the developer is committing to furnish for each  
2342 room or other facility or, in the alternative, a representation  
2343 as to the minimum amount of expenditure that will be made to  
2344 purchase the personal property for the facility.

2345 (f) If there are leases, a description thereof, including  
2346 the length of the term, the rent payable, and a description of  
2347 any option to purchase.

2348  
2349 Descriptions shall include location, areas, capacities, numbers,

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2350 volumes, or sizes and may be stated as approximations or  
2351 minimums.

2352 (8) Recreation lease or associated club membership:

2353 (a) If any recreational facilities or other facilities  
2354 offered by the developer and available to, or to be used by, unit  
2355 owners are to be leased or have club membership associated, the  
2356 following statement in conspicuous type shall be included: THERE  
2357 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
2358 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
2359 CONDOMINIUM. There shall be a reference to the location in the  
2360 disclosure materials where the recreation lease or club  
2361 membership is described in detail.

2362 (b) If it is mandatory that unit owners pay a fee, rent,  
2363 dues, or other charges under a recreational facilities lease or  
2364 club membership for the use of facilities, there shall be in  
2365 conspicuous type the applicable statement:

2366 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
2367 MANDATORY FOR UNIT OWNERS; or

2368 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
2369 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2370 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS  
2371 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,  
2372 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE  
2373 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2374 4. A similar statement of the nature of the organization or  
2375 the manner in which the use rights are created, and that unit  
2376 owners are required to pay.

2377  
2378 Immediately following the applicable statement, the location in

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2379 the disclosure materials where the development is described in  
2380 detail shall be stated.

2381 (c) If the developer, or any other person other than the  
2382 unit owners and other persons having use rights in the  
2383 facilities, reserves, or is entitled to receive, any rent, fee,  
2384 or other payment for the use of the facilities, then there shall  
2385 be the following statement in conspicuous type: THE UNIT OWNERS  
2386 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
2387 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
2388 following this statement, the location in the disclosure  
2389 materials where the rent or land use fees are described in detail  
2390 shall be stated.

2391 (d) If, in any recreation format, whether leasehold, club,  
2392 or other, any person other than the association has the right to  
2393 a lien on the units to secure the payment of assessments, rent,  
2394 or other exactions, there shall appear a statement in conspicuous  
2395 type in substantially the following form:

2396 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2397 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
2398 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS  
2399 MAY RESULT IN FORECLOSURE OF THE LIEN; or

2400 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2401 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
2402 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
2403 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
2404 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2405  
2406 Immediately following the applicable statement, the location in  
2407 the disclosure materials where the lien or lien right is

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2408 described in detail shall be stated.

2409 (9) If the developer or any other person has the right to  
2410 increase or add to the recreational facilities at any time after  
2411 the establishment of the condominium whose unit owners have use  
2412 rights therein, without the consent of the unit owners or  
2413 associations being required, there shall appear a statement in  
2414 conspicuous type in substantially the following form:

2415 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
2416 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
2417 statement, the location in the disclosure materials where such  
2418 reserved rights are described shall be stated.

2419 (10) A statement of whether the developer's plan includes a  
2420 program of leasing units rather than selling them, or leasing  
2421 units and selling them subject to such leases. If so, there shall  
2422 be a description of the plan, including the number and  
2423 identification of the units and the provisions and term of the  
2424 proposed leases, and a statement in boldfaced type that: THE  
2425 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2426 (11) The arrangements for management of the association and  
2427 maintenance and operation of the condominium property and of  
2428 other property that will serve the unit owners of the condominium  
2429 property, and a description of the management contract and all  
2430 other contracts for these purposes having a term in excess of 1  
2431 year, including the following:

2432 (a) The names of contracting parties.

2433 (b) The term of the contract.

2434 (c) The nature of the services included.

2435 (d) The compensation, stated on a monthly and annual basis,  
2436 and provisions for increases in the compensation.

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2437 (e) A reference to the volumes and pages of the condominium  
2438 documents and of the exhibits containing copies of such  
2439 contracts.

2440  
2441 Copies of all described contracts shall be attached as exhibits.  
2442 If there is a contract for the management of the condominium  
2443 property, then a statement in conspicuous type in substantially  
2444 the following form shall appear, identifying the proposed or  
2445 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE  
2446 MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT  
2447 MANAGER). Immediately following this statement, the location in  
2448 the disclosure materials of the contract for management of the  
2449 condominium property shall be stated.

2450 (12) If the developer or any other person or persons other  
2451 than the unit owners has the right to retain control of the board  
2452 of administration of the association for a period of time which  
2453 can exceed 1 year after the closing of the sale of a majority of  
2454 the units in that condominium to persons other than successors or  
2455 alternate developers, then a statement in conspicuous type in  
2456 substantially the following form shall be included: THE DEVELOPER  
2457 (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE  
2458 ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.  
2459 Immediately following this statement, the location in the  
2460 disclosure materials where this right to control is described in  
2461 detail shall be stated.

2462 (13) If there are any restrictions upon the sale, transfer,  
2463 conveyance, or leasing of a unit, then a statement in conspicuous  
2464 type in substantially the following form shall be included: THE  
2465 SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.

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2466 Immediately following this statement, the location in the  
2467 disclosure materials where the restriction, limitation, or  
2468 control on the sale, lease, or transfer of units is described in  
2469 detail shall be stated.

2470 (14) If the condominium is part of a phase project, the  
2471 following information shall be stated:

2472 (a) A statement in conspicuous type in substantially the  
2473 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
2474 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
2475 this statement, the location in the disclosure materials where  
2476 the phasing is described shall be stated.

2477 (b) A summary of the provisions of the declaration which  
2478 provide for the phasing.

2479 (c) A statement as to whether or not residential buildings  
2480 and units which are added to the condominium may be substantially  
2481 different from the residential buildings and units originally in  
2482 the condominium. If the added residential buildings and units may  
2483 be substantially different, there shall be a general description  
2484 of the extent to which such added residential buildings and units  
2485 may differ, and a statement in conspicuous type in substantially  
2486 the following form shall be included: BUILDINGS AND UNITS WHICH  
2487 ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM  
2488 THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately  
2489 following this statement, the location in the disclosure  
2490 materials where the extent to which added residential buildings  
2491 and units may substantially differ is described shall be stated.

2492 (d) A statement of the maximum number of buildings  
2493 containing units, the maximum and minimum numbers of units in  
2494 each building, the maximum number of units, and the minimum and

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2495 maximum square footage of the units that may be contained within  
2496 each parcel of land which may be added to the condominium.

2497 (15) If a condominium created on or after July 1, 2000, is  
2498 or may become part of a multicondominium, the following  
2499 information must be provided:

2500 (a) A statement in conspicuous type in substantially the  
2501 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
2502 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
2503 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following  
2504 this statement, the location in the prospectus or offering  
2505 circular and its exhibits where the multicondominium aspects of  
2506 the offering are described must be stated.

2507 (b) A summary of the provisions in the declaration,  
2508 articles of incorporation, and bylaws which establish and provide  
2509 for the operation of the multicondominium, including a statement  
2510 as to whether unit owners in the condominium will have the right  
2511 to use recreational or other facilities located or planned to be  
2512 located in other condominiums operated by the same association,  
2513 and the manner of sharing the common expenses related to such  
2514 facilities.

2515 (c) A statement of the minimum and maximum number of  
2516 condominiums, and the minimum and maximum number of units in each  
2517 of those condominiums, which will or may be operated by the  
2518 association, and the latest date by which the exact number will  
2519 be finally determined.

2520 (d) A statement as to whether any of the condominiums in  
2521 the multicondominium may include units intended to be used for  
2522 nonresidential purposes and the purpose or purposes permitted for  
2523 such use.

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2524 (e) A general description of the location and approximate  
2525 acreage of any land on which any additional condominiums to be  
2526 operated by the association may be located.

2527 (16) If the condominium is created by conversion of  
2528 existing improvements, the following information shall be stated:

2529 (a) The information required by s. 718.616.

2530 (b) A caveat that there are no express warranties unless  
2531 they are stated in writing by the developer.

2532 (17) A summary of the restrictions, if any, to be imposed  
2533 on units concerning the use of any of the condominium property,  
2534 including statements as to whether there are restrictions upon  
2535 children and pets, and reference to the volumes and pages of the  
2536 condominium documents where such restrictions are found, or if  
2537 such restrictions are contained elsewhere, then a copy of the  
2538 documents containing the restrictions shall be attached as an  
2539 exhibit.

2540 (18) If there is any land that is offered by the developer  
2541 for use by the unit owners and that is neither owned by them nor  
2542 leased to them, the association, or any entity controlled by unit  
2543 owners and other persons having the use rights to such land, a  
2544 statement shall be made as to how such land will serve the  
2545 condominium. If any part of such land will serve the condominium,  
2546 the statement shall describe the land and the nature and term of  
2547 service, and the declaration or other instrument creating such  
2548 servitude shall be included as an exhibit.

2549 (19) The manner in which utility and other services,  
2550 including, but not limited to, sewage and waste disposal, water  
2551 supply, and storm drainage, will be provided and the person or  
2552 entity furnishing them.



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2553 (20) An explanation of the manner in which the  
2554 apportionment of common expenses and ownership of the common  
2555 elements has been determined.

2556 (21) An estimated operating budget for the condominium and  
2557 the association, and a schedule of the unit owner's expenses  
2558 shall be attached as an exhibit and shall contain the following  
2559 information:

2560 (a) The estimated monthly and annual expenses of the  
2561 condominium and the association that are collected from unit  
2562 owners by assessments.

2563 (b) The estimated monthly and annual expenses of each unit  
2564 owner for a unit, other than common expenses paid by all unit  
2565 owners, payable by the unit owner to persons or entities other  
2566 than the association, as well as to the association, including  
2567 fees assessed pursuant to s. 718.113(1) for maintenance of  
2568 limited common elements where such costs are shared only by those  
2569 entitled to use the limited common element, and the total  
2570 estimated monthly and annual expense. There may be excluded from  
2571 this estimate expenses which are not provided for or contemplated  
2572 by the condominium documents, including, but not limited to, the  
2573 costs of private telephone; maintenance of the interior of  
2574 condominium units, which is not the obligation of the  
2575 association; maid or janitorial services privately contracted for  
2576 by the unit owners; utility bills billed directly to each unit  
2577 owner for utility services to his or her unit; insurance premiums  
2578 other than those incurred for policies obtained by the  
2579 condominium; and similar personal expenses of the unit owner. A  
2580 unit owner's estimated payments for assessments shall also be  
2581 stated in the estimated amounts for the times when they will be

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2582 | due.

2583 |       (c) The estimated items of expenses of the condominium and  
2584 | the association, except as excluded under paragraph (b),  
2585 | including, but not limited to, the following items, which shall  
2586 | be stated ~~either~~ as an association expense collectible by  
2587 | assessments or as unit owners' expenses payable to persons other  
2588 | than the association:

2589 |       1. Expenses for the association and condominium:

2590 |       a. Administration of the association.

2591 |       b. Management fees.

2592 |       c. Maintenance.

2593 |       d. Rent for recreational and other commonly used  
2594 | facilities.

2595 |       e. Taxes upon association property.

2596 |       f. Taxes upon leased areas.

2597 |       g. Insurance.

2598 |       h. Security provisions.

2599 |       i. Other expenses.

2600 |       j. Operating capital.

2601 |       k. Reserves.

2602 |       1. Fees payable to the division.

2603 |       2. Expenses for a unit owner:

2604 |       a. Rent for the unit, if subject to a lease.

2605 |       b. Rent payable by the unit owner directly to the lessor or  
2606 | agent under any recreational lease or lease for the use of  
2607 | commonly used facilities, which use and payment is a mandatory  
2608 | condition of ownership and is not included in the common expense  
2609 | or assessments for common maintenance paid by the unit owners to  
2610 | the association.

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2611 (d) The following statement in conspicuous type: THE BUDGET  
2612 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
2613 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE  
2614 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
2615 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
2616 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
2617 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE  
2618 OFFERING.

2619 (e) Each budget for an association prepared by a developer  
2620 consistent with this subsection shall be prepared in good faith  
2621 and shall reflect accurate estimated amounts for the required  
2622 items in paragraph (c) at the time of the filing of the offering  
2623 circular with the division, and subsequent increased amounts of  
2624 any item included in the association's estimated budget that are  
2625 beyond the control of the developer shall not be considered an  
2626 amendment that would give rise to rescission rights set forth in  
2627 s. 718.503(1)(a) or (b), nor shall such increases modify, void,  
2628 or otherwise affect any guarantee of the developer contained in  
2629 the offering circular or any purchase contract. It is the intent  
2630 of this paragraph to clarify existing law.

2631 (f) The estimated amounts shall be stated for a period of  
2632 at least 12 months and may distinguish between the period prior  
2633 to the time unit owners other than the developer elect a majority  
2634 of the board of administration and the period after that date.

2635 (22) A schedule of estimated closing expenses to be paid by  
2636 a buyer or lessee of a unit and a statement of whether title  
2637 opinion or title insurance policy is available to the buyer and,  
2638 if so, at whose expense.

2639 (23) The identity of the developer and the chief operating

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2640 officer or principal directing the creation and sale of the  
2641 condominium and a statement of its and his or her experience in  
2642 this field.

2643 (24) Copies of the following, to the extent they are  
2644 applicable, shall be included as exhibits:

2645 (a) The declaration of condominium, or the proposed  
2646 declaration if the declaration has not been recorded.

2647 (b) The articles of incorporation creating the association.

2648 (c) The bylaws of the association.

2649 (d) The ground lease or other underlying lease of the  
2650 condominium.

2651 (e) The management agreement and all maintenance and other  
2652 contracts for management of the association and operation of the  
2653 condominium and facilities used by the unit owners having a  
2654 service term in excess of 1 year.

2655 (f) The estimated operating budget for the condominium and  
2656 the required schedule of unit owners' expenses.

2657 (g) A copy of the floor plan of the unit and the plot plan  
2658 showing the location of the residential buildings and the  
2659 recreation and other common areas.

2660 (h) The lease of recreational and other facilities that  
2661 will be used only by unit owners of the subject condominium.

2662 (i) The lease of facilities used by owners and others.

2663 (j) The form of unit lease, if the offer is of a leasehold.

2664 (k) A declaration of servitude of properties serving the  
2665 condominium but not owned by unit owners or leased to them or the  
2666 association.

2667 (l) The statement of condition of the existing building or  
2668 buildings, if the offering is of units in an operation being

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2669 converted to condominium ownership.

2670 (m) The statement of inspection for termite damage and  
2671 treatment of the existing improvements, if the condominium is a  
2672 conversion.

2673 (n) The form of agreement for sale or lease of units.

2674 (o) A copy of the agreement for escrow of payments made to  
2675 the developer prior to closing.

2676 (p) A copy of the documents containing any restrictions on  
2677 use of the property required by subsection (17).

2678 (25) Any prospectus or offering circular complying, prior  
2679 to the effective date of this act, with the provisions of former  
2680 ss. 711.69 and 711.802 may continue to be used without amendment  
2681 or may be amended to comply with ~~the provisions of~~ this chapter.

2682 (26) A brief narrative description of the location and  
2683 effect of all existing and intended easements located or to be  
2684 located on the condominium property other than those described in  
2685 the declaration.

2686 (27) If the developer is required by state or local  
2687 authorities to obtain acceptance or approval of any dock or  
2688 marina facilities intended to serve the condominium, a copy of  
2689 any such acceptance or approval acquired by the time of filing  
2690 with the division under s. 718.502(1) or a statement that such  
2691 acceptance or approval has not been acquired or received.

2692 (28) Evidence demonstrating that the developer has an  
2693 ownership, leasehold, or contractual interest in the land upon  
2694 which the condominium is to be developed.

2695 Section 49. Section 718.508, Florida Statutes, is amended  
2696 to read:

2697 718.508 Regulation by Division of Hotels and

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2698 Restaurants.--In addition to the authority, regulation, or  
2699 control exercised by the Division of Florida ~~Land Sales,~~  
2700 Condominiums, Timeshares, and Mobile Homes pursuant to this act  
2701 with respect to condominiums, buildings included in a condominium  
2702 property are ~~shall be~~ subject to the authority, regulation, or  
2703 control of the Division of Hotels and Restaurants of the  
2704 Department of Business and Professional Regulation, to the extent  
2705 provided ~~for~~ in chapter 399.

2706 Section 50. Section 718.509, Florida Statutes, is amended,  
2707 and section 498.019, Florida Statutes, is transferred, renumbered  
2708 as subsections (1) and (2) of that section, and amended to read:

2709 718.509 Division of Florida ~~Land Sales,~~ Condominiums,  
2710 Timeshares, and Mobile Homes Trust Fund.--~~All funds collected by~~  
2711 ~~the division and any amount paid for a fee or penalty under this~~  
2712 ~~chapter shall be deposited in the State Treasury to the credit of~~  
2713 ~~the Division of Florida Land Sales, Condominiums, and Mobile~~  
2714 ~~Homes Trust Fund created by s. 498.019.~~

2715 ~~498.019 Division of Florida Land Sales, Condominiums, and~~  
2716 ~~Mobile Homes Trust Fund.--~~

2717 (1) There is created within the State Treasury the Division  
2718 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes  
2719 Trust Fund to be used for the administration and operation of  
2720 this chapter and chapters 718, 719, 721, and 723 by the division.

2721 (2) All moneys collected by the division from fees, fines,  
2722 or penalties or from costs awarded to the division by a court or  
2723 administrative final order shall be paid into the Division of  
2724 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes  
2725 Trust Fund. The Legislature shall appropriate funds from this  
2726 trust fund sufficient to carry out the provisions of this chapter

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2727 and the provisions of law with respect to each category of  
2728 business covered by the ~~this~~ trust fund. The division shall  
2729 maintain separate revenue accounts in the trust fund for each of  
2730 the businesses regulated by the division. The division shall  
2731 provide for the proportionate allocation among the accounts of  
2732 expenses incurred by the division in the performance of its  
2733 duties with respect to each of these businesses. As part of its  
2734 normal budgetary process, the division shall prepare an annual  
2735 report of revenue and allocated expenses related to the operation  
2736 of each of these businesses which may be used to determine fees  
2737 charged by the division. This subsection shall operate pursuant  
2738 to the provisions of s. 215.20.

2739 Section 51. Paragraph (a) of subsection (2) of section  
2740 718.608, Florida Statutes, is amended to read:

2741 718.608 Notice of intended conversion; time of delivery;  
2742 content.--

2743 (2) (a) Each notice of intended conversion shall be dated  
2744 and in writing. The notice shall contain the following statement,  
2745 with the phrases of the following statement which appear in upper  
2746 case printed in conspicuous type:

2747  
2748 These apartments are being converted to condominium by  
2749 (name of developer) , the developer.

2750 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
2751 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
2752 AGREEMENT AS FOLLOWS:

2753 a. If you have continuously been a resident of these  
2754 apartments during the last 180 days and your rental agreement  
2755 expires during the next 270 days, you may extend your rental

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2756 agreement for up to 270 days after the date of this notice.

2757       b. If you have not been a continuous resident of these  
2758 apartments for the last 180 days and your rental agreement  
2759 expires during the next 180 days, you may extend your rental  
2760 agreement for up to 180 days after the date of this notice.

2761       c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
2762 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
2763 DATE OF THIS NOTICE.

2764       2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
2765 you may extend your rental agreement for up to 45 days after the  
2766 date of this notice while you decide whether to extend your  
2767 rental agreement as explained above. To do so, you must notify  
2768 the developer in writing. You will then have the full 45 days to  
2769 decide whether to extend your rental agreement as explained  
2770 above.

2771       3. During the extension of your rental agreement you will  
2772 be charged the same rent that you are now paying.

2773       4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
2774 OF THE RENTAL AGREEMENT AS FOLLOWS:

2775       a. If your rental agreement began or was extended or  
2776 renewed after May 1, 1980, and your rental agreement, including  
2777 extensions and renewals, has an unexpired term of 180 days or  
2778 less, you may cancel your rental agreement upon 30 days' written  
2779 notice and move. Also, upon 30 days' written notice, you may  
2780 cancel any extension of the rental agreement.

2781       b. If your rental agreement was not begun or was not  
2782 extended or renewed after May 1, 1980, you may not cancel the  
2783 rental agreement without the consent of the developer. If your  
2784 rental agreement, including extensions and renewals, has an



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2785 unexpired term of 180 days or less, you may, however, upon 30  
2786 days' written notice cancel any extension of the rental  
2787 agreement.

2788 5. All notices must be given in writing and sent by mail,  
2789 return receipt requested, or delivered in person to the developer  
2790 at this address: (name and address of developer) .

2791 6. If you have continuously been a resident of these  
2792 apartments during the last 180 days:

2793 a. You have the right to purchase your apartment and will  
2794 have 45 days to decide whether to purchase. If you do not buy the  
2795 unit at that price and the unit is later offered at a lower  
2796 price, you will have the opportunity to buy the unit at the lower  
2797 price. However, in all events your right to purchase the unit  
2798 ends when the rental agreement or any extension of the rental  
2799 agreement ends or when you waive this right in writing.

2800 b. Within 90 days you will be provided purchase information  
2801 relating to your apartment, including the price of your unit and  
2802 the condition of the building. If you do not receive this  
2803 information within 90 days, your rental agreement and any  
2804 extension will be extended 1 day for each day over 90 days until  
2805 you are given the purchase information. If you do not want this  
2806 rental agreement extension, you must notify the developer in  
2807 writing.

2808 7. If you have any questions regarding this conversion or  
2809 the Condominium Act, you may contact the developer or the state  
2810 agency which regulates condominiums: The Division of Florida ~~Land~~  
2811 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee  
2812 address and telephone number of division) .

2813 Section 52. Subsection (17) of section 719.103, Florida

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2814 Statutes, is amended to read:

2815 719.103 Definitions.--As used in this chapter:

2816 (17) "Division" means the Division of Florida ~~Land Sales,~~  
2817 Condominiums, Timeshares, and Mobile Homes of the Department of  
2818 Business and Professional Regulation.

2819 Section 53. Section 719.1255, Florida Statutes, is amended  
2820 to read:

2821 719.1255 Alternative resolution of disputes.--The Division  
2822 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes  
2823 of the Department of Business and Professional Regulation shall  
2824 provide for alternative dispute resolution in accordance with s.  
2825 718.1255.

2826 Section 54. Section 719.501, Florida Statutes, is amended  
2827 to read:

2828 719.501 Powers and duties of Division of Florida ~~Land~~  
2829 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes.--

2830 (1) The Division of Florida ~~Land Sales,~~ Condominiums,  
2831 Timeshares, and Mobile Homes of the Department of Business and  
2832 Professional Regulation, referred to as the "division" in this  
2833 part, in addition to other powers and duties prescribed by  
2834 chapter 718 498, has the power to enforce and ensure compliance  
2835 with ~~the provisions of~~ this chapter and adopted rules ~~promulgated~~  
2836 ~~pursuant hereto~~ relating to the development, construction, sale,  
2837 lease, ownership, operation, and management of residential  
2838 cooperative units. In performing its duties, the division shall  
2839 have the following powers and duties:

2840 (a) The division may make necessary public or private  
2841 investigations within or outside this state to determine whether  
2842 any person has violated this chapter or any rule or order

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2843 hereunder, to aid in the enforcement of this chapter, or to aid  
2844 in the adoption of rules or forms hereunder.

2845 (b) The division may require or permit any person to file a  
2846 statement in writing, under oath or otherwise, as the division  
2847 determines, as to the facts and circumstances concerning a matter  
2848 to be investigated.

2849 (c) For the purpose of any investigation under this  
2850 chapter, the division director or any officer or employee  
2851 designated by the division director may administer oaths or  
2852 affirmations, subpoena witnesses and compel their attendance,  
2853 take evidence, and require the production of any matter which is  
2854 relevant to the investigation, including the existence,  
2855 description, nature, custody, condition, and location of any  
2856 books, documents, or other tangible things and the identity and  
2857 location of persons having knowledge of relevant facts or any  
2858 other matter reasonably calculated to lead to the discovery of  
2859 material evidence. Upon failure by a person to obey a subpoena or  
2860 to answer questions propounded by the investigating officer and  
2861 upon reasonable notice to all persons affected thereby, the  
2862 division may apply to the circuit court for an order compelling  
2863 compliance.

2864 (d) Notwithstanding any remedies available to unit owners  
2865 and associations, if the division has reasonable cause to believe  
2866 that a violation of any provision of this chapter or related rule  
2867 ~~promulgated pursuant hereto~~ has occurred, the division may  
2868 institute enforcement proceedings in its own name against a  
2869 developer, association, officer, or member of the board, or its  
2870 assignees or agents, as follows:

2871 1. The division may permit a person whose conduct or

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2872 actions may be under investigation to waive formal proceedings  
2873 and enter into a consent proceeding whereby orders, rules, or  
2874 letters of censure or warning, whether formal or informal, may be  
2875 entered against the person.

2876 2. The division may issue an order requiring the developer,  
2877 association, officer, or member of the board, or its assignees or  
2878 agents, to cease and desist from the unlawful practice and take  
2879 such affirmative action as in the judgment of the division will  
2880 carry out the purposes of this chapter. Such affirmative action  
2881 may include, but is not limited to, an order requiring a  
2882 developer to pay moneys determined to be owed to a condominium  
2883 association.

2884 3. The division may bring an action in circuit court on  
2885 behalf of a class of unit owners, lessees, or purchasers for  
2886 declaratory relief, injunctive relief, or restitution.

2887 4. The division may impose a civil penalty against a  
2888 developer or association, or its assignees or agents, for any  
2889 violation of this chapter or related ~~a rule promulgated pursuant~~  
2890 ~~hereto~~. The division may impose a civil penalty individually  
2891 against any officer or board member who willfully and knowingly  
2892 violates a provision of this chapter, a rule adopted pursuant to  
2893 this chapter, or a final order of the division. The term  
2894 "willfully and knowingly" means that the division informed the  
2895 officer or board member that his or her action or intended action  
2896 violates this chapter, a rule adopted under this chapter, or a  
2897 final order of the division, and that the officer or board member  
2898 refused to comply with the requirements of this chapter, a rule  
2899 adopted under this chapter, or a final order of the division. The  
2900 division, prior to initiating formal agency action under chapter

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2901 | 120, shall afford the officer or board member an opportunity to  
2902 | voluntarily comply with this chapter, a rule adopted under this  
2903 | chapter, or a final order of the division. An officer or board  
2904 | member who complies within 10 days is not subject to a civil  
2905 | penalty. A penalty may be imposed on the basis of each day of  
2906 | continuing violation, but in no event shall the penalty for any  
2907 | offense exceed \$5,000. By January 1, 1998, the division shall  
2908 | adopt, by rule, penalty guidelines applicable to possible  
2909 | violations or to categories of violations of this chapter or  
2910 | rules adopted by the division. The guidelines must specify a  
2911 | meaningful range of civil penalties for each such violation of  
2912 | the statute and rules and must be based upon the harm caused by  
2913 | the violation, the repetition of the violation, and upon such  
2914 | other factors deemed relevant by the division. For example, the  
2915 | division may consider whether the violations were committed by a  
2916 | developer or owner-controlled association, the size of the  
2917 | association, and other factors. The guidelines must designate the  
2918 | possible mitigating or aggravating circumstances that justify a  
2919 | departure from the range of penalties provided by the rules. It  
2920 | is the legislative intent that minor violations be distinguished  
2921 | from those which endanger the health, safety, or welfare of the  
2922 | cooperative residents or other persons and that such guidelines  
2923 | provide reasonable and meaningful notice to the public of likely  
2924 | penalties that may be imposed for proscribed conduct. This  
2925 | subsection does not limit the ability of the division to  
2926 | informally dispose of administrative actions or complaints by  
2927 | stipulation, agreed settlement, or consent order. All amounts  
2928 | collected shall be deposited with the Chief Financial Officer to  
2929 | the credit of the Division of Florida ~~Land Sales,~~ Condominiums,

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2930 Timeshares, and Mobile Homes Trust Fund. If a developer fails to  
2931 pay the civil penalty, the division shall thereupon issue an  
2932 order directing that such developer cease and desist from further  
2933 operation until such time as the civil penalty is paid or may  
2934 pursue enforcement of the penalty in a court of competent  
2935 jurisdiction. If an association fails to pay the civil penalty,  
2936 the division shall thereupon pursue enforcement in a court of  
2937 competent jurisdiction, and the order imposing the civil penalty  
2938 or the cease and desist order shall not become effective until 20  
2939 days after the date of such order. Any action commenced by the  
2940 division shall be brought in the county in which the division has  
2941 its executive offices or in the county where the violation  
2942 occurred.

2943 (e) The division may ~~is authorized to~~ prepare and  
2944 disseminate a prospectus and other information to assist  
2945 prospective owners, purchasers, lessees, and developers of  
2946 residential cooperatives in assessing the rights, privileges, and  
2947 duties pertaining thereto.

2948 (f) The division has authority to adopt rules pursuant to  
2949 ss. 120.536(1) and 120.54 to implement and enforce the provisions  
2950 of this chapter.

2951 (g) The division shall establish procedures for providing  
2952 notice to an association when the division is considering the  
2953 issuance of a declaratory statement with respect to the  
2954 cooperative documents governing such cooperative community.

2955 (h) The division shall furnish each association which pays  
2956 the fees required by paragraph (2) (a) a copy of this act,  
2957 subsequent changes to this act on an annual basis, an amended  
2958 version of this act as it becomes available from the Secretary of

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2959 State's office on a biennial basis, and the rules adopted  
2960 ~~promulgated pursuant~~ thereto on an annual basis.

2961 (i) The division shall annually provide each association  
2962 with a summary of declaratory statements and formal legal  
2963 opinions relating to the operations of cooperatives which were  
2964 rendered by the division during the previous year.

2965 (j) The division shall adopt uniform accounting principles,  
2966 policies, and standards to be used by all associations in the  
2967 preparation and presentation of all financial statements required  
2968 by this chapter. The principles, policies, and standards shall  
2969 take into consideration the size of the association and the total  
2970 revenue collected by the association.

2971 (k) The division shall provide training programs for  
2972 cooperative association board members and unit owners.

2973 (l) The division shall maintain a toll-free telephone  
2974 number accessible to cooperative unit owners.

2975 (m) When a complaint is made to the division, the division  
2976 shall conduct its inquiry with reasonable dispatch and with due  
2977 regard to the interests of the affected parties. Within 30 days  
2978 after receipt of a complaint, the division shall acknowledge the  
2979 complaint in writing and notify the complainant whether the  
2980 complaint is within the jurisdiction of the division and whether  
2981 additional information is needed by the division from the  
2982 complainant. The division shall conduct its investigation and  
2983 shall, within 90 days after receipt of the original complaint or  
2984 timely requested additional information, take action upon the  
2985 complaint. However, the failure to complete the investigation  
2986 within 90 days does not prevent the division from continuing the  
2987 investigation, accepting or considering evidence obtained or

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2988 received after 90 days, or taking administrative action if  
2989 reasonable cause exists to believe that a violation of this  
2990 chapter or a rule of the division has occurred. If an  
2991 investigation is not completed within the time limits established  
2992 in this paragraph, the division shall, on a monthly basis, notify  
2993 the complainant in writing of the status of the investigation.  
2994 When reporting its action to the complainant, the division shall  
2995 inform the complainant of any right to a hearing pursuant to ss.  
2996 120.569 and 120.57.

2997 (n) The division shall develop a program to certify both  
2998 volunteer and paid mediators to provide mediation of cooperative  
2999 disputes. The division shall provide, upon request, a list of  
3000 such mediators to any association, unit owner, or other  
3001 participant in arbitration proceedings under s. 718.1255  
3002 requesting a copy of the list. The division shall include on the  
3003 list of voluntary mediators only persons who have received at  
3004 least 20 hours of training in mediation techniques or have  
3005 mediated at least 20 disputes. In order to become initially  
3006 certified by the division, paid mediators must be certified by  
3007 the Supreme Court to mediate court cases in ~~either~~ county or  
3008 circuit courts. However, the division may adopt, by rule,  
3009 additional factors for the certification of paid mediators, which  
3010 factors must be related to experience, education, or background.  
3011 Any person initially certified as a paid mediator by the division  
3012 must, in order to continue to be certified, comply with the  
3013 factors or requirements imposed by rules adopted by the division.

3014 (2) (a) Each cooperative association shall pay to the  
3015 division, on or before January 1 of each year, an annual fee in  
3016 the amount of \$4 for each residential unit in cooperatives



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3017 | operated by the association. If the fee is not paid by March 1,  
3018 | then the association shall be assessed a penalty of 10 percent of  
3019 | the amount due, and the association shall not have the standing  
3020 | to maintain or defend any action in the courts of this state  
3021 | until the amount due is paid.

3022 | (b) All fees shall be deposited in the Division of Florida  
3023 | ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund  
3024 | as provided by law.

3025 | Section 55. Paragraph (a) of subsection (2) of section  
3026 | 719.502, Florida Statutes, is amended to read:

3027 | 719.502 Filing prior to sale or lease.--

3028 | (2) (a) Prior to filing as required by subsection (1), and  
3029 | prior to acquiring an ownership, leasehold, or contractual  
3030 | interest in the land upon which the cooperative is to be  
3031 | developed, a developer shall not offer a contract for purchase or  
3032 | lease of a unit for more than 5 years. However, the developer may  
3033 | accept deposits for reservations upon the approval of a fully  
3034 | executed escrow agreement and reservation agreement form properly  
3035 | filed with the Division of Florida ~~Land Sales,~~ Condominiums,  
3036 | Timeshares, and Mobile Homes. Each filing of a proposed  
3037 | reservation program shall be accompanied by a filing fee of \$250.  
3038 | Reservations shall not be taken on a proposed cooperative unless  
3039 | the developer has an ownership, leasehold, or contractual  
3040 | interest in the land upon which the cooperative is to be  
3041 | developed. The division shall notify the developer within 20 days  
3042 | of receipt of the reservation filing of any deficiencies  
3043 | contained therein. Such notification shall not preclude the  
3044 | determination of reservation filing deficiencies at a later date,  
3045 | nor shall it relieve the developer of any responsibility under

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3046 the law. The escrow agreement and the reservation agreement form  
3047 shall include a statement of the right of the prospective  
3048 purchaser to an immediate unqualified refund of the reservation  
3049 deposit moneys upon written request to the escrow agent by the  
3050 prospective purchaser or the developer.

3051 Section 56. Section 719.504, Florida Statutes, is amended  
3052 to read:

3053 719.504 Prospectus or offering circular.--Every developer  
3054 of a residential cooperative which contains more than 20  
3055 residential units, or which is part of a group of residential  
3056 cooperatives which will be served by property to be used in  
3057 common by unit owners of more than 20 residential units, shall  
3058 prepare a prospectus or offering circular and file it with the  
3059 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
3060 Mobile Homes prior to entering into an enforceable contract of  
3061 purchase and sale of any unit or lease of a unit for more than 5  
3062 years and shall furnish a copy of the prospectus or offering  
3063 circular to each buyer. In addition to the prospectus or offering  
3064 circular, each buyer shall be furnished a separate page entitled  
3065 "Frequently Asked Questions and Answers," which must be in  
3066 accordance with a format approved by the division. This page  
3067 must, in readable language: inform prospective purchasers  
3068 regarding their voting rights and unit use restrictions,  
3069 including restrictions on the leasing of a unit; indicate whether  
3070 and in what amount the unit owners or the association is  
3071 obligated to pay rent or land use fees for recreational or other  
3072 commonly used facilities; contain a statement identifying that  
3073 amount of assessment which, pursuant to the budget, would be  
3074 levied upon each unit type, exclusive of any special assessments,

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3075 and which identifies the basis upon which assessments are levied,  
3076 whether monthly, quarterly, or otherwise; state and identify any  
3077 court cases in which the association is currently a party of  
3078 record in which the association may face liability in excess of  
3079 \$100,000; and state whether membership in a recreational  
3080 facilities association is mandatory and, if so, identify the fees  
3081 currently charged per unit type. The division shall by rule  
3082 require such other disclosure as in its judgment will assist  
3083 prospective purchasers. The prospectus or offering circular may  
3084 include more than one cooperative, although not all such units  
3085 are being offered for sale as of the date of the prospectus or  
3086 offering circular. The prospectus or offering circular must  
3087 contain the following information:

3088 (1) The front cover or the first page must contain only:

3089 (a) The name of the cooperative.

3090 (b) The following statements in conspicuous type:

3091 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
3092 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

3093 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
3094 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
3095 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3096 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
3097 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
3098 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
3099 REPRESENTATIONS.

3100 (2) Summary: The next page must contain all statements  
3101 required to be in conspicuous type in the prospectus or offering  
3102 circular.

3103 (3) A separate index of the contents and exhibits of the

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3104 prospectus.

3105 (4) Beginning on the first page of the text (not including  
3106 the summary and index), a description of the cooperative,  
3107 including, but not limited to, the following information:

3108 (a) Its name and location.

3109 (b) A description of the cooperative property, including,  
3110 without limitation:

3111 1. The number of buildings, the number of units in each  
3112 building, the number of bathrooms and bedrooms in each unit, and  
3113 the total number of units, if the cooperative is not a phase  
3114 cooperative; or, if the cooperative is a phase cooperative, the  
3115 maximum number of buildings that may be contained within the  
3116 cooperative, the minimum and maximum number of units in each  
3117 building, the minimum and maximum number of bathrooms and  
3118 bedrooms that may be contained in each unit, and the maximum  
3119 number of units that may be contained within the cooperative.

3120 2. The page in the cooperative documents where a copy of  
3121 the survey and plot plan of the cooperative is located.

3122 3. The estimated latest date of completion of constructing,  
3123 finishing, and equipping. In lieu of a date, a statement that the  
3124 estimated date of completion of the cooperative is in the  
3125 purchase agreement and a reference to the article or paragraph  
3126 containing that information.

3127 (c) The maximum number of units that will use facilities in  
3128 common with the cooperative. If the maximum number of units will  
3129 vary, a description of the basis for variation and the minimum  
3130 amount of dollars per unit to be spent for additional  
3131 recreational facilities or enlargement of such facilities. If the  
3132 addition or enlargement of facilities will result in a material

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3133 increase of a unit owner's maintenance expense or rental expense,  
3134 if any, the maximum increase and limitations thereon shall be  
3135 stated.

3136 (5) (a) A statement in conspicuous type describing whether  
3137 the cooperative is created and being sold as fee simple interests  
3138 or as leasehold interests. If the cooperative is created or being  
3139 sold on a leasehold, the location of the lease in the disclosure  
3140 materials shall be stated.

3141 (b) If timeshare estates are or may be created with respect  
3142 to any unit in the cooperative, a statement in conspicuous type  
3143 stating that timeshare estates are created and being sold in such  
3144 specified units in the cooperative.

3145 (6) A description of the recreational and other common  
3146 areas that will be used only by unit owners of the cooperative,  
3147 including, but not limited to, the following:

3148 (a) Each room and its intended purposes, location,  
3149 approximate floor area, and capacity in numbers of people.

3150 (b) Each swimming pool, as to its general location,  
3151 approximate size and depths, approximate deck size and capacity,  
3152 and whether heated.

3153 (c) Additional facilities, as to the number of each  
3154 facility, its approximate location, approximate size, and  
3155 approximate capacity.

3156 (d) A general description of the items of personal property  
3157 and the approximate number of each item of personal property that  
3158 the developer is committing to furnish for each room or other  
3159 facility or, in the alternative, a representation as to the  
3160 minimum amount of expenditure that will be made to purchase the  
3161 personal property for the facility.

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3162 (e) The estimated date when each room or other facility  
3163 will be available for use by the unit owners.

3164 (f)1. An identification of each room or other facility to  
3165 be used by unit owners that will not be owned by the unit owners  
3166 or the association;

3167 2. A reference to the location in the disclosure materials  
3168 of the lease or other agreements providing for the use of those  
3169 facilities; and

3170 3. A description of the terms of the lease or other  
3171 agreements, including the length of the term; the rent payable,  
3172 directly or indirectly, by each unit owner, and the total rent  
3173 payable to the lessor, stated in monthly and annual amounts for  
3174 the entire term of the lease; and a description of any option to  
3175 purchase the property leased under any such lease, including the  
3176 time the option may be exercised, the purchase price or how it is  
3177 to be determined, the manner of payment, and whether the option  
3178 may be exercised for a unit owner's share or only as to the  
3179 entire leased property.

3180 (g) A statement as to whether the developer may provide  
3181 additional facilities not described above, their general  
3182 locations and types, improvements or changes that may be made,  
3183 the approximate dollar amount to be expended, and the maximum  
3184 additional common expense or cost to the individual unit owners  
3185 that may be charged during the first annual period of operation  
3186 of the modified or added facilities.

3187  
3188 Descriptions as to locations, areas, capacities, numbers,  
3189 volumes, or sizes may be stated as approximations or minimums.

3190 (7) A description of the recreational and other facilities

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3191 that will be used in common with other cooperatives, community  
3192 associations, or planned developments which require the payment  
3193 of the maintenance and expenses of such facilities, ~~either~~  
3194 directly or indirectly, by the unit owners. The description shall  
3195 include, but not be limited to, the following:

3196 (a) Each building and facility committed to be built.

3197 (b) Facilities not committed to be built except under  
3198 certain conditions, and a statement of those conditions or  
3199 contingencies.

3200 (c) As to each facility committed to be built, or which  
3201 will be committed to be built upon the happening of one of the  
3202 conditions in paragraph (b), a statement of whether it will be  
3203 owned by the unit owners having the use thereof or by an  
3204 association or other entity which will be controlled by them, or  
3205 others, and the location in the exhibits of the lease or other  
3206 document providing for use of those facilities.

3207 (d) The year in which each facility will be available for  
3208 use by the unit owners or, in the alternative, the maximum number  
3209 of unit owners in the project at the time each of all of the  
3210 facilities is committed to be completed.

3211 (e) A general description of the items of personal  
3212 property, and the approximate number of each item of personal  
3213 property, that the developer is committing to furnish for each  
3214 room or other facility or, in the alternative, a representation  
3215 as to the minimum amount of expenditure that will be made to  
3216 purchase the personal property for the facility.

3217 (f) If there are leases, a description thereof, including  
3218 the length of the term, the rent payable, and a description of  
3219 any option to purchase.

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3220  
3221 Descriptions shall include location, areas, capacities, numbers,  
3222 volumes, or sizes and may be stated as approximations or  
3223 minimums.

3224 (8) Recreation lease or associated club membership:

3225 (a) If any recreational facilities or other common areas  
3226 offered by the developer and available to, or to be used by, unit  
3227 owners are to be leased or have club membership associated, the  
3228 following statement in conspicuous type shall be included: THERE  
3229 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
3230 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
3231 COOPERATIVE. There shall be a reference to the location in the  
3232 disclosure materials where the recreation lease or club  
3233 membership is described in detail.

3234 (b) If it is mandatory that unit owners pay a fee, rent,  
3235 dues, or other charges under a recreational facilities lease or  
3236 club membership for the use of facilities, there shall be in  
3237 conspicuous type the applicable statement:

3238 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
3239 MANDATORY FOR UNIT OWNERS; or

3240 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
3241 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3242 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS  
3243 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,  
3244 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE  
3245 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3246 4. A similar statement of the nature of the organization or  
3247 manner in which the use rights are created, and that unit owners  
3248 are required to pay.



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3249  
3250 Immediately following the applicable statement, the location in  
3251 the disclosure materials where the development is described in  
3252 detail shall be stated.

3253 (c) If the developer, or any other person other than the  
3254 unit owners and other persons having use rights in the  
3255 facilities, reserves, or is entitled to receive, any rent, fee,  
3256 or other payment for the use of the facilities, then there shall  
3257 be the following statement in conspicuous type: THE UNIT OWNERS  
3258 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
3259 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this  
3260 statement, the location in the disclosure materials where the  
3261 rent or land use fees are described in detail shall be stated.

3262 (d) If, in any recreation format, whether leasehold, club,  
3263 or other, any person other than the association has the right to  
3264 a lien on the units to secure the payment of assessments, rent,  
3265 or other exactions, there shall appear a statement in conspicuous  
3266 type in substantially the following form:

3267 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
3268 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
3269 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS  
3270 MAY RESULT IN FORECLOSURE OF THE LIEN; or

3271 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
3272 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
3273 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
3274 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
3275 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3276  
3277 Immediately following the applicable statement, the location in

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3278 the disclosure materials where the lien or lien right is  
3279 described in detail shall be stated.

3280 (9) If the developer or any other person has the right to  
3281 increase or add to the recreational facilities at any time after  
3282 the establishment of the cooperative whose unit owners have use  
3283 rights therein, without the consent of the unit owners or  
3284 associations being required, there shall appear a statement in  
3285 conspicuous type in substantially the following form:

3286 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
3287 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
3288 statement, the location in the disclosure materials where such  
3289 reserved rights are described shall be stated.

3290 (10) A statement of whether the developer's plan includes a  
3291 program of leasing units rather than selling them, or leasing  
3292 units and selling them subject to such leases. If so, there shall  
3293 be a description of the plan, including the number and  
3294 identification of the units and the provisions and term of the  
3295 proposed leases, and a statement in boldfaced type that: THE  
3296 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

3297 (11) The arrangements for management of the association and  
3298 maintenance and operation of the cooperative property and of  
3299 other property that will serve the unit owners of the cooperative  
3300 property, and a description of the management contract and all  
3301 other contracts for these purposes having a term in excess of 1  
3302 year, including the following:

- 3303 (a) The names of contracting parties.  
3304 (b) The term of the contract.  
3305 (c) The nature of the services included.  
3306 (d) The compensation, stated on a monthly and annual basis,

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3307 and provisions for increases in the compensation.

3308 (e) A reference to the volumes and pages of the cooperative  
3309 documents and of the exhibits containing copies of such  
3310 contracts.

3311  
3312 Copies of all described contracts shall be attached as exhibits.  
3313 If there is a contract for the management of the cooperative  
3314 property, then a statement in conspicuous type in substantially  
3315 the following form shall appear, identifying the proposed or  
3316 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE  
3317 MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE CONTRACT  
3318 MANAGER). Immediately following this statement, the location in  
3319 the disclosure materials of the contract for management of the  
3320 cooperative property shall be stated.

3321 (12) If the developer or any other person or persons other  
3322 than the unit owners has the right to retain control of the board  
3323 of administration of the association for a period of time which  
3324 can exceed 1 year after the closing of the sale of a majority of  
3325 the units in that cooperative to persons other than successors or  
3326 alternate developers, then a statement in conspicuous type in  
3327 substantially the following form shall be included: THE DEVELOPER  
3328 (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE  
3329 ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.  
3330 Immediately following this statement, the location in the  
3331 disclosure materials where this right to control is described in  
3332 detail shall be stated.

3333 (13) If there are any restrictions upon the sale, transfer,  
3334 conveyance, or leasing of a unit, then a statement in conspicuous  
3335 type in substantially the following form shall be included: THE

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3336 SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.  
3337 Immediately following this statement, the location in the  
3338 disclosure materials where the restriction, limitation, or  
3339 control on the sale, lease, or transfer of units is described in  
3340 detail shall be stated.

3341 (14) If the cooperative is part of a phase project, the  
3342 following shall be stated:

3343 (a) A statement in conspicuous type in substantially the  
3344 following form shall be included: THIS IS A PHASE COOPERATIVE.  
3345 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
3346 Immediately following this statement, the location in the  
3347 disclosure materials where the phasing is described shall be  
3348 stated.

3349 (b) A summary of the provisions of the declaration  
3350 providing for the phasing.

3351 (c) A statement as to whether or not residential buildings  
3352 and units which are added to the cooperative may be substantially  
3353 different from the residential buildings and units originally in  
3354 the cooperative, and, if the added residential buildings and  
3355 units may be substantially different, there shall be a general  
3356 description of the extent to which such added residential  
3357 buildings and units may differ, and a statement in conspicuous  
3358 type in substantially the following form shall be included:  
3359 BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE MAY BE  
3360 SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE  
3361 COOPERATIVE. Immediately following this statement, the location  
3362 in the disclosure materials where the extent to which added  
3363 residential buildings and units may substantially differ is  
3364 described shall be stated.

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3365 (d) A statement of the maximum number of buildings  
3366 containing units, the maximum and minimum number of units in each  
3367 building, the maximum number of units, and the minimum and  
3368 maximum square footage of the units that may be contained within  
3369 each parcel of land which may be added to the cooperative.

3370 (15) If the cooperative is created by conversion of  
3371 existing improvements, the following information shall be stated:

3372 (a) The information required by s. 719.616.

3373 (b) A caveat that there are no express warranties unless  
3374 they are stated in writing by the developer.

3375 (16) A summary of the restrictions, if any, to be imposed  
3376 on units concerning the use of any of the cooperative property,  
3377 including statements as to whether there are restrictions upon  
3378 children and pets, and reference to the volumes and pages of the  
3379 cooperative documents where such restrictions are found, or if  
3380 such restrictions are contained elsewhere, then a copy of the  
3381 documents containing the restrictions shall be attached as an  
3382 exhibit.

3383 (17) If there is any land that is offered by the developer  
3384 for use by the unit owners and that is neither owned by them nor  
3385 leased to them, the association, or any entity controlled by unit  
3386 owners and other persons having the use rights to such land, a  
3387 statement shall be made as to how such land will serve the  
3388 cooperative. If any part of such land will serve the cooperative,  
3389 the statement shall describe the land and the nature and term of  
3390 service, and the cooperative documents or other instrument  
3391 creating such servitude shall be included as an exhibit.

3392 (18) The manner in which utility and other services,  
3393 including, but not limited to, sewage and waste disposal, water

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3394 supply, and storm drainage, will be provided and the person or  
3395 entity furnishing them.

3396 (19) An explanation of the manner in which the  
3397 apportionment of common expenses and ownership of the common  
3398 areas have been determined.

3399 (20) An estimated operating budget for the cooperative and  
3400 the association, and a schedule of the unit owner's expenses  
3401 shall be attached as an exhibit and shall contain the following  
3402 information:

3403 (a) The estimated monthly and annual expenses of the  
3404 cooperative and the association that are collected from unit  
3405 owners by assessments.

3406 (b) The estimated monthly and annual expenses of each unit  
3407 owner for a unit, other than assessments payable to the  
3408 association, payable by the unit owner to persons or entities  
3409 other than the association, and the total estimated monthly and  
3410 annual expense. There may be excluded from this estimate expenses  
3411 that are personal to unit owners, which are not uniformly  
3412 incurred by all unit owners, or which are not provided for or  
3413 contemplated by the cooperative documents, including, but not  
3414 limited to, the costs of private telephone; maintenance of the  
3415 interior of cooperative units, which is not the obligation of the  
3416 association; maid or janitorial services privately contracted for  
3417 by the unit owners; utility bills billed directly to each unit  
3418 owner for utility services to his or her unit; insurance premiums  
3419 other than those incurred for policies obtained by the  
3420 cooperative; and similar personal expenses of the unit owner. A  
3421 unit owner's estimated payments for assessments shall also be  
3422 stated in the estimated amounts for the times when they will be

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3423 | due.

3424 |       (c) The estimated items of expenses of the cooperative and  
3425 | the association, except as excluded under paragraph (b),  
3426 | including, but not limited to, the following items, which shall  
3427 | be stated ~~either~~ as an association expense collectible by  
3428 | assessments or as unit owners' expenses payable to persons other  
3429 | than the association:

3430 |       1. Expenses for the association and cooperative:

3431 |       a. Administration of the association.

3432 |       b. Management fees.

3433 |       c. Maintenance.

3434 |       d. Rent for recreational and other commonly used areas.

3435 |       e. Taxes upon association property.

3436 |       f. Taxes upon leased areas.

3437 |       g. Insurance.

3438 |       h. Security provisions.

3439 |       i. Other expenses.

3440 |       j. Operating capital.

3441 |       k. Reserves.

3442 |       1. Fee payable to the division.

3443 |       2. Expenses for a unit owner:

3444 |       a. Rent for the unit, if subject to a lease.

3445 |       b. Rent payable by the unit owner directly to the lessor or  
3446 | agent under any recreational lease or lease for the use of  
3447 | commonly used areas, which use and payment are a mandatory  
3448 | condition of ownership and are not included in the common expense  
3449 | or assessments for common maintenance paid by the unit owners to  
3450 | the association.

3451 |       (d) The following statement in conspicuous type: THE BUDGET

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3452 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
3453 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE  
3454 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
3455 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
3456 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
3457 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE  
3458 OFFERING.

3459 (e) Each budget for an association prepared by a developer  
3460 consistent with this subsection shall be prepared in good faith  
3461 and shall reflect accurate estimated amounts for the required  
3462 items in paragraph (c) at the time of the filing of the offering  
3463 circular with the division, and subsequent increased amounts of  
3464 any item included in the association's estimated budget that are  
3465 beyond the control of the developer shall not be considered an  
3466 amendment that would give rise to rescission rights set forth in  
3467 s. 719.503(1) (a) or (b), nor shall such increases modify, void,  
3468 or otherwise affect any guarantee of the developer contained in  
3469 the offering circular or any purchase contract. It is the intent  
3470 of this paragraph to clarify existing law.

3471 (f) The estimated amounts shall be stated for a period of  
3472 at least 12 months and may distinguish between the period prior  
3473 to the time unit owners other than the developer elect a majority  
3474 of the board of administration and the period after that date.

3475 (21) A schedule of estimated closing expenses to be paid by  
3476 a buyer or lessee of a unit and a statement of whether title  
3477 opinion or title insurance policy is available to the buyer and,  
3478 if so, at whose expense.

3479 (22) The identity of the developer and the chief operating  
3480 officer or principal directing the creation and sale of the



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3481 cooperative and a statement of its and his or her experience in  
3482 this field.

3483 (23) Copies of the following, to the extent they are  
3484 applicable, shall be included as exhibits:

3485 (a) The cooperative documents, or the proposed cooperative  
3486 documents if the documents have not been recorded.

3487 (b) The articles of incorporation creating the association.

3488 (c) The bylaws of the association.

3489 (d) The ground lease or other underlying lease of the  
3490 cooperative.

3491 (e) The management agreement and all maintenance and other  
3492 contracts for management of the association and operation of the  
3493 cooperative and facilities used by the unit owners having a  
3494 service term in excess of 1 year.

3495 (f) The estimated operating budget for the cooperative and  
3496 the required schedule of unit owners' expenses.

3497 (g) A copy of the floor plan of the unit and the plot plan  
3498 showing the location of the residential buildings and the  
3499 recreation and other common areas.

3500 (h) The lease of recreational and other facilities that  
3501 will be used only by unit owners of the subject cooperative.

3502 (i) The lease of facilities used by owners and others.

3503 (j) The form of unit lease, if the offer is of a leasehold.

3504 (k) A declaration of servitude of properties serving the  
3505 cooperative but not owned by unit owners or leased to them or the  
3506 association.

3507 (l) The statement of condition of the existing building or  
3508 buildings, if the offering is of units in an operation being  
3509 converted to cooperative ownership.

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3510 (m) The statement of inspection for termite damage and  
3511 treatment of the existing improvements, if the cooperative is a  
3512 conversion.

3513 (n) The form of agreement for sale or lease of units.

3514 (o) A copy of the agreement for escrow of payments made to  
3515 the developer prior to closing.

3516 (p) A copy of the documents containing any restrictions on  
3517 use of the property required by subsection (16).

3518 (24) Any prospectus or offering circular complying with the  
3519 provisions of former ss. 711.69 and 711.802 may continue to be  
3520 used without amendment, or may be amended to comply with ~~the~~  
3521 ~~provisions of~~ this chapter.

3522 (25) A brief narrative description of the location and  
3523 effect of all existing and intended easements located or to be  
3524 located on the cooperative property other than those in the  
3525 declaration.

3526 (26) If the developer is required by state or local  
3527 authorities to obtain acceptance or approval of any dock or  
3528 marina facility intended to serve the cooperative, a copy of such  
3529 acceptance or approval acquired by the time of filing with the  
3530 division pursuant to s. 719.502 or a statement that such  
3531 acceptance has not been acquired or received.

3532 (27) Evidence demonstrating that the developer has an  
3533 ownership, leasehold, or contractual interest in the land upon  
3534 which the cooperative is to be developed.

3535 Section 57. Section 719.508, Florida Statutes, is amended  
3536 to read:

3537 719.508 Regulation by Division of Hotels and  
3538 Restaurants.--In addition to the authority, regulation, or

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3539 control exercised by the Division of Florida ~~Land Sales,~~  
3540 Condominiums, Timeshares, and Mobile Homes pursuant to this act  
3541 with respect to cooperatives, buildings included in a cooperative  
3542 property shall be subject to the authority, regulation, or  
3543 control of the Division of Hotels and Restaurants of the  
3544 Department of Business and Professional Regulation, to the extent  
3545 provided ~~for~~ in chapters 399 and 509.

3546 Section 58. Paragraph (a) of subsection (2) of section  
3547 719.608, Florida Statutes, is amended to read:

3548 719.608 Notice of intended conversion; time of delivery;  
3549 content.--

3550 (2) (a) Each notice of intended conversion shall be dated  
3551 and in writing. The notice shall contain the following statement,  
3552 with the phrases of the following statement which appear in upper  
3553 case printed in conspicuous type:

3554  
3555 These apartments are being converted to cooperative by  
3556 (name of developer) , the developer.

3557 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
3558 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
3559 AGREEMENT AS FOLLOWS:

3560 a. If you have continuously been a resident of these  
3561 apartments during the last 180 days and your rental agreement  
3562 expires during the next 270 days, you may extend your rental  
3563 agreement for up to 270 days after the date of this notice.

3564 b. If you have not been a continuous resident of these  
3565 apartments for the last 180 days and your rental agreement  
3566 expires during the next 180 days, you may extend your rental  
3567 agreement for up to 180 days after the date of this notice.

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3568           c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
3569 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
3570 DATE OF THIS NOTICE.

3571           2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
3572 you may extend your rental agreement for up to 45 days after the  
3573 date of this notice while you decide whether to extend your  
3574 rental agreement as explained above. To do so, you must notify  
3575 the developer in writing. You will then have the full 45 days to  
3576 decide whether to extend your rental agreement as explained  
3577 above.

3578           3. During the extension of your rental agreement you will  
3579 be charged the same rent that you are now paying.

3580           4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
3581 OF THE RENTAL AGREEMENT AS FOLLOWS:

3582           a. If your rental agreement began or was extended or  
3583 renewed after May 1, 1980, and your rental agreement, including  
3584 extensions and renewals, has an unexpired term of 180 days or  
3585 less, you may cancel your rental agreement upon 30 days' written  
3586 notice and move. Also, upon 30 days' written notice, you may  
3587 cancel any extension of the rental agreement.

3588           b. If your rental agreement was not begun or was not  
3589 extended or renewed after May 1, 1980, you may not cancel the  
3590 rental agreement without the consent of the developer. If your  
3591 rental agreement, including extensions and renewals, has an  
3592 unexpired term of 180 days or less, you may, however, upon 30  
3593 days' written notice cancel any extension of the rental  
3594 agreement.

3595           5. All notices must be given in writing and sent by mail,  
3596 return receipt requested, or delivered in person to the developer

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3597 | at this address: (name and address of developer) .

3598 | 6. If you have continuously been a resident of these  
3599 | apartments during the last 180 days:

3600 | a. You have the right to purchase your apartment and will  
3601 | have 45 days to decide whether to purchase. If you do not buy the  
3602 | unit at that price and the unit is later offered at a lower  
3603 | price, you will have the opportunity to buy the unit at the lower  
3604 | price. However, in all events your right to purchase the unit  
3605 | ends when the rental agreement or any extension of the rental  
3606 | agreement ends or when you waive this right in writing.

3607 | b. Within 90 days you will be provided purchase information  
3608 | relating to your apartment, including the price of your unit and  
3609 | the condition of the building. If you do not receive this  
3610 | information within 90 days, your rental agreement and any  
3611 | extension will be extended 1 day for each day over 90 days until  
3612 | you are given the purchase information. If you do not want this  
3613 | rental agreement extension, you must notify the developer in  
3614 | writing.

3615 | 7. If you have any questions regarding this conversion or  
3616 | the Cooperative Act, you may contact the developer or the state  
3617 | agency which regulates cooperatives: The Division of Florida ~~Land~~  
3618 | ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee  
3619 | address and telephone number of division) .

3620 | Section 59. Subsection (7) of section 720.301, Florida  
3621 | Statutes, is amended to read:

3622 | 720.301 Definitions.--As used in this chapter, the term:

3623 | (7) "Division" means the Division of Florida ~~Land Sales~~,  
3624 | Condominiums, Timeshares, and Mobile Homes in the Department of  
3625 | Business and Professional Regulation.

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3626 Section 60. Subsection (2) of section 720.401, Florida  
3627 Statutes, is amended to read:

3628 720.401 Prospective purchasers subject to association  
3629 membership requirement; disclosure required; covenants;  
3630 assessments; contract cancellation.--

3631 (2) This section does not apply to any association  
3632 regulated under chapter 718, chapter 719, chapter 721, or chapter  
3633 ~~723 or to a subdivider registered under chapter 498~~; and also  
3634 does not apply if disclosure regarding the association is  
3635 otherwise made in connection with the requirements of chapter  
3636 718, chapter 719, chapter 721, or chapter 723.

3637 Section 61. Paragraph (c) of subsection (1) of section  
3638 721.03, Florida Statutes, is amended to read:

3639 721.03 Scope of chapter.--

3640 (1) This chapter applies to all timeshare plans consisting  
3641 of more than seven timeshare periods over a period of at least 3  
3642 years in which the accommodations and facilities, if any, are  
3643 located within this state or offered within this state; provided  
3644 that:

3645 (c) All timeshare accommodations or facilities which are  
3646 located outside the state but offered for sale in this state  
3647 shall be governed by the following:

3648 1. The offering for sale in this state of timeshare  
3649 accommodations and facilities located outside the state is  
3650 subject only to the provisions of ss. 721.01-721.12, 721.18,  
3651 721.20, 721.21, 721.26, 721.28, and part II.

3652 2. The division shall not require a developer of timeshare  
3653 accommodations or facilities located outside of this state to  
3654 make changes in any timeshare instrument to conform to the

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3655 provisions of s. 721.07 or s. 721.55. The division shall have the  
3656 power to require disclosure of those provisions of the timeshare  
3657 instrument that do not conform to s. 721.07 or s. 721.55 as the  
3658 director determines is necessary to fairly, meaningfully, and  
3659 effectively disclose all aspects of the timeshare plan.

3660       3. Except as provided in this subparagraph, the division  
3661 shall have no authority to determine whether any person has  
3662 complied with another state's laws or to disapprove any filing  
3663 out-of-state, timeshare instrument, or component site document,  
3664 based solely upon the lack or degree of timeshare regulation in  
3665 another state. The division may require a developer to obtain and  
3666 provide to the division existing documentation relating to an  
3667 out-of-state filing, timeshare instrument, or component site  
3668 document and prove compliance of same with the laws of that  
3669 state. In this regard, the division may accept any evidence of  
3670 the approval or acceptance of any out-of-state filing, timeshare  
3671 instrument, or component site document by another state in lieu  
3672 of requiring a developer to file the out-of-state filing,  
3673 timeshare instrument, or component site document with the  
3674 division pursuant to this section, or the division may accept an  
3675 opinion letter from an attorney or law firm opining as to the  
3676 compliance of such out-of-state filing, timeshare instrument, or  
3677 component site document with the laws of another state. The  
3678 division may refuse to approve the inclusion of any out-of-state  
3679 filing, timeshare instrument, or component site document as part  
3680 of a public offering statement based upon the inability of the  
3681 developer to establish the compliance of same with the laws of  
3682 another state.

3683       4. The division is authorized to enter into an agreement

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3684 | with another state for the purpose of facilitating the processing  
3685 | of out-of-state timeshare instruments or other component site  
3686 | documents pursuant to this chapter and for the purpose of  
3687 | facilitating the referral of consumer complaints to the  
3688 | appropriate state.

3689 |       5. Notwithstanding any other provision of this paragraph,  
3690 | the offer, in this state, of an additional interest to existing  
3691 | purchasers in the same timeshare plan, the same nonspecific  
3692 | multisite timeshare plan, or the same component site of a  
3693 | multisite timeshare plan with accommodations and facilities  
3694 | located outside of this state shall not be subject to the  
3695 | provisions of this chapter if the offer complies with the  
3696 | provisions of s. 721.11(4).

3697 |       Section 62. Subsection (11) of section 721.05, Florida  
3698 | Statutes, is amended to read:

3699 |       721.05 Definitions.--As used in this chapter, the term:

3700 |       (11) "Division" means the Division of Florida ~~Land Sales,~~  
3701 | Condominiums, Timeshares, and Mobile Homes of the Department of  
3702 | Business and Professional Regulation.

3703 |       Section 63. Paragraph (d) of subsection (2) of section  
3704 | 721.07, Florida Statutes, is amended to read:

3705 |       721.07 Public offering statement.--Prior to offering any  
3706 | timeshare plan, the developer must submit a filed public offering  
3707 | statement to the division for approval as prescribed by s.  
3708 | 721.03, s. 721.55, or this section. Until the division approves  
3709 | such filing, any contract regarding the sale of that timeshare  
3710 | plan is subject to cancellation by the purchaser pursuant to s.  
3711 | 721.10.

3712 |       (2)



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3713 (d) A developer shall have the authority to deliver to  
3714 purchasers any purchaser public offering statement that is not  
3715 yet approved by the division, provided that the following shall  
3716 apply:

3717 1. At the time the developer delivers an unapproved  
3718 purchaser public offering statement to a purchaser pursuant to  
3719 this paragraph, the developer shall deliver a fully completed and  
3720 executed copy of the purchase contract required by s. 721.06 that  
3721 contains the following statement in conspicuous type in  
3722 substantially the following form which shall replace the  
3723 statements required by s. 721.06(1)(g):

3724  
3725 The developer is delivering to you a public offering statement  
3726 that has been filed with but not yet approved by the Division of  
3727 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes.  
3728 Any revisions to the unapproved public offering statement you  
3729 have received must be delivered to you, but only if the revisions  
3730 materially alter or modify the offering in a manner adverse to  
3731 you. After the division approves the public offering statement,  
3732 you will receive notice of the approval from the developer and  
3733 the required revisions, if any.

3734  
3735 Your statutory right to cancel this transaction without any  
3736 penalty or obligation expires 10 calendar days after the date you  
3737 signed your purchase contract or the date on which you receive  
3738 the last of all documents required to be given to you pursuant to  
3739 section 721.07(6), Florida Statutes, or 10 calendar days after  
3740 you receive revisions required to be delivered to you, if any,  
3741 whichever is later. If you decide to cancel this contract, you

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3742 must notify the seller in writing of your intent to cancel. Your  
3743 notice of cancellation shall be effective upon the date sent and  
3744 shall be sent to (Name of Seller) at (Address of Seller) .  
3745 Any attempt to obtain a waiver of your cancellation right is void  
3746 and of no effect. While you may execute all closing documents in  
3747 advance, the closing, as evidenced by delivery of the deed or  
3748 other document, before expiration of your 10-day cancellation  
3749 period, is prohibited.

3750

3751 2. After receipt of approval from the division and prior to  
3752 closing, if any revisions made to the documents contained in the  
3753 purchaser public offering statement materially alter or modify  
3754 the offering in a manner adverse to a purchaser, the developer  
3755 shall send the purchaser such revisions together with a notice  
3756 containing a statement in conspicuous type in substantially the  
3757 following form:

3758

3759 The unapproved public offering statement previously delivered to  
3760 you, together with the enclosed revisions, has been approved by  
3761 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
3762 Mobile Homes. Accordingly, your cancellation right expires 10  
3763 calendar days after you sign your purchase contract or 10  
3764 calendar days after you receive these revisions, whichever is  
3765 later. If you have any questions regarding your cancellation  
3766 rights, you may contact the division at [insert division's  
3767 current address].

3768

3769 3. After receipt of approval from the division and prior to  
3770 closing, if no revisions have been made to the documents

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3771 contained in the unapproved purchaser public offering statement,  
3772 or if such revisions do not materially alter or modify the  
3773 offering in a manner adverse to a purchaser, the developer shall  
3774 send the purchaser a notice containing a statement in conspicuous  
3775 type in substantially the following form:

3776

3777 The unapproved public offering statement previously delivered to  
3778 you has been approved by the Division of Florida ~~Land Sales,~~  
3779 Condominiums, Timeshares, and Mobile Homes. Revisions made to the  
3780 unapproved public offering statement, if any, are ~~either~~ not  
3781 required to be delivered to you or are not deemed by the  
3782 developer, in its opinion, to materially alter or modify the  
3783 offering in a manner that is adverse to you. Accordingly, your  
3784 cancellation right expired 10 days after you signed your purchase  
3785 contract. A complete copy of the approved public offering  
3786 statement is available through the managing entity for inspection  
3787 as part of the books and records of the plan. If you have any  
3788 questions regarding your cancellation rights, you may contact the  
3789 division at [insert division's current address].

3790 Section 64. Subsection (8) of section 721.08, Florida  
3791 Statutes, is amended to read:

3792 721.08 Escrow accounts; nondisturbance instruments;  
3793 alternate security arrangements; transfer of legal title.--

3794 (8) An escrow agent holding escrowed funds pursuant to this  
3795 chapter that have not been claimed for a period of 5 years after  
3796 the date of deposit shall make at least one reasonable attempt to  
3797 deliver such unclaimed funds to the purchaser who submitted such  
3798 funds to escrow. In making such attempt, an escrow agent is  
3799 entitled to rely on a purchaser's last known address as set forth

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3800 | in the books and records of the escrow agent and is not required  
3801 | to conduct any further search for the purchaser. If an escrow  
3802 | agent's attempt to deliver unclaimed funds to any purchaser is  
3803 | unsuccessful, the escrow agent may deliver such unclaimed funds  
3804 | to the division and the division shall deposit such unclaimed  
3805 | funds in the Division of Florida ~~Land Sales,~~ Condominiums,  
3806 | Timeshares, and Mobile Homes Trust Fund, 30 days after giving  
3807 | notice in a publication of general circulation in the county in  
3808 | which the timeshare property containing the purchaser's timeshare  
3809 | interest is located. The purchaser may claim the same at any time  
3810 | prior to the delivery of such funds to the division. After  
3811 | delivery of such funds to the division, the purchaser shall have  
3812 | no more rights to the unclaimed funds. The escrow agent shall not  
3813 | be liable for any claims from any party arising out of the escrow  
3814 | agent's delivery of the unclaimed funds to the division pursuant  
3815 | to this section.

3816 |         Section 65. Section 721.26, Florida Statutes, is amended to  
3817 | read:

3818 |         721.26 Regulation by division.--The division has the power  
3819 | to enforce and ensure compliance with ~~the provisions of~~ this  
3820 | chapter, except for parts III and IV, using the powers provided  
3821 | in this chapter, as well as the powers prescribed in chapters  
3822 | ~~498,~~ 718~~,~~ and 719. In performing its duties, the division shall  
3823 | have the following powers and duties:

3824 |         (1) To aid in the enforcement of this chapter, or any  
3825 | division rule adopted or order ~~promulgated~~ or issued pursuant to  
3826 | this chapter, the division may make necessary public or private  
3827 | investigations within or outside this state to determine whether  
3828 | any person has violated or is about to violate this chapter, or

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3829 any division rule adopted or order ~~promulgated or~~ issued pursuant  
3830 to this chapter.

3831 (2) The division may require or permit any person to file a  
3832 written statement under oath or otherwise, as the division  
3833 determines, as to the facts and circumstances concerning a matter  
3834 under investigation.

3835 (3) For the purpose of any investigation under this  
3836 chapter, the director of the division or any officer or employee  
3837 designated by the director may administer oaths or affirmations,  
3838 subpoena witnesses and compel their attendance, take evidence,  
3839 and require the production of any matter which is relevant to the  
3840 investigation, including the identity, existence, description,  
3841 nature, custody, condition, and location of any books, documents,  
3842 or other tangible things and the identity and location of persons  
3843 having knowledge of relevant facts or any other matter reasonably  
3844 calculated to lead to the discovery of material evidence. Failure  
3845 to obey a subpoena or to answer questions propounded by the  
3846 investigating officer and upon reasonable notice to all persons  
3847 affected thereby shall be a violation of this chapter. In  
3848 addition to the other enforcement powers authorized in this  
3849 subsection, the division may, ~~at its discretion,~~ apply to the  
3850 circuit court for an order compelling compliance.

3851 (4) The division may prepare and disseminate a prospectus  
3852 and other information to assist prospective purchasers, sellers,  
3853 and managing entities of timeshare plans in assessing the rights,  
3854 privileges, and duties pertaining thereto.

3855 (5) Notwithstanding any remedies available to purchasers,  
3856 if the division has reasonable cause to believe that a violation  
3857 of this chapter, or of any division rule adopted or order

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3858 ~~promulgated or~~ issued pursuant to this chapter, has occurred, the  
3859 division may institute enforcement proceedings in its own name  
3860 against any regulated party, as such term is defined in this  
3861 subsection:

3862 (a)1. "Regulated party," for purposes of this section,  
3863 means any developer, exchange company, seller, managing entity,  
3864 owners' association, owners' association director, owners'  
3865 association officer, manager, management firm, escrow agent,  
3866 trustee, any respective assignees or agents, or any other person  
3867 having duties or obligations pursuant to this chapter.

3868 2. Any person who materially participates in any offer or  
3869 disposition of any interest in, or the management or operation  
3870 of, a timeshare plan in violation of this chapter or relevant  
3871 rules involving fraud, deception, false pretenses,  
3872 misrepresentation, or false advertising or the disbursement,  
3873 concealment, or diversion of any funds or assets, which conduct  
3874 adversely affects the interests of a purchaser, and which person  
3875 directly or indirectly controls a regulated party or is a general  
3876 partner, officer, director, agent, or employee of such regulated  
3877 party, shall be jointly and severally liable under this  
3878 subsection with such regulated party, unless such person did not  
3879 know, and in the exercise of reasonable care could not have  
3880 known, of the existence of the facts giving rise to the violation  
3881 of this chapter. A right of contribution shall exist among  
3882 jointly and severally liable persons pursuant to this paragraph.

3883 (b) The division may permit any person whose conduct or  
3884 actions may be under investigation to waive formal proceedings  
3885 and enter into a consent proceeding whereby an order, rule, or  
3886 letter of censure or warning, whether formal or informal, may be

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3887 entered against that person.

3888 (c) The division may issue an order requiring a regulated  
3889 party to cease and desist from an unlawful practice under this  
3890 chapter and take such affirmative action as in the judgment of  
3891 the division will carry out the purposes of this chapter.

3892 (d)1. The division may bring an action in circuit court for  
3893 declaratory or injunctive relief or for other appropriate relief,  
3894 including restitution.

3895 2. The division shall have broad authority and discretion  
3896 to petition the circuit court to appoint a receiver with respect  
3897 to any managing entity which fails to perform its duties and  
3898 obligations under this chapter with respect to the operation of a  
3899 timeshare plan. The circumstances giving rise to an appropriate  
3900 petition for receivership under this subparagraph include, but  
3901 are not limited to:

3902 a. Damage to or destruction of any of the accommodations or  
3903 facilities of a timeshare plan, where the managing entity has  
3904 failed to repair or reconstruct same.

3905 b. A breach of fiduciary duty by the managing entity,  
3906 including, but not limited to, undisclosed self-dealing or  
3907 failure to timely assess, collect, or disburse the common  
3908 expenses of the timeshare plan.

3909 c. Failure of the managing entity to operate the timeshare  
3910 plan in accordance with the timeshare instrument and this  
3911 chapter.

3912

3913 If, under the circumstances, it appears that the events giving  
3914 rise to the petition for receivership cannot be reasonably and  
3915 timely corrected in a cost-effective manner consistent with the

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3916 timeshare instrument, the receiver may petition the circuit court  
3917 to implement such amendments or revisions to the timeshare  
3918 instrument as may be necessary to enable the managing entity to  
3919 resume effective operation of the timeshare plan, or to enter an  
3920 order terminating the timeshare plan, or to enter such further  
3921 orders regarding the disposition of the timeshare property as the  
3922 court deems appropriate, including the disposition and sale of  
3923 the timeshare property held by the owners' association or the  
3924 purchasers. In the event of a receiver's sale, all rights, title,  
3925 and interest held by the owners' association or any purchaser  
3926 shall be extinguished and title shall vest in the buyer. This  
3927 provision applies to timeshare estates, personal property  
3928 timeshare interests, and timeshare licenses. All reasonable costs  
3929 and fees of the receiver relating to the receivership shall  
3930 become common expenses of the timeshare plan upon order of the  
3931 court.

3932 3. The division may revoke its approval of any filing for  
3933 any timeshare plan for which a petition for receivership has been  
3934 filed pursuant to this paragraph.

3935 (e)1. The division may impose a penalty against any  
3936 regulated party for a violation of this chapter or any rule  
3937 adopted thereunder. A penalty may be imposed on the basis of each  
3938 day of continuing violation, but in no event may the penalty for  
3939 any offense exceed \$10,000. All accounts collected shall be  
3940 deposited with the Chief Financial Officer to the credit of the  
3941 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
3942 Mobile Homes Trust Fund.

3943 2.a. If a regulated party fails to pay a penalty, the  
3944 division shall thereupon issue an order directing that such



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3945 regulated party cease and desist from further operation until  
3946 such time as the penalty is paid; or the division may pursue  
3947 enforcement of the penalty in a court of competent jurisdiction.

3948 b. If an owners' association or managing entity fails to  
3949 pay a civil penalty, the division may pursue enforcement in a  
3950 court of competent jurisdiction.

3951 (f) In order to permit the regulated party an opportunity  
3952 ~~either~~ to appeal such decision administratively or to seek relief  
3953 in a court of competent jurisdiction, the order imposing the  
3954 penalty or the cease and desist order shall not become effective  
3955 until 20 days after the date of such order.

3956 (g) Any action commenced by the division shall be brought  
3957 in the county in which the division has its executive offices or  
3958 in the county where the violation occurred.

3959 (h) Notice to any regulated party shall be complete when  
3960 delivered by United States mail, return receipt requested, to the  
3961 party's address currently on file with the division or to such  
3962 other address at which the division is able to locate the party.  
3963 Every regulated party has an affirmative duty to notify the  
3964 division of any change of address at least 5 business days prior  
3965 to such change.

3966 (6) The division has authority to adopt rules pursuant to  
3967 ss. 120.536(1) and 120.54 to implement and enforce the provisions  
3968 of this chapter.

3969 (7) (a) The use of any unfair or deceptive act or practice  
3970 by any person in connection with the sales or other operations of  
3971 an exchange program or timeshare plan is a violation of this  
3972 chapter.

3973 (b) Any violation of the Florida Deceptive and Unfair Trade

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3974 Practices Act, ss. 501.201 et seq., relating to the creation,  
3975 promotion, sale, operation, or management of any timeshare plan  
3976 shall also be a violation of this chapter.

3977 (c) The division may ~~is authorized to~~ institute proceedings  
3978 against any such person and take any appropriate action  
3979 authorized in this section in connection therewith,  
3980 notwithstanding any remedies available to purchasers.

3981 (8) The failure of any person to comply with any order of  
3982 the division is a violation of this chapter.

3983 Section 66. Section 721.28, Florida Statutes, is amended to  
3984 read:

3985 721.28 Division of Florida ~~Land Sales,~~ Condominiums,  
3986 Timeshares, and Mobile Homes Trust Fund.--All funds collected by  
3987 the division and any amounts paid as fees or penalties under this  
3988 chapter shall be deposited in the State Treasury to the credit of  
3989 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
3990 Mobile Homes Trust Fund created by s. 718.509 ~~498.019~~.

3991 Section 67. Paragraph (c) of subsection (1) of section  
3992 721.301, Florida Statutes, is amended to read:

3993 721.301 Florida Timesharing, Vacation Club, and Hospitality  
3994 Program.--

3995 (1)

3996 (c) The director may designate funds from the Division of  
3997 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes  
3998 Trust Fund, not to exceed \$50,000 annually, to support the  
3999 projects and proposals undertaken pursuant to paragraph (b). All  
4000 state trust funds to be expended pursuant to this section must be  
4001 matched equally with private moneys and shall comprise no more  
4002 than half of the total moneys expended annually.

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4003 Section 68. Section 721.50, Florida Statutes, is amended to  
4004 read:

4005 721.50 Short title.--This part may be cited as the  
4006 "McAllister Act" in recognition and appreciation for the years of  
4007 extraordinary and insightful contributions by Mr. Bryan C.  
4008 McAllister, Examinations Supervisor of the former, Division of  
4009 Florida Land Sales, Condominiums, and Mobile Homes.

4010 Section 69. Subsection (1) of section 723.003, Florida  
4011 Statutes, is amended to read:

4012 723.003 Definitions.--As used in this chapter, the  
4013 following words and terms have the following meanings unless  
4014 clearly indicated otherwise:

4015 (1) The term "division" means the Division of Florida ~~Land~~  
4016 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the  
4017 Department of Business and Professional Regulation.

4018 Section 70. Paragraph (e) of subsection (5) of section  
4019 723.006, Florida Statutes, is amended to read:

4020 723.006 Powers and duties of division.--In performing its  
4021 duties, the division has the following powers and duties:

4022 (5) Notwithstanding any remedies available to mobile home  
4023 owners, mobile home park owners, and homeowners' associations, if  
4024 the division has reasonable cause to believe that a violation of  
4025 any provision of this chapter or related ~~any rule promulgated~~  
4026 ~~pursuant hereto~~ has occurred, the division may institute  
4027 enforcement proceedings in its own name against a developer,  
4028 mobile home park owner, or homeowners' association, or its  
4029 assignee or agent, as follows:

4030 (e)1. The division may impose a civil penalty against a  
4031 mobile home park owner or homeowners' association, or its

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4032 assignee or agent, for any violation of this chapter, a properly  
4033 adopted ~~promulgated~~ park rule or regulation, or a rule adopted ~~or~~  
4034 ~~regulation promulgated~~ pursuant hereto. A penalty may be imposed  
4035 on the basis of each separate violation and, if the violation is  
4036 a continuing one, for each day of continuing violation, but in no  
4037 event may the penalty for each separate violation or for each day  
4038 of continuing violation exceed \$5,000. All amounts collected  
4039 shall be deposited with the Chief Financial Officer to the credit  
4040 of the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares,  
4041 and Mobile Homes Trust Fund.

4042 2. If a violator fails to pay the civil penalty, the  
4043 division shall thereupon issue an order directing that such  
4044 violator cease and desist from further violation until such time  
4045 as the civil penalty is paid or may pursue enforcement of the  
4046 penalty in a court of competent jurisdiction. If a homeowners'  
4047 association fails to pay the civil penalty, the division shall  
4048 thereupon pursue enforcement in a court of competent  
4049 jurisdiction, and the order imposing the civil penalty or the  
4050 cease and desist order shall not become effective until 20 days  
4051 after the date of such order. Any action commenced by the  
4052 division shall be brought in the county in which the division has  
4053 its executive offices or in which the violation occurred.

4054 Section 71. Section 723.009, Florida Statutes, is amended  
4055 to read:

4056 723.009 Division of Florida ~~Land Sales,~~ Condominiums,  
4057 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the  
4058 fees, penalties, and fines imposed pursuant to this chapter shall  
4059 be deposited into the Division of Florida ~~Land Sales,~~  
4060 Condominiums, Timeshares, and Mobile Homes Trust Fund created by

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4061 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the  
4062 Legislature pursuant to chapter 216, may be used to defray the  
4063 expenses incurred by the division in administering the provisions  
4064 of this chapter.

4065 Section 72. Paragraph (c) of subsection (2) of section  
4066 723.0611, Florida Statutes, is amended to read:

4067 723.0611 Florida Mobile Home Relocation Corporation.--  
4068 (2)

4069 (c) The corporation shall, for purposes of s. 768.28, be  
4070 considered an agency of the state. Agents or employees of the  
4071 corporation, members of the board of directors of the  
4072 corporation, or representatives of the Division of Florida ~~Land~~  
4073 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be  
4074 considered officers, employees, or agents of the state, and  
4075 actions against them and the corporation shall be governed by s.  
4076 768.28.

4077 Section 73. Subsection (10) of section 849.094, Florida  
4078 Statutes, is amended to read:

4079 849.094 Game promotion in connection with sale of consumer  
4080 products or services.--

4081 (10) This section does not apply to actions or transactions  
4082 regulated by the Department of Business and Professional  
4083 Regulation or to the activities of nonprofit organizations or to  
4084 any other organization engaged in any enterprise other than the  
4085 sale of consumer products or services. Subsections (3), (4), (5),  
4086 (6), and (7) and paragraph (8) (a) and any of the rules made  
4087 pursuant thereto do not apply to television or radio broadcasting  
4088 companies licensed by the Federal Communications Commission or to  
4089 pari-mutuel permitholders licensed to conduct slot machine gaming

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4090 under chapter 551 in the conduct of game promotions held at or  
4091 directed primarily to patrons of the slot machine licensee's  
4092 facility.

4093       Section 74. Except as otherwise expressly provided in this  
4094 act, this act shall take effect July 1, 2008.