

By Senator Hays

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

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

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

67

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

69

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

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

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

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

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

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

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

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

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

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

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

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

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117 Department of Business and Professional Regulation.

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

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

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

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

129 720.302 Purposes, scope, and application.—

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

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

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

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

170 720.3021 Division powers and duties.-

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

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

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

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

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

181 (2) The division shall:

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

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

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

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

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

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204 homeowners' association parcel owners.

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

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

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

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

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

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

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

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

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

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

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

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

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262 receiving a complaint:

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

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

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

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

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

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

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

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

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

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

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320 agents, as follows:

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

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

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

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

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

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

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

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

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

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407 are kept pursuant to s. 720.303.

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

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

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

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

431 (3) SERVICE OF PROCESS.—

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

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

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

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

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

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

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

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

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

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

498 720.3024 Office of the Community Association Ombudsman.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

626 (2) BOARD MEETINGS.—

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

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

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

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

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668 requirements in a governing document.

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

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

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

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

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

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

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

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

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

725 (1) QUORUM; AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

801 3. Votes taken to amend the declaration;

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

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

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

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

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

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

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

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

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

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

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

855 (9) ELECTIONS AND BOARD VACANCIES.—

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

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

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

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

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

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

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

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

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

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900 the time of the vacancy.

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

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

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

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

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929 sheets on both sides of the paper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1022 (d) The appraisal value of the property.

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

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

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

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

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

1040 (6)

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

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

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

1051 213.053 Confidentiality and information sharing.—

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

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

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

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

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

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

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

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

1075 326.006 Powers and duties of division.-

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

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

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

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

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

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

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

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

1127 380.0651 Statewide guidelines and standards.—

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

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1132 are physically proximate to one other.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1188 559.935 Exemptions.—

1189 (1) This part does not apply to:

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

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

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

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

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

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

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

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

1239 718.105 Recording of declaration.—

1240 (4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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1306 and disposition of a motion for temporary injunction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1480 compliance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1654 and cost-effective manner.

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

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

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

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

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

1705 (o) The division may:

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

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

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1712 rules and common administrative practices.

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

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

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

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

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

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

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

1748 718.5011 Ombudsman; appointment; administration.-

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

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

1760 718.502 Filing prior to sale or lease.-

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

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

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

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

1789 (2) NONDEVELOPER DISCLOSURE.—

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

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

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

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

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

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

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

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

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

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

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

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

1831 10. The voting rights of owners.

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

1835

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2023 (8) Recreation lease or associated club membership:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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2089 reserved rights are described shall be stated.

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

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

2103 (a) The names of contracting parties.

2104 (b) The term of the contract.

2105 (c) The nature of the services included.

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

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

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

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

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

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

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

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

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2147 the phasing is described shall be stated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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2292 THE OFFERING.

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

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

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

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

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

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

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

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2350 the developer prior to closing.

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

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

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

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

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

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

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

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

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

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

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

2389

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2459 719.103 Definitions.—As used in this chapter:

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

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

2465 719.1255 Alternative resolution of disputes.—The Division

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2680 719.502 Filing prior to sale or lease.—

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

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

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

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

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

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

2743 (a) The name of the cooperative.

2744 (b) The following statements in conspicuous type:

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

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

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

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

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

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

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

2763 (a) Its name and location.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2879 (8) Recreation lease or associated club membership:

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

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

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

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

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

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

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

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

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

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

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

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2930 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2931

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

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

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

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

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

2958 (a) The names of contracting parties.

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2959 (b) The term of the contract.

2960 (c) The nature of the services included.

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

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

2966

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 3087 1. Expenses for the association and cooperative:
- 3088 a. Administration of the association.
 - 3089 b. Management fees.
 - 3090 c. Maintenance.
 - 3091 d. Rent for recreational and other commonly used areas.
 - 3092 e. Taxes upon association property.
 - 3093 f. Taxes upon leased areas.
 - 3094 g. Insurance.
 - 3095 h. Security provisions.
 - 3096 i. Other expenses.
 - 3097 j. Operating capital.
 - 3098 k. Reserves.
- 3099 1. Fee payable to the division.
- 3100 2. Expenses for a unit owner:
- 3101 a. Rent for the unit, if subject to a lease.
 - 3102 b. Rent payable by the unit owner directly to the lessor or
3103 agent under any recreational lease or lease for the use of

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

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

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

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

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

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

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

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

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

3146 (c) The bylaws of the association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3190 (27) Evidence demonstrating that the developer has an

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

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

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

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

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

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

3212
3213 These apartments are being converted to cooperative by
3214 ... (name of developer) ..., the developer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3295 (2)

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

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

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3307

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

3317

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

3333

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3442 (1)

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

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

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3452 Statutes, is amended to read:

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

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

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

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

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

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

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3481 Homes Trust Fund.

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

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

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

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

3507 723.0611 Florida Mobile Home Relocation Corporation.—

3508 (2)

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

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

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