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1                                   A bill to be entitled  
 2           An act relating to the deregulation of professions and  
 3           occupations; amending s. 20.165, F.S.; deleting provisions  
 4           establishing the Division of Florida Condominiums,  
 5           Timeshares, and Mobile Homes of the Department of Business  
 6           and Professional Regulation; deleting provisions  
 7           establishing the Florida Board of Auctioneers, the  
 8           Barbers' Board, the Board of Employee Leasing Companies,  
 9           the Board of Landscape Architecture, the Board of  
 10          Professional Geologists, the home inspection services  
 11          licensing program, and the mold-related services licensing  
 12          program within the department's Division of Professions;  
 13          repealing chapter 326, F.S., relating to the Yacht and  
 14          Ship Brokers' Act and the licensure of yacht and ship  
 15          brokers and salespersons; amending ss. 212.06 and 213.053,  
 16          F.S.; conforming provisions; repealing part VI of chapter  
 17          468, F.S., relating to the licensure of auctioneers,  
 18          apprentices, and auction businesses, the Florida Board of  
 19          Auctioneers, the Auctioneer Recovery Fund, and the conduct  
 20          of auctions; amending s. 538.03, F.S.; conforming  
 21          provisions; repealing part VII of chapter 468, F.S.,  
 22          relating to the licensure and regulation of talent  
 23          agencies; repealing part VIII of chapter 468, F.S.,  
 24          relating to the licensure and regulation of community  
 25          association managers and management firms and the  
 26          Regulatory Council of Community Association Managers;  
 27          amending ss. 455.2122, 718.111, 718.501, 719.104, and  
 28          721.13, F.S.; conforming provisions; repealing part IX of

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29 chapter 468, F.S., relating to the licensure and  
 30 regulation of athlete agents; repealing part XI of chapter  
 31 468, F.S., relating to the licensure and regulation of  
 32 employee leasing companies and employee leasing company  
 33 groups and the Board of Employee Leasing Companies;  
 34 amending s. 212.096, 212.097, 212.098, 220.03, 443.036,  
 35 443.101, 448.23, 448.26, 472.003, 626.112, 627.192,  
 36 627.3121, and 768.098, F.S.; conforming provisions;  
 37 repealing part XV of chapter 468, F.S., relating to the  
 38 home inspection services licensing program, the licensure  
 39 of home inspectors, the certification of corporations and  
 40 partnerships practicing or offering to practice home  
 41 inspection services, and the regulation of home inspection  
 42 services; amending s. 627.0629, F.S.; conforming  
 43 provisions; amending s. 627.711, F.S.; removing licensed  
 44 home inspectors from list of persons from whom insurers  
 45 must accept uniform mitigation verification inspection  
 46 forms, to conform; repealing part XVI of chapter 468,  
 47 F.S., relating to the mold-related services licensing  
 48 program, the licensure of mold assessors and remediators,  
 49 the certification of corporations and partnerships  
 50 practicing or offering to practice mold assessment or  
 51 remediation, and the regulation of mold-related services;  
 52 amending s. 455.2123, F.S.; conforming provisions;  
 53 ~~repealing chapter 472, F.S., relating to the licensure of~~  
 54 ~~professional surveyors and mappers, the Board of~~  
 55 ~~Professional Surveyors and Mappers, and the practice of~~  
 56 ~~land surveying and mapping; amending ss. 161.57, 177.031,~~

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57 177.36, 177.503, 287.055, 334.044, 348.0008, 373.421,  
 58 403.0877, 440.02, 481.329, 492.102, 497.274, 556.108,  
 59 718.104, 725.08, and 810.12, F.S.; conforming provisions;  
 60 repealing s. 177.508, F.S., relating to the Florida Public  
 61 Land Survey Restoration and Perpetuation Act not affecting  
 62 the actions or practice of land surveyors and mappers  
 63 regulated under chapter 472, to conform; repealing chapter  
 64 476, F.S., relating to the Barbers' Act, the licensure of  
 65 barbers, barbershops, and schools of barbering, the  
 66 Barbers' Board, and the regulation of barbering; amending  
 67 ss. 455.2228, 477.0135, and 480.034, F.S.; conforming  
 68 provisions; amending s. 477.0201, F.S., relating to the  
 69 registration of specialists of specialty practices within  
 70 the practice of cosmetology; amending s. 477.013, F.S.;  
 71 revising and deleting definitions for purposes of the  
 72 Florida Cosmetology Act; amending s. 477.0132, F.S.;  
 73 deleting provisions requiring the registration of persons  
 74 whose occupation or practice is confined solely to hair  
 75 braiding, hair wrapping, or body wrapping; providing that  
 76 the Florida Cosmetology Act does not apply to such  
 77 persons; amending ss. 477.019, 477.025, 477.026, 477.0265,  
 78 477.028, and 477.029, F.S.; conforming provisions;  
 79 repealing ss. 418.2131 and 481.2251, F.S., relating to the  
 80 practice of interior design by registered interior  
 81 designers and disciplinary proceedings against registered  
 82 interior designers; deleting provisions relating to the  
 83 registration of interior designers and the regulation of  
 84 interior design; amending s. 481.201, F.S.; deleting

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85 legislative findings relating to the practice of interior  
 86 design, to conform; amending s. 481.203, F.S.; revising  
 87 definitions relating to the practice of architecture and  
 88 deleting definitions relating to the practice of interior  
 89 design; specifying that the practice of architecture  
 90 includes interior design; amending s. 481.205, F.S.;  
 91 changing the name of the Board of Architecture and  
 92 Interior Design, to conform; revising membership of the  
 93 board; conforming provisions; amending ss. 481.207,  
 94 481.209, 481.211, 481.213, 481.215, and 481.217, F.S.;  
 95 conforming provisions; amending s. 481.219, F.S.; deleting  
 96 provisions permitting the practice of or offer to practice  
 97 interior design through certain business organizations;  
 98 deleting provisions requiring certificates of  
 99 authorization for certain business organizations offering  
 100 interior design services to the public; conforming  
 101 provisions; amending ss. 481.221, 481.222, 481.223,  
 102 481.229, 481.231, and 553.79, F.S.; conforming provisions;  
 103 amending s. 558.002, F.S.; revising definition of "design  
 104 professional" for purposes of provisions relating to  
 105 alternative dispute resolution of construction defects, to  
 106 conform; repealing part II of chapter 481, F.S., relating  
 107 to the registration and licensure of landscape architects,  
 108 the certification of corporations and partnerships  
 109 practicing or offering to practice landscape architectural  
 110 services, the Board of Landscape Architecture, and the  
 111 regulation of landscape architectural services; providing  
 112 a directive to the Division of Statutory Revision;

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113 amending s. 287.055, F.S.; conforming provisions; amending  
 114 s. 339.2405, F.S.; revising qualifications of landscape  
 115 architect member of the Florida Highway Beautification  
 116 Council, to conform; amending ss. 373.62, 403.0877,  
 117 403.9329, 440.02, 479.106, 489.103, 558.002, and 725.08,  
 118 F.S.; conforming provisions; repealing chapter 492, F.S.,  
 119 relating to the licensure of professional geologists, the  
 120 Board of Professional Geologists, and the practice of  
 121 professional geology; amending ss. 373.1175, 376.80,  
 122 377.075, 403.087, 403.0877, 469.004, 627.706, 627.707,  
 123 627.7072, 627.7073, 627.7074, and 849.0935, F.S.;  
 124 conforming provisions; repealing chapter 496, F.S.,  
 125 relating to the registration of professional fundraising  
 126 consultants and professional solicitors and the regulation  
 127 of solicitation of charitable contributions and charitable  
 128 sales promotions; amending ss. 110.181, 316.2045, 320.023,  
 129 322.081, 413.033, 550.0351, 550.1647, 741.0305, 775.0861,  
 130 790.166, 843.16, and 849.0935, F.S.; conforming  
 131 provisions; repealing s. 500.459, F.S., relating to the  
 132 regulation of water vending machines and the permitting of  
 133 water vending machine operators; amending s. 500.511,  
 134 F.S.; deleting provisions for the deposit of operator  
 135 permitting fees, the enforcement of the state's water  
 136 vending machine regulations, penalties, and the preemption  
 137 of county and municipal water vending machine regulations,  
 138 to conform; repealing ss. 501.012-501.019, F.S., relating  
 139 to the registration of health studios and the regulation  
 140 of health studio services; amending s. 501.165, F.S.;

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141 conforming provisions; repealing s. 501.143, F.S.,  
 142 relating to the Dance Studio Act, the registration of  
 143 ballroom dance studios, and the regulation of dance studio  
 144 lessons and services; repealing s. 205.1969, F.S.,  
 145 relating to the issuance by counties and municipalities of  
 146 business tax receipts to health studios and ballroom dance  
 147 studios, to conform; repealing part IV of chapter 501,  
 148 F.S., relating to the Florida Telemarketing Act, the  
 149 licensure of commercial telephone sellers and salespersons  
 150 and the regulation of commercial telephone solicitation;  
 151 repealing s. 205.1973, F.S., relating to the issuance by  
 152 counties and municipalities of business tax receipts to  
 153 telemarketing businesses, to conform; amending ss.  
 154 501.165, 648.44, 772.102, and 895.02, F.S.; conforming  
 155 provisions; repealing chapter 507, F.S., relating to the  
 156 registration of movers and moving brokers and the  
 157 regulation of household moving services; repealing s.  
 158 205.1975, F.S., relating to the issuance by counties and  
 159 municipalities of business tax receipts to movers and  
 160 moving brokers, to conform; amending s. 509.242, F.S.;  
 161 revising the license classifications of public lodging  
 162 establishments for purposes of provisions regulating such  
 163 establishments; amending s. 509.221, F.S.; conforming a  
 164 cross-reference; repealing chapter 555, F.S., relating to  
 165 the regulation of outdoor theaters in which audiences view  
 166 performances from parked vehicles; repealing part VIII of  
 167 chapter 559, F.S., relating to the Sale of Business  
 168 Opportunities Act and the regulation of certain business

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169 | opportunities; repealing part IX of chapter 559, F.S.,  
 170 | relating to the registration of motor vehicle repair  
 171 | shops, the Motor Vehicle Repair Advisory Council, and the  
 172 | regulation of motor vehicle repair; amending ss. 320.27,  
 173 | 445.025, and 713.585, F.S.; conforming provisions;  
 174 | repealing part XI of chapter 559, F.S., relating to the  
 175 | Florida Sellers of Travel Act, the registration of sellers  
 176 | of travel, certification of certain business activities,  
 177 | and the regulation of prearranged travel, tourist-related  
 178 | services, tour-guide services, and vacation certificates;  
 179 | repealing s. 205.1971, F.S., relating to the issuance by  
 180 | counties and municipalities of business tax receipts to  
 181 | sellers of travel, to conform; amending ss. 501.604,  
 182 | 501.608, 636.044, and 721.11, F.S.; conforming provisions;  
 183 | repealing s. 686.201, F.S., relating to contracts with  
 184 | sales representatives involving commissions; repealing s.  
 185 | 817.559, F.S., relating to the labeling of television  
 186 | picture tubes; amending ss. 73.072, 192.037, 475.011,  
 187 | 718.103, 718.1085, 718.111, 718.112, 718.202, 718.301,  
 188 | 718.503, 718.504, 719.103, 719.1035, 719.104, 719.1055,  
 189 | 719.106, 719.202, 719.301, 719.503, 719.504, 719.608,  
 190 | 720.303, 720.306, 720.311, 721.03, 721.05, 721.06, 721.08,  
 191 | 721.09, 721.10, 721.11, 721.111, 721.13, 721.18, 721.20,  
 192 | 721.55, 721,551, 721.552, 721.56, 721.82, 723.002,  
 193 | 723.003, 723.004, 723.031, 723.033, 723.035, 723.037,  
 194 | 723.042, 723.06115, F.S.; repealing ss. 718.1255, 718.501,  
 195 | 718.5011, 718.5012, 718.5014, 718.50151, 718.50152,  
 196 | 718.50153, 718.50154, 718.50155, 718.502, 718.509,

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197 718.621, 719.1255, 719.501, 719.502, 719.508, 719.621,  
 198 721.07, 721.071, 721.075, 721.121, 721.26, 721.265,  
 199 721.27, 721.28, 721.29, 721.301, 721.53, 721.58, 721.98,  
 200 723.005, 723.007, 723.008, 723.009, 723.011, 723.012,  
 201 723.013, 723.016, 723.038, 723.0381, F.S., to delete and  
 202 revise powers and duties of the Division of Florida  
 203 Condominiums, Timeshares, and Mobile Homes of the  
 204 Department of Business and Professional Regulation;  
 205 revising the division's power to enforce and ensure  
 206 compliance of certain provisions relating to condominiums,  
 207 cooperatives, vacation plans and timeshares, and mobile  
 208 homes; conforming provisions to changes made by this act;  
 209 providing an effective date.

210  
 211 Be It Enacted by the Legislature of the State of Florida:

212  
 213 Section 1. Subsections (2) and (4) of section 20.165,  
 214 Florida Statutes, are amended to read:

215 20.165 Department of Business and Professional  
 216 Regulation.—There is created a Department of Business and  
 217 Professional Regulation.

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

- 220 (a) Division of Administration.
- 221 (b) Division of Alcoholic Beverages and Tobacco.
- 222 (c) Division of Certified Public Accounting.

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



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225 of the Board of Accountancy.  
 226 2. The offices of the division shall be located in  
 227 Gainesville.  
 228 ~~(d) Division of Florida Condominiums, Timeshares, and~~  
 229 ~~Mobile Homes.~~  
 230 (d)~~(e)~~ Division of Hotels and Restaurants.  
 231 (e)~~(f)~~ Division of Pari-mutuel Wagering.  
 232 (f)~~(g)~~ Division of Professions.  
 233 (g)~~(h)~~ Division of Real Estate.  
 234 1. The director of the division shall be appointed by the  
 235 secretary of the department, subject to approval by a majority  
 236 of the Florida Real Estate Commission.  
 237 2. The offices of the division shall be located in  
 238 Orlando.  
 239 (h)~~(i)~~ Division of Regulation.  
 240 (i)~~(j)~~ Division of Technology.  
 241 (j)~~(k)~~ Division of Service Operations.  
 242 (4) (a) The following boards and programs are established  
 243 within the Division of Professions:  
 244 1. Board of Architecture ~~and Interior Design~~, created  
 245 under part I of chapter 481.  
 246 ~~2. Florida Board of Auctioneers, created under part VI of~~  
 247 ~~chapter 468.~~  
 248 ~~3. Barbers' Board, created under chapter 476.~~  
 249 2.4. Florida Building Code Administrators and Inspectors  
 250 Board, created under part XII of chapter 468.  
 251 3.5. Construction Industry Licensing Board, created under  
 252 part I of chapter 489.

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253 |        ~~4.6.~~ Board of Cosmetology, created under chapter 477.  
 254 |        5.7. Electrical Contractors' Licensing Board, created  
 255 | under part II of chapter 489.  
 256 |        ~~8.~~ Board of Employee Leasing Companies, created under part  
 257 | XI of chapter 468.  
 258 |        ~~9.~~ Board of Landscape Architecture, created under part II  
 259 | of chapter 481.  
 260 |        ~~6.10.~~ Board of Pilot Commissioners, created under chapter  
 261 | 310.  
 262 |        7.11. Board of Professional Engineers, created under  
 263 | chapter 471.  
 264 |        ~~12.~~ Board of Professional Geologists, created under  
 265 | chapter 492.  
 266 |        ~~8.13.~~ Board of Veterinary Medicine, created under chapter  
 267 | 474.  
 268 |        ~~14.~~ Home inspection services licensing program, created  
 269 | under part XV of chapter 468.  
 270 |        ~~15.~~ Mold-related services licensing program, created under  
 271 | part XVI of chapter 468.  
 272 |        (b) The following board and commission are established  
 273 | within the Division of Real Estate:  
 274 |        1. Florida Real Estate Appraisal Board, created under part  
 275 | II of chapter 475.  
 276 |        2. Florida Real Estate Commission, created under part I of  
 277 | chapter 475.  
 278 |        (c) The following board is established within the Division  
 279 | of Certified Public Accounting: Board of Accountancy, created  
 280 | under chapter 473.

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

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

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

(1)

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

2. The provisions of this paragraph do not apply to any vessel when used for transporting persons or goods for compensation; when offered, let, or rented to another for

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309 | consideration; when offered for rent or hire as a means of  
 310 | transportation for compensation; or when offered or used to  
 311 | provide transportation for persons solicited through personal  
 312 | contact or through advertisement on a "share expense" basis.

313 |         3. Notwithstanding any other provision of this chapter,  
 314 | tax may not be imposed on any vessel imported into this state  
 315 | for the sole purpose of being offered for sale at retail by a  
 316 | ~~yacht broker or yacht dealer registered in this state~~ if the  
 317 | vessel remains under the care, custody, and control of the  
 318 | ~~registered broker or dealer~~ and the owner of the vessel does not  
 319 | make personal use of the vessel during that time. The provisions  
 320 | of this chapter govern the taxability of any sale or use of the  
 321 | vessel subsequent to its importation under this provision.

322 |         Section 4. Paragraph (i) of subsection (8) of section  
 323 | 213.053, Florida Statutes, is amended to read:

324 |         213.053 Confidentiality and information sharing.—

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

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

331 |  
 332 | Disclosure of information under this subsection shall be  
 333 | pursuant to a written agreement between the executive director  
 334 | and the agency. Such agencies, governmental or nongovernmental,  
 335 | shall be bound by the same requirements of confidentiality as  
 336 | the Department of Revenue. Breach of confidentiality is a

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337 misdemeanor of the first degree, punishable as provided by s.  
 338 775.082 or s. 775.083.

339 Section 5. Part VI of chapter 468, Florida Statutes,  
 340 consisting of sections 468.381, 468.382, 468.383, 468.384,  
 341 468.385, 468.3851, 468.3852, 468.3855, 468.386, 468.387,  
 342 468.388, 468.389, 468.391, 468.392, 468.393, 468.394, 468.395,  
 343 468.396, 468.397, 468.398, and 468.399, is repealed.

344 Section 6. Paragraphs (m) through (q) of subsection (2) of  
 345 section 538.03, Florida Statutes, are redesignated as paragraphs  
 346 (1) through (p), respectively, and present paragraph (1) of that  
 347 subsection is amended to read:

348 538.03 Definitions; applicability.—

349 (2) This chapter does not apply to:

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

351 Section 7. Part VII of chapter 468, Florida Statutes,  
 352 consisting of sections 468.401, 468.402, 468.403, 468.404,  
 353 468.405, 468.406, 468.407, 468.408, 468.409, 468.410, 468.411,  
 354 468.412, 468.413, 468.414, and 468.415, is repealed.

355 Section 8. Part VIII of chapter 468, Florida Statutes,  
 356 consisting of sections 468.431, 468.4315, 468.432, 468.433,  
 357 468.4336, 468.4337, 468.4338, 468.435, 468.436, 468.4365,  
 358 468.437, and 468.438, is repealed.

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

361 455.2122 Education.—A board, or the department where there  
 362 is no board, shall approve distance learning courses as an  
 363 alternative to classroom courses to satisfy prelicensure or  
 364 postlicensure education requirements provided for in ~~part VIII~~

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365 ~~of chapter 468 or~~ part I of chapter 475. A board, or the  
 366 department when there is no board, may not require centralized  
 367 examinations for completion of prelicensure or postlicensure  
 368 education requirements for those professions licensed under ~~part~~  
 369 ~~VIII of chapter 468 or~~ part I of chapter 475.

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

373 721.13 Management.—

374 (1)

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

377 (4) The managing entity shall maintain among its records  
 378 and provide to the division upon request a complete list of the  
 379 names and addresses of all purchasers and owners of timeshare  
 380 units in the timeshare plan. The managing entity shall update  
 381 this list no less frequently than quarterly. Pursuant to  
 382 paragraph (3)(d), the managing entity may not publish this  
 383 owner's list or provide a copy of it to any purchaser or to any  
 384 third party other than the division. However, the managing  
 385 entity shall to those persons listed on the owner's list  
 386 materials provided by any purchaser, upon the written request of  
 387 that purchaser, if the purpose of the mailing is to advance  
 388 legitimate owners' association business, such as a proxy  
 389 solicitation for any purpose, including the recall of one or  
 390 more board members elected by the owners or the discharge of the  
 391 manager or management firm. The use of any proxies solicited in  
 392 this manner must comply with the provisions of the timeshare

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393 instrument and this chapter. A mailing requested for the purpose  
 394 of advancing legitimate owners' association business shall occur  
 395 within 30 days after receipt of a request from a purchaser. The  
 396 board of administration of the owners' association shall be  
 397 responsible for determining the appropriateness of any mailing  
 398 requested pursuant to this subsection. The purchaser who  
 399 requests the mailing must reimburse the owners' association in  
 400 advance for the owners' association's actual costs in performing  
 401 the mailing. It shall be a violation of this chapter ~~and, if~~  
 402 ~~applicable, of part VIII of chapter 468,~~ for the board of  
 403 administration or the manager or management firm to refuse to  
 404 mail any material requested by the purchaser to be mailed,  
 405 provided the sole purpose of the materials is to advance  
 406 legitimate owners' association business. If the purpose of the  
 407 mailing is a proxy solicitation to recall one or more board  
 408 members elected by the owners or to discharge the manager or  
 409 management firm and the managing entity does not mail the  
 410 materials within 30 days after receipt of a request from a  
 411 purchaser, the circuit court in the county where the timeshare  
 412 plan is located may, upon application from the requesting  
 413 purchaser, summarily order the mailing of the materials solely  
 414 related to the recall of one or more board members elected by  
 415 the owners or the discharge of the manager or management firm.  
 416 The court shall dispose of an application on an expedited basis.  
 417 In the event of such an order, the court may order the managing  
 418 entity to pay the purchaser's costs, including attorney's fees  
 419 reasonably incurred to enforce the purchaser's rights, unless  
 420 the managing entity can prove it refused the mailing in good

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421 faith because of a reasonable basis for doubt about the  
 422 legitimacy of the mailing.

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

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

430 718.111 The association.—

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



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449 Section 12. Paragraph (d) of subsection (1) of section  
 450 718.501, Florida Statutes, is amended to read:

451 718.501 Authority, responsibility, and duties of Division  
 452 of Florida Condominiums, Timeshares, and Mobile Homes.—

453 (1) The division may enforce and ensure compliance with  
 454 the provisions of this chapter and rules relating to the  
 455 development, construction, sale, lease, ownership, operation,  
 456 and management of residential condominium units. In performing  
 457 its duties, the division has complete jurisdiction to  
 458 investigate complaints and enforce compliance with respect to  
 459 associations that are still under developer control or the  
 460 control of a bulk assignee or bulk buyer pursuant to part VII of  
 461 this chapter and complaints against developers, bulk assignees,  
 462 or bulk buyers involving improper turnover or failure to  
 463 turnover, pursuant to s. 718.301. However, after turnover has  
 464 occurred, the division has jurisdiction to investigate  
 465 complaints related only to financial issues, elections, and unit  
 466 owner access to association records pursuant to s. 718.111(12).

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

475 1. The division may permit a person whose conduct or  
 476 actions may be under investigation to waive formal proceedings

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477 and enter into a consent proceeding whereby orders, rules, or  
 478 letters of censure or warning, whether formal or informal, may  
 479 be entered against the person.

480 2. The division may issue an order requiring the  
 481 developer, bulk assignee, bulk buyer, association, developer-  
 482 designated officer, or developer-designated member of the board  
 483 of administration, developer-designated assignees or agents,  
 484 bulk assignee-designated assignees or agents, or bulk buyer-  
 485 designated assignees or agents, ~~community association manager,~~  
 486 ~~or community association management firm~~ to cease and desist  
 487 from the unlawful practice and take such affirmative action as  
 488 in the judgment of the division carry out the purposes of this  
 489 chapter. If the division finds that a developer, bulk assignee,  
 490 bulk buyer, association, officer, or member of the board of  
 491 administration, or its assignees or agents, is violating or is  
 492 about to violate any provision of this chapter, any rule adopted  
 493 or order issued by the division, or any written agreement  
 494 entered into with the division, and presents an immediate danger  
 495 to the public requiring an immediate final order, it may issue  
 496 an emergency cease and desist order reciting with particularity  
 497 the facts underlying such findings. The emergency cease and  
 498 desist order is effective for 90 days. If the division begins  
 499 nonemergency cease and desist proceedings, the emergency cease  
 500 and desist order remains effective until the conclusion of the  
 501 proceedings under ss. 120.569 and 120.57.

502 3. If a developer, bulk assignee, or bulk buyer, fails to  
 503 pay any restitution determined by the division to be owed, plus  
 504 any accrued interest at the highest rate permitted by law,

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505 within 30 days after expiration of any appellate time period of  
 506 a final order requiring payment of restitution or the conclusion  
 507 of any appeal thereof, whichever is later, the division must  
 508 bring an action in circuit or county court on behalf of any  
 509 association, class of unit owners, lessees, or purchasers for  
 510 restitution, declaratory relief, injunctive relief, or any other  
 511 available remedy. The division may also temporarily revoke its  
 512 acceptance of the filing for the developer to which the  
 513 restitution relates until payment of restitution is made.

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

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

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533           6. The division may impose a civil penalty against a  
 534 developer, bulk assignee, or bulk buyer, or association, or its  
 535 assignee or agent, for any violation of this chapter or related  
 536 rule. The division may impose a civil penalty individually  
 537 against an officer or board member who willfully and knowingly  
 538 violates a provision of this chapter, adopted rule, or a final  
 539 order of the division; may order the removal of such individual  
 540 as an officer or from the board of administration or as an  
 541 officer of the association; and may prohibit such individual  
 542 from serving as an officer or on the board of a community  
 543 association for a period of time. The term "willfully and  
 544 knowingly" means that the division informed the officer or board  
 545 member that his or her action or intended action violates this  
 546 chapter, a rule adopted under this chapter, or a final order of  
 547 the division and that the officer or board member refused to  
 548 comply with the requirements of this chapter, a rule adopted  
 549 under this chapter, or a final order of the division. The  
 550 division, before initiating formal agency action under chapter  
 551 120, must afford the officer or board member an opportunity to  
 552 voluntarily comply, and an officer or board member who complies  
 553 within 10 days is not subject to a civil penalty. A penalty may  
 554 be imposed on the basis of each day of continuing violation, but  
 555 the penalty for any offense may not exceed \$5,000. By January 1,  
 556 1998, the division shall adopt, by rule, penalty guidelines  
 557 applicable to possible violations or to categories of violations  
 558 of this chapter or rules adopted by the division. The guidelines  
 559 must specify a meaningful range of civil penalties for each such  
 560 violation of the statute and rules and must be based upon the

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561 | harm caused by the violation, the repetition of the violation,  
562 | and upon such other factors deemed relevant by the division. For  
563 | example, the division may consider whether the violations were  
564 | committed by a developer, bulk assignee, or bulk buyer, or  
565 | owner-controlled association, the size of the association, and  
566 | other factors. The guidelines must designate the possible  
567 | mitigating or aggravating circumstances that justify a departure  
568 | from the range of penalties provided by the rules. It is the  
569 | legislative intent that minor violations be distinguished from  
570 | those which endanger the health, safety, or welfare of the  
571 | condominium residents or other persons and that such guidelines  
572 | provide reasonable and meaningful notice to the public of likely  
573 | penalties that may be imposed for proscribed conduct. This  
574 | subsection does not limit the ability of the division to  
575 | informally dispose of administrative actions or complaints by  
576 | stipulation, agreed settlement, or consent order. All amounts  
577 | collected shall be deposited with the Chief Financial Officer to  
578 | the credit of the Division of Florida Condominiums, Timeshares,  
579 | and Mobile Homes Trust Fund. If a developer, bulk assignee, or  
580 | bulk buyer fails to pay the civil penalty and the amount deemed  
581 | to be owed to the association, the division shall issue an order  
582 | directing that such developer, bulk assignee, or bulk buyer  
583 | cease and desist from further operation until such time as the  
584 | civil penalty is paid or may pursue enforcement of the penalty  
585 | in a court of competent jurisdiction. If an association fails to  
586 | pay the civil penalty, the division shall pursue enforcement in  
587 | a court of competent jurisdiction, and the order imposing the  
588 | civil penalty or the cease and desist order is not effective

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589 until 20 days after the date of such order. Any action commenced  
 590 by the division shall be brought in the county in which the  
 591 division has its executive offices or in the county where the  
 592 violation occurred.

593 7. If a unit owner presents the division with proof that  
 594 the unit owner has requested access to official records in  
 595 writing by certified mail, and that after 10 days the unit owner  
 596 again made the same request for access to official records in  
 597 writing by certified mail, and that more than 10 days has  
 598 elapsed since the second request and the association has still  
 599 failed or refused to provide access to official records as  
 600 required by this chapter, the division shall issue a subpoena  
 601 requiring production of the requested records where the records  
 602 are kept pursuant to s. 718.112.

603 8. In addition to subparagraph 6., the division may seek  
 604 the imposition of a civil penalty through the circuit court for  
 605 any violation for which the division may issue a notice to show  
 606 cause under paragraph (r). The civil penalty shall be at least  
 607 \$500 but no more than \$5,000 for each violation. The court may  
 608 also award to the prevailing party court costs and reasonable  
 609 attorney's fees and, if the division prevails, may also award  
 610 reasonable costs of investigation.

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

613 719.104 Cooperatives; access to units; records; financial  
 614 reports; assessments; purchase of leases.-

615 (7) COMMINGLING.-All funds shall be maintained separately  
 616 in the association's name. Reserve and operating funds of the

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617 association may ~~shall~~ not be commingled unless combined for  
 618 investment purposes. This subsection does ~~is~~ not ~~meant to~~  
 619 prohibit prudent investment of association funds even if  
 620 combined with operating or other reserve funds of the same  
 621 association, but such funds must be accounted for separately,  
 622 and the combined account balance may not, at any time, be less  
 623 than the amount identified as reserve funds in the combined  
 624 account. ~~No manager or business entity required to be licensed~~  
 625 ~~or registered under s. 468.432, or~~ An agent, employee, officer,  
 626 or director of a cooperative association may not commingle any  
 627 association funds with his or her own funds or with the funds of  
 628 any other cooperative association or community association ~~as~~  
 629 ~~defined in s. 468.431.~~

630 Section 14. Part IX of chapter 468, Florida Statutes,  
 631 consisting of sections 468.451, 468.452, 468.453, 468.4535,  
 632 468.4536, 468.454, 468.456, 468.4561, 468.45615, 468.4562,  
 633 468.4565, and 468.457, is repealed.

634 Section 15. Part XI of chapter 468, Florida Statutes,  
 635 consisting of sections 468.520, 468.521, 468.522, 468.523,  
 636 468.524, 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.528,  
 637 468.529, 468.530, 468.531, 468.532, 468.533, 468.534, and  
 638 468.535, is repealed.

639 Section 16. Paragraph (d) of subsection (1) of section  
 640 212.096, Florida Statutes, is amended to read:

641 212.096 Sales, rental, storage, use tax; enterprise zone  
 642 jobs credit against sales tax.-

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

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645 (d) "Job" means a full-time position, as consistent with  
 646 terms used by the Agency for Workforce Innovation and the United  
 647 States Department of Labor for purposes of unemployment  
 648 compensation tax administration and employment estimation  
 649 resulting directly from a business operation in this state. This  
 650 term may not include a temporary construction job involved with  
 651 the construction of facilities or any job that has previously  
 652 been included in any application for tax credits under s.  
 653 220.181(1). The term also includes employment of an employee  
 654 leased from an employee leasing company as defined in s.  
 655 627.192(2)(f) ~~licensed under chapter 468~~ if such employee has  
 656 been continuously leased to the employer for an average of at  
 657 least 36 hours per week for more than 6 months.

658  
 659 A person shall be deemed to be employed if the person performs  
 660 duties in connection with the operations of the business on a  
 661 regular, full-time basis, provided the person is performing such  
 662 duties for an average of at least 36 hours per week each month.  
 663 The person must be performing such duties at a business site  
 664 located in the enterprise zone.

665 Section 17. Paragraph (b) of subsection (1) of section  
 666 212.097, Florida Statutes, is amended to read:

667 212.097 Urban High-Crime Area Job Tax Credit Program.—

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

669 (b) "Qualified employee" means any employee of an eligible  
 670 business who performs duties in connection with the operations  
 671 of the business on a regular, full-time basis for an average of  
 672 at least 36 hours per week for at least 3 months within the



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673 | qualified high-crime area in which the eligible business is  
 674 | located. An owner or partner of the eligible business is not a  
 675 | qualified employee. The term also includes an employee leased  
 676 | from an employee leasing company as defined in s. 627.192(2)(f)  
 677 | ~~licensed under chapter 468~~, if such employee has been  
 678 | continuously leased to the employer for an average of at least  
 679 | 36 hours per week for more than 6 months.

680 |       Section 18. Paragraph (b) of subsection (1) of section  
 681 | 212.098, Florida Statutes, is amended to read:

682 |           212.098 Rural Job Tax Credit Program.—

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

684 |           (b) "Qualified employee" means any employee of an eligible  
 685 | business who performs duties in connection with the operations  
 686 | of the business on a regular, full-time basis for an average of  
 687 | at least 36 hours per week for at least 3 months within the  
 688 | qualified county in which the eligible business is located. The  
 689 | term also includes an employee leased from an employee leasing  
 690 | company as defined in s. 627.192(2)(f) ~~licensed under chapter~~  
 691 | ~~468~~, if such employee has been continuously leased to the  
 692 | employer for an average of at least 36 hours per week for more  
 693 | than 6 months. An owner or partner of the eligible business is  
 694 | not a qualified employee.

695 |       Section 19. Paragraph (ff) of subsection (1) of section  
 696 | 220.03, Florida Statutes, is amended to read:

697 |           220.03 Definitions.—

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

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701 meanings:  
 702 (ff) "Job" means a full-time position, as consistent with  
 703 terms used by the Agency for Workforce Innovation and the United  
 704 States Department of Labor for purposes of unemployment  
 705 compensation tax administration and employment estimation  
 706 resulting directly from business operations in this state. The  
 707 term may not include a temporary construction job involved with  
 708 the construction of facilities or any job that has previously  
 709 been included in any application for tax credits under s.  
 710 212.096. The term also includes employment of an employee leased  
 711 from an employee leasing company as defined in s. 627.192(2)(f)  
 712 ~~licensed under chapter 468~~ if the employee has been continuously  
 713 leased to the employer for an average of at least 36 hours per  
 714 week for more than 6 months.

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

717 443.036 Definitions.—As used in this chapter, the term:

718 (18) "Employee leasing company" means an employing unit  
 719 that is an employee leasing company as defined in s.  
 720 627.192(2)(f) which ~~that has a valid and active license under~~  
 721 ~~chapter 468 and that~~ maintains the records required by s.  
 722 443.171(5) and, in addition, is responsible for producing  
 723 quarterly reports concerning the clients of the employee leasing  
 724 company and the internal staff of the employee leasing company.  
 725 As used in this subsection, the term "client" means a party who  
 726 has contracted with an employee leasing company to provide a  
 727 worker, or workers, to perform services for the client. Leased  
 728 employees include employees subsequently placed on the payroll

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729 of the employee leasing company on behalf of the client. An  
 730 employee leasing company must notify the tax collection service  
 731 provider within 30 days after the initiation or termination of  
 732 the company's relationship with any client company ~~under chapter~~  
 733 ~~468~~.

734 Section 21. Paragraph (a) of subsection (10) of section  
 735 443.101, Florida Statutes, is amended to read:

736 443.101 Disqualification for benefits.—An individual shall  
 737 be disqualified for benefits:

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

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

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

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

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757 is employed by a labor pool as defined in s. 448.22.

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

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

763 448.23 Exclusions.—Except as specified in ss. 448.22(1)(c)  
 764 and 448.26, this part does not apply to:

765 (2) Employee leasing companies, as defined in s.  
 766 627.192(2)(f) ~~s. 468.520~~;

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

769 448.26 Application.—~~Nothing in~~ This part does not shall  
 770 exempt any client of any labor pool or temporary help  
 771 arrangement entity as described ~~defined~~ in s. 627.192(2)(f). ~~s.~~  
 772 ~~468.520(4)(a)~~ or any assigned employee from any other license  
 773 requirements of state, local, or federal law. Any employee  
 774 assigned to a client who is licensed, registered, or certified  
 775 pursuant to law shall be deemed an employee of the client for  
 776 such licensure purposes but shall remain an employee of the  
 777 labor pool ~~or temporary help arrangement entity~~ for purposes of  
 778 chapters 440 and 443.

779 Section 24. Paragraph (b) of subsection (5) of section  
 780 472.003, Florida Statutes, is amended to read:

781 472.003 Persons not affected by ss. 472.001-472.037.—  
 782 Sections 472.001-472.037 do not apply to:

783 (5)

784 (b) Persons who are employees of any employee leasing

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785 company as defined in s. 627.192(2)(f) ~~licensed pursuant to part~~  
 786 ~~XI of chapter 468~~ and who work as subordinates of a person in  
 787 responsible charge registered under this chapter.

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

790 626.112 License and appointment required; agents, customer  
 791 representatives, adjusters, insurance agencies, service  
 792 representatives, managing general agents.—

793 (1) (a) A ~~No~~ person may not be, act as, or advertise or  
 794 hold himself or herself out to be an insurance agent, insurance  
 795 adjuster, or customer representative unless he or she is  
 796 currently licensed by the department and appointed by an  
 797 appropriate appointing entity or person.

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

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

810 2. Distributing an invitation to contract to prospective  
 811 purchasers;

812 3. Making general or specific recommendations as to

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813 insurance products;  
 814 4. Completing orders or applications for insurance  
 815 products;  
 816 5. Comparing insurance products, advising as to insurance  
 817 matters, or interpreting policies or coverages; or  
 818 6. Offering or attempting to negotiate on behalf of  
 819 another person a viatical settlement contract as defined in s.  
 820 626.9911.  
 821  
 822 However, an employee leasing company that ~~licensed pursuant to~~  
 823 ~~chapter 468 which~~ is seeking to enter into a contract with an  
 824 employer that identifies products and services offered to  
 825 employees may deliver proposals for the purchase of employee  
 826 leasing services to prospective clients of the employee leasing  
 827 company setting forth the terms and conditions of doing  
 828 business; ~~classify employees as permitted by s. 468.529;~~ collect  
 829 information from prospective clients and other sources as  
 830 necessary to perform due diligence on the prospective client and  
 831 to prepare a proposal for services; provide and receive  
 832 enrollment forms, plans, and other documents; and discuss or  
 833 explain in general terms the conditions, limitations, options,  
 834 or exclusions of insurance benefit plans available to the client  
 835 or employees of the employee leasing company were the client to  
 836 contract with the employee leasing company. Any advertising  
 837 materials or other documents describing specific insurance  
 838 coverages must identify and be from a licensed insurer or its  
 839 licensed agent or a licensed and appointed agent employed by the  
 840 employee leasing company. The employee leasing company may not

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841 advise or inform the prospective business client or individual  
 842 employees of specific coverage provisions, exclusions, or  
 843 limitations of particular plans. ~~An As to clients for which the~~  
 844 ~~employee leasing company is providing services pursuant to s.~~  
 845 ~~468.525(4),~~ the employee leasing company may engage in  
 846 activities permitted by ss. 626.7315, 626.7845, and 626.8305,  
 847 subject to the restrictions specified in those sections. If a  
 848 prospective client requests more specific information concerning  
 849 the insurance provided by the employee leasing company, the  
 850 employee leasing company must refer the prospective business  
 851 client to the insurer or its licensed agent or to a licensed and  
 852 appointed agent employed by the employee leasing company.

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

858 627.192 Workers' compensation insurance; ~~employee leasing~~  
 859 ~~arrangements.~~—

860 (2) For purposes of the Florida Insurance Code:

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

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

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

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

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

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

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



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897           6. A health care services pool licensed under s. 400.980,  
 898 unless otherwise engaged in business as an employee leasing  
 899 company shall have the same meaning as set forth in s.  
 900 468.520(4).

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

907           Section 27. Paragraph (i) of subsection (1) of section  
 908 627.3121, Florida Statutes, is amended to read:

909           627.3121 Public records and public meetings exemptions.—

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

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

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

920           768.098 Limitation of liability for employee leasing.—

921           (1) An employer in a joint employment relationship  
 922 described in s. 627.192(2)(f) is pursuant to s. 468.520 shall  
 923 ~~not be~~ liable for the tortious actions of another employer in  
 924 that relationship, or for the tortious actions of any jointly

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925 employed employee under that relationship, if ~~provided that~~:

926 (a) The employer seeking to avoid liability pursuant to

927 this section did not authorize or direct the tortious action;

928 (b) The employer seeking to avoid liability pursuant to

929 this section did not have actual knowledge of the tortious

930 conduct and fail to take appropriate action;

931 (c) The employer seeking to avoid liability pursuant to

932 this section did not have actual control over the day-to-day job

933 duties of the jointly employed employee who has committed a

934 tortious act nor actual control over the portion of a job site

935 at which or from which the tortious conduct arose or at which

936 and from which a jointly employed employee worked, and that said

937 control was assigned to the other employer under the contract;

938 (d) The employer seeking to avoid liability pursuant to

939 this section is expressly absolved in the written contract

940 forming the joint employment relationship of control over the

941 day-to-day job duties of the jointly employed employee who has

942 committed a tortious act, and actual control over the portion of

943 the job site at which or from which the tortious conduct arose

944 or at which and from which the jointly employed employee worked,

945 and that said control was assigned to the other employer under

946 the contract; and

947 (e) Complaints, allegations, or incidents of any tortious

948 misconduct or workplace safety violations, regardless of the

949 source, are required to be reported to the employer seeking to

950 avoid liability pursuant to this section by all other joint

951 employers under the written contract forming the joint

952 employment relationship, and that the employer seeking to avoid

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953 liability pursuant to this section did not fail to take  
 954 appropriate action as a result of receiving any such report  
 955 related to a jointly employed employee who has committed a  
 956 tortious act.

957 Section 29. Part XV of chapter 468, Florida Statutes,  
 958 consisting of sections 468.83, 468.831, 468.8311, 468.8312,  
 959 468.8313, 468.8314, 468.8315, 468.8316, 468.8317, 468.8318,  
 960 468.8319, 468.832, 468.8321, 468.8322, 468.8323, 468.8324, and  
 961 468.8325, is repealed.

962 Section 30. Paragraphs (a) and (b) of subsection (2) of  
 963 section 627.0629, Florida Statutes, is amended to read:

964 627.0629 Residential property insurance; rate filings.—

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

974 (b) A rate filing for residential property insurance made  
 975 more than 150 days after approval by the office of a building  
 976 code rating factor plan submitted by a statewide rating  
 977 organization shall include positive and negative rate factors  
 978 that reflect the manner in which building code enforcement in a  
 979 particular jurisdiction addresses risk of wind damage. The rate  
 980 filing shall include variations from standard rate factors on an

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981 individual basis based on inspection of a particular structure  
 982 by a ~~licensed~~ home inspector. If an inspection is requested by  
 983 the insured, the insurer may require the insured to pay the  
 984 reasonable cost of the inspection. This paragraph applies to  
 985 structures constructed or renovated after the implementation of  
 986 this paragraph.

987 Section 31. Paragraph (a) of subsection (2) of section  
 988 627.711, Florida Statutes, is amended to read:

989 627.711 Notice of premium discounts for hurricane loss  
 990 mitigation; uniform mitigation verification inspection form.—

991 (2) (a) The Financial Services Commission shall develop by  
 992 rule a uniform mitigation verification inspection form that  
 993 shall be used by all insurers when submitted by policyholders  
 994 for the purpose of factoring discounts for wind insurance. In  
 995 developing the form, the commission shall seek input from  
 996 insurance, construction, and building code representatives.  
 997 Further, the commission shall provide guidance as to the length  
 998 of time the inspection results are valid. An insurer shall  
 999 accept as valid a uniform mitigation verification form signed by  
 1000 the following authorized mitigation inspectors:

1001 ~~1. A home inspector licensed under s. 468.8314 who has~~  
 1002 ~~completed at least 3 hours of hurricane mitigation training~~  
 1003 ~~which includes hurricane mitigation techniques and compliance~~  
 1004 ~~with the uniform mitigation verification form and completion of~~  
 1005 ~~a proficiency exam. Thereafter, home inspectors licensed under~~  
 1006 ~~s. 468.8314 must complete at least 2 hours of continuing~~  
 1007 ~~education, as part of the existing licensure renewal~~  
 1008 ~~requirements each year, related to mitigation inspection and the~~

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1009 ~~uniform mitigation form;~~  
 1010 ~~1.2.~~ A building code inspector certified under s. 468.607;  
 1011 ~~2.3.~~ A general, building, or residential contractor  
 1012 licensed under s. 489.111;  
 1013 ~~3.4.~~ A professional engineer licensed under s. 471.015;  
 1014 ~~4.5.~~ A professional architect licensed under s. 481.213;  
 1015 or  
 1016 ~~5.6.~~ Any other individual or entity recognized by the  
 1017 insurer as possessing the necessary qualifications to properly  
 1018 complete a uniform mitigation verification form.

1019 Section 32. Part XVI of chapter 468, Florida Statutes,  
 1020 consisting of sections 468.84, 468.841, 468.8411, 468.8412,  
 1021 468.8413, 468.8414, 468.8415, 468.8416, 468.8417, 468.8418,  
 1022 468.8419, 468.842, 468.8421, 468.8422, 468.8423, and 468.8424,  
 1023 is repealed.

1024 Section 33. Section 455.2123, Florida Statutes, is amended  
 1025 to read:

1026 455.2123 Continuing education.—A board, or the department  
 1027 when there is no board, may provide by rule that distance  
 1028 learning may be used to satisfy continuing education  
 1029 requirements. A board, or the department when there is no board,  
 1030 shall approve distance learning courses as an alternative to  
 1031 classroom courses to satisfy continuing education requirements  
 1032 provided for in ~~part VIII, part XV, or part XVI of chapter 468~~  
 1033 ~~or~~ part I or part II of chapter 475 and may not require  
 1034 centralized examinations for completion of continuing education  
 1035 requirements for the professions licensed under ~~part VIII, part~~  
 1036 ~~XV, or part XVI of chapter 468 or~~ part I or part II of chapter

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1037 475.  
 1038 Section 34. Chapter 472, Florida Statutes, consisting of  
 1039 sections 472.001, 472.003, 472.005, 472.006, 472.007, 472.0075,  
 1040 472.008, 472.009, 472.0101, 472.011, 472.013, 472.0131,  
 1041 472.0132, 472.0135, 472.015, 472.016, 472.0165, 472.017,  
 1042 472.018, 472.019, 472.0201, 472.02011, 472.0202, 472.0203,  
 1043 472.0204, 472.021, 472.023, 472.025, 472.027, 472.029, 472.031,  
 1044 472.0335, 472.034, 472.0345, 472.0351, 472.0355, 472.036,  
 1045 472.0365, and 472.037, Florida Statutes, is repealed.

1046 Section 35. Subsection (3) of section 161.57, Florida  
 1047 Statutes, is amended to read:

1048 161.57 Coastal properties disclosure statement.—

1049 (3) Unless otherwise waived in writing by the purchaser,  
 1050 at or prior to the closing of any transaction where an interest  
 1051 in real property located either partially or totally seaward of  
 1052 the coastal construction control line as defined in s. 161.053  
 1053 is being transferred, the seller shall provide to the purchaser  
 1054 an affidavit, ~~or a certified survey meeting the requirements of~~  
 1055 ~~chapter 472,~~ delineating the location of the coastal  
 1056 construction control line on the property being transferred.

1057 Section 36. Subsections (10) and (21) of section 177.031,  
 1058 Florida Statutes, are amended to read:

1059 177.031 Definitions.—As used in this part:

1060 (10) "Professional surveyor and mapper" means a surveyor  
 1061 and mapper qualified by education and experience to practice  
 1062 surveying and mapping registered under chapter 472 who is in  
 1063 ~~good standing with the Board of Professional Surveyors and~~  
 1064 ~~Mappers.~~

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1065 (21) "Legal entity" means an entity that provides  
 1066 professional surveying and mapping services ~~holds a certificate~~  
 1067 ~~of authorization issued under chapter 472~~, whether the entity is  
 1068 a corporation, partnership, association, or person practicing  
 1069 under a fictitious name.

1070 Section 37. Section 177.36, Florida Statutes, is amended  
 1071 to read:

1072 177.36 Work to be performed only by authorized personnel.—  
 1073 The establishment of local tidal datums and the determination of  
 1074 the location of the mean high-water line or the mean low-water  
 1075 line must be performed by professional ~~qualified personnel~~  
 1076 ~~licensed by the Board of Professional~~ surveyors and mappers or  
 1077 by representatives of the United States Government when approved  
 1078 by the department.

1079 Section 38. Subsection (1) of section 177.503, Florida  
 1080 Statutes, is amended to read:

1081 177.503 Definitions.—As used in ss. 177.501-177.510, the  
 1082 following words and terms shall have the meanings indicated  
 1083 unless the context clearly indicates a different meaning:

1084 (1) "Professional surveyor and mapper" or "surveyor and  
 1085 mapper" means a person qualified by education and experience  
 1086 ~~authorized to practice surveying and mapping under the~~  
 1087 ~~provisions of chapter 472~~.

1088 Section 39. Section 177.508, Florida Statutes, is  
 1089 repealed.

1090 Section 40. Paragraph (a) of subsection (2) and subsection  
 1091 (6) of section 287.055, Florida Statutes, are amended to read:

1092 287.055 Acquisition of professional architectural,

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1093 engineering, landscape architectural, or surveying and mapping  
 1094 services; definitions; procedures; contingent fees prohibited;  
 1095 penalties.—

1096 (2) DEFINITIONS.—For purposes of this section:

1097 (a) "Professional services" means those services within  
 1098 the scope of the practice of architecture, professional  
 1099 engineering, landscape architecture, or professional ~~registered~~  
 1100 surveying and mapping, as defined by the laws of the state, or  
 1101 those performed by any architect, professional engineer,  
 1102 landscape architect, or professional ~~registered~~ surveyor and  
 1103 mapper in connection with his or her professional employment or  
 1104 practice.

1105 (6) PROHIBITION AGAINST CONTINGENT FEES.—

1106 (a) Each contract entered into by the agency for  
 1107 professional services must contain a prohibition against  
 1108 contingent fees as follows: "The architect (or professional  
 1109 ~~registered~~ surveyor and mapper or professional engineer, as  
 1110 applicable) warrants that he or she has not employed or retained  
 1111 any company or person, other than a bona fide employee working  
 1112 solely for the architect (or professional ~~registered~~ surveyor  
 1113 and mapper, or professional engineer, as applicable) to solicit  
 1114 or secure this agreement and that he or she has not paid or  
 1115 agreed to pay any person, company, corporation, individual, or  
 1116 firm, other than a bona fide employee working solely for the  
 1117 architect (or professional ~~registered~~ surveyor and mapper or  
 1118 professional engineer, as applicable) any fee, commission,  
 1119 percentage, gift, or other consideration contingent upon or  
 1120 resulting from the award or making of this agreement." For the



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1121 breach or violation of this provision, the agency shall have the  
 1122 right to terminate the agreement without liability and, at its  
 1123 discretion, to deduct from the contract price, or otherwise  
 1124 recover, the full amount of such fee, commission, percentage,  
 1125 gift, or consideration.

1126 (b) Any individual, corporation, partnership, firm, or  
 1127 company, other than a bona fide employee working solely for an  
 1128 architect, professional engineer, or professional ~~registered~~  
 1129 land surveyor and mapper, who offers, agrees, or contracts to  
 1130 solicit or secure agency contracts for professional services for  
 1131 any other individual, company, corporation, partnership, or firm  
 1132 and to be paid, or is paid, any fee, commission, percentage,  
 1133 gift, or other consideration contingent upon, or resulting from,  
 1134 the award or the making of a contract for professional services  
 1135 shall, upon conviction in a competent court of this state, be  
 1136 found guilty of a first degree misdemeanor, punishable as  
 1137 provided in s. 775.082 or s. 775.083.

1138 (c) Any architect, professional engineer, or professional  
 1139 ~~registered~~ surveyor and mapper, or any group, association,  
 1140 company, corporation, firm, or partnership thereof, who offers  
 1141 to pay, or pays, any fee, commission, percentage, gift, or other  
 1142 consideration contingent upon, or resulting from, the award or  
 1143 making of any agency contract for professional services shall,  
 1144 upon conviction in a state court of competent authority, be  
 1145 found guilty of a first degree misdemeanor, punishable as  
 1146 provided in s. 775.082 or s. 775.083.

1147 (d) Any agency official who offers to solicit or secure,  
 1148 or solicits or secures, a contract for professional services and

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1149 to be paid, or is paid, any fee, commission, percentage, gift,  
 1150 or other consideration contingent upon the award or making of  
 1151 such a contract for professional services between the agency and  
 1152 any individual person, company, firm, partnership, or  
 1153 corporation shall, upon conviction by a court of competent  
 1154 authority, be found guilty of a first degree misdemeanor,  
 1155 punishable as provided in s. 775.082 or s. 775.083.

1156 Section 41. Subsection (9) of section 334.044, Florida  
 1157 Statutes, is amended to read:

1158 334.044 Department; powers and duties.—The department  
 1159 shall have the following general powers and duties:

1160 (9) To employ and train staff, and to contract with  
 1161 qualified consultants. For the purposes of chapter ~~chapters~~ 471  
 1162 ~~and 472~~, the department shall be considered a firm.

1163 Section 42. Subsection (2) of section 348.0008, Florida  
 1164 Statutes, is amended to read:

1165 348.0008 Acquisition of lands and property.—

1166 (2) An authority and its authorized agents, contractors,  
 1167 and employees are authorized to enter upon any lands, waters,  
 1168 and premises, upon giving reasonable notice to the landowner,  
 1169 for the purpose of making surveys, soundings, drillings,  
 1170 appraisals, environmental assessments including phase I and  
 1171 phase II environmental surveys, archaeological assessments, and  
 1172 such other examinations as are necessary for the acquisition of  
 1173 private or public property and property rights, including rights  
 1174 of access, air, view, and light, by gift, devise, purchase, or  
 1175 condemnation by eminent domain proceedings or as are necessary  
 1176 for the authority to perform its duties and functions; and any

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1177 such entry shall not be deemed a trespass or an entry that would  
 1178 constitute a taking in an eminent domain proceeding. An  
 1179 expressway authority shall make reimbursement for any actual  
 1180 damage to such lands, water, and premises as a result of such  
 1181 activities. ~~Any entry authorized by this subsection shall be in~~  
 1182 ~~compliance with the premises protections and landowner liability~~  
 1183 ~~provisions contained in s. 472.029.~~

1184 Section 43. Subsection (6) of section 373.421, Florida  
 1185 Statutes, is amended to read:

1186 373.421 Delineation methods; formal determinations.-

1187 (6) The district or the department may also issue  
 1188 nonbinding informal determinations or otherwise institute  
 1189 determinations on its own initiative as provided by law. A  
 1190 nonbinding informal determination of the extent of surface  
 1191 waters and wetlands issued by the South Florida Water Management  
 1192 District or the Southwest Florida Water Management District,  
 1193 between July 1, 1989, and the effective date of the methodology  
 1194 ratified in s. 373.4211, shall be validated by the district if a  
 1195 petition to validate the nonbinding informal determination is  
 1196 filed with the district on or before October 1, 1994, provided:

1197 (a) The petitioner submits the documentation prepared by  
 1198 the agency, and signed by an agency employee in the course of  
 1199 the employee's official duties, at the time the nonbinding  
 1200 informal determination was issued, showing the boundary of the  
 1201 surface waters or wetlands;

1202 (b) The request is accompanied by the appropriate fee in  
 1203 accordance with the fee schedule established by district rule;

1204 (c) Any supplemental information, such as aerial

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1205 photographs and soils maps, is provided as necessary to ensure  
 1206 an accurate determination;

1207 (d) District staff verify the delineated surface water or  
 1208 wetland boundary through site inspection; and

1209 (e) Following district verification, and adjustment if  
 1210 necessary, of the boundary of surface waters or wetlands, the  
 1211 petitioner submits a survey certified pursuant to former chapter  
 1212 472, which depicts the surface water or wetland boundaries. The  
 1213 certified survey shall contain a legal description of, and the  
 1214 acreage contained within, the boundaries of the property for  
 1215 which the determination is sought. The boundaries must be  
 1216 witnessed to the property boundaries and must be capable of  
 1217 being mathematically reproduced from the survey.

1218  
 1219 Validated informal nonbinding determinations issued by the South  
 1220 Florida Water Management District and the Southwest Florida  
 1221 Water Management District shall remain valid for a period of 5  
 1222 years from the date of validation by the district, as long as  
 1223 physical conditions on the property do not change so as to alter  
 1224 the boundaries of surface waters or wetlands. A validation  
 1225 obtained under this section is final agency action. Sections  
 1226 120.569 and 120.57 apply to validations under this section.

1227 Section 44. Subsection (1) of section 403.0877, Florida  
 1228 Statutes, is amended to read:

1229 403.0877 Certification by professionals regulated by the  
 1230 Department of Business and Professional Regulation.—

1231 (1) Nothing in this section shall be construed as specific  
 1232 authority for a water management district or the department to

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1233 require certification by a professional engineer licensed under  
 1234 chapter 471, a professional landscape architect licensed under  
 1235 part II of chapter 481, or a professional geologist licensed  
 1236 under chapter 492, ~~or a professional surveyor and mapper~~  
 1237 ~~licensed under chapter 472,~~ for an activity that is not within  
 1238 the definition or scope of practice of the regulated profession.

1239 Section 45. Subsection (30) of section 440.02, Florida  
 1240 Statutes, is amended to read:

1241 440.02 Definitions.—When used in this chapter, unless the  
 1242 context clearly requires otherwise, the following terms shall  
 1243 have the following meanings:

1244 (30) "Construction design professional" means an  
 1245 architect, professional engineer, landscape architect, or  
 1246 surveyor and mapper, or any corporation, professional or  
 1247 general, that has a certificate to practice in the construction  
 1248 design field from the Department of Business and Professional  
 1249 Regulation.

1250 Section 46. Subsection (6) of section 481.329, Florida  
 1251 Statutes, is amended to read:

1252 481.329 Exceptions; exemptions from licensure.—

1253 (6) This part shall not be construed to affect part I of  
 1254 this chapter or, ~~chapter 471, or chapter 472, respectively,~~  
 1255 except that no such person shall use the designation or term  
 1256 "landscape architect," "landscape architectural," "landscape  
 1257 architecture," "L.A.," "landscape engineering," or any  
 1258 description tending to convey the impression that she or he is a  
 1259 landscape architect, unless she or he is registered as provided  
 1260 in this part.

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1261 Section 47. Subsection (7) of section 492.102, Florida  
 1262 Statutes, is amended to read:

1263 492.102 Definitions.—For the purposes of this chapter,  
 1264 unless the context clearly requires otherwise:

1265 (7) "Practice of professional geology" means the  
 1266 performance of, or offer to perform, geological services,  
 1267 including, but not limited to, consultation, investigation,  
 1268 evaluation, planning, and geologic mapping, ~~but not including~~  
 1269 ~~mapping as prescribed in chapter 472,~~ relating to geological  
 1270 work, except as specifically exempted by this chapter. Any  
 1271 person who practices any specialty branch of the profession of  
 1272 geology, or who by verbal claim, sign, advertisement,  
 1273 letterhead, card, or any other means represents herself or  
 1274 himself to be a professional geologist, or who through the use  
 1275 of some title implies that she or he is a professional geologist  
 1276 or that she or he is licensed under this chapter, or who holds  
 1277 herself or himself out as able to perform or does perform any  
 1278 geological services or work recognized as professional geology,  
 1279 shall be construed to be engaged in the practice of professional  
 1280 geology.

1281 Section 48. Paragraph (a) of subsection (2) of section  
 1282 497.274, Florida Statutes, is amended to read:

1283 497.274 Standards for grave spaces.—

1284 (2) (a) Prior to the sale of grave spaces in any  
 1285 undeveloped areas of a licensed cemetery, the cemetery company  
 1286 shall prepare a map documenting the establishment of recoverable  
 1287 internal survey reference markers installed by the cemetery  
 1288 company no more than 100 feet apart in the areas planned for

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1289 development. The internal reference markers shall be established  
 1290 with reference to survey markers that are no more than 200 feet  
 1291 apart which have been set by a professional surveyor and mapper  
 1292 ~~licensed under chapter 472~~ and documented in a certified land  
 1293 survey. Both the map and the certified land survey shall be  
 1294 maintained by the cemetery company and shall be made available  
 1295 upon request to the department or members of the public.

1296 Section 49. Subsection (4) of section 556.108, Florida  
 1297 Statutes, is amended to read:

1298 556.108 Exemptions.—The notification requirements provided  
 1299 in s. 556.105(1) do not apply to:

1300 (4) Any excavation of 18 inches or less for:

1301 (a) Surveying public or private property by professional  
 1302 surveyors or mappers ~~as defined in chapter 472~~ and services  
 1303 performed by a pest control licensee under chapter 482,  
 1304 excluding marked rights-of-way, marked easements, or permitted  
 1305 uses where marked, if mechanized equipment is not used in the  
 1306 process of such surveying or pest control services and the  
 1307 ~~surveying or~~ pest control services are performed in accordance  
 1308 with the practice rules established under ~~s. 472.027~~ or s.  
 1309 482.051, respectively;

1310 (b) Maintenance activities performed by a state agency and  
 1311 its employees when such activities are within the right-of-way  
 1312 of a public road; however, if a member operator has permanently  
 1313 marked facilities on such right-of-way, mechanized equipment may  
 1314 not be used without first providing notification; or

1315 (c) Locating, repairing, connecting, adjusting, or routine  
 1316 maintenance of a private or public underground utility facility

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1317 | by an excavator, if the excavator is performing such work for  
 1318 | the current owner or future owner of the underground facility  
 1319 | and if mechanized equipment is not used.

1320 |         Section 50. Paragraph (e) of subsection (4) of section  
 1321 | 718.104, Florida Statutes, is amended to read:

1322 |         718.104 Creation of condominiums; contents of  
 1323 | declaration.—Every condominium created in this state shall be  
 1324 | created pursuant to this chapter.

1325 |         (4) The declaration must contain or provide for the  
 1326 | following matters:

1327 |         (e) A certified survey of the land ~~which meets the minimum~~  
 1328 | ~~technical standards set forth by the Board of Professional~~  
 1329 | ~~Surveyors and Mappers, pursuant to s. 472.027,~~ and a graphic  
 1330 | description of the improvements in which units are located and a  
 1331 | plot plan thereof that, together with the declaration, are in  
 1332 | sufficient detail to identify the common elements and each unit  
 1333 | and their relative locations and approximate dimensions. Failure  
 1334 | of the survey to meet minimum technical standards shall not  
 1335 | invalidate an otherwise validly created condominium. The survey,  
 1336 | graphic description, and plot plan may be in the form of  
 1337 | exhibits consisting of building plans, floor plans, maps,  
 1338 | surveys, or sketches. If the construction of the condominium is  
 1339 | not substantially completed, there shall be a statement to that  
 1340 | effect, and, upon substantial completion of construction, the  
 1341 | developer or the association shall amend the declaration to  
 1342 | include the certificate described below. The amendment may be  
 1343 | accomplished by referring to the recording data of a survey of  
 1344 | the condominium that complies with the certificate. A



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1345 certificate of a professional surveyor and mapper ~~authorized to~~  
 1346 ~~practice in this state~~ shall be included in or attached to the  
 1347 declaration or the survey or graphic description as recorded  
 1348 under s. 718.105 that the construction of the improvements is  
 1349 substantially complete so that the material, together with the  
 1350 provisions of the declaration describing the condominium  
 1351 property, is an accurate representation of the location and  
 1352 dimensions of the improvements and so that the identification,  
 1353 location, and dimensions of the common elements and of each unit  
 1354 can be determined from these materials. Completed units within  
 1355 each substantially completed building in a condominium  
 1356 development may be conveyed to purchasers, notwithstanding that  
 1357 other buildings in the condominium are not substantially  
 1358 completed, provided that all planned improvements, including,  
 1359 but not limited to, landscaping, utility services and access to  
 1360 the unit, and common-element facilities serving such building,  
 1361 as set forth in the declaration, are first completed and the  
 1362 declaration of condominium is first recorded and provided that  
 1363 as to the units being conveyed there is a certificate of a  
 1364 professional surveyor and mapper ~~as required above~~, including  
 1365 certification that all planned improvements, including, but not  
 1366 limited to, landscaping, utility services and access to the  
 1367 unit, and common-element facilities serving the building in  
 1368 which the units to be conveyed are located have been  
 1369 substantially completed, and such certificate is recorded with  
 1370 the original declaration or as an amendment to such declaration.  
 1371 This section shall not, however, operate to require development  
 1372 of improvements and amenities declared to be included in future

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1373 phases pursuant to s. 718.403 prior to conveying a unit as  
 1374 provided herein. For the purposes of this section, a  
 1375 "certificate of a professional surveyor and mapper" means  
 1376 certification by a professional surveyor and mapper in the form  
 1377 provided herein and may include, along with certification by a  
 1378 professional surveyor and mapper, when appropriate,  
 1379 certification by an architect or engineer authorized to practice  
 1380 in this state. Notwithstanding the requirements of substantial  
 1381 completion provided in this section, nothing contained herein  
 1382 shall prohibit or impair the validity of a mortgage encumbering  
 1383 units together with an undivided interest in the common elements  
 1384 as described in a declaration of condominium recorded prior to  
 1385 the recording of a certificate of a surveyor and mapper as  
 1386 provided herein.

1387 Section 51. Subsection (4) of section 725.08, Florida  
 1388 Statutes, is amended to read:

1389 725.08 Design professional contracts; limitation in  
 1390 indemnification.—

1391 (4) "Design professional" means an ~~individual or entity~~  
 1392 ~~licensed by the state who holds a current certificate of~~  
 1393 ~~registration under chapter 481 to practice architecture~~  
 1394 architect, or landscape architect, professional surveyor and  
 1395 mapper, or engineer architecture, under chapter 472 to practice  
 1396 ~~land surveying and mapping, or under chapter 471 to practice~~  
 1397 ~~engineering, and who enters into a professional services~~  
 1398 contract.

1399 Section 52. Subsection (5) of section 810.12, Florida  
 1400 Statutes, is amended to read:

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1401 810.12 Unauthorized entry on land; prima facie evidence of  
 1402 trespass.—

1403 (5) However, this section shall not apply to any official  
 1404 or employee of the state or a county, municipality, or other  
 1405 governmental agency now authorized by law to enter upon lands or  
 1406 to registered engineers and professional surveyors and mappers  
 1407 authorized to enter lands pursuant to s. ss. 471.027 and  
 1408 ~~472.029~~. The provisions of this section shall not apply to the  
 1409 trimming or cutting of trees or timber by municipal or private  
 1410 public utilities, or their employees, contractors, or  
 1411 subcontractors, when such trimming is required for the  
 1412 establishment or maintenance of the service furnished by any  
 1413 such utility.

1414 Section 53. Chapter 476, Florida Statutes, consisting of  
 1415 sections 476.014, 476.024, 476.034, 476.044, 476.054, 476.064,  
 1416 476.074, 476.114, 476.124, 476.134, 476.144, 476.154, 476.155,  
 1417 476.178, 476.184, 476.188, 476.192, 476.194, 476.204, 476.214,  
 1418 476.234, 476.244, and 476.254, is repealed.

1419 Section 54. Subsection (1) of section 455.2228, Florida  
 1420 Statutes, is amended to read:

1421 455.2228 ~~Barbers and cosmetologists~~ Cosmetologists;  
 1422 instruction on HIV and AIDS.—

1423 (1) The board, or the department where there is no board,  
 1424 shall require each person licensed or certified under ~~chapter~~  
 1425 ~~476~~ or chapter 477 to complete a continuing educational course  
 1426 approved by the board, or the department where there is no  
 1427 board, on human immunodeficiency virus and acquired immune  
 1428 deficiency syndrome as part of biennial relicensure or

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1429 recertification. The course shall consist of education on modes  
 1430 of transmission, infection control procedures, clinical  
 1431 management, and prevention of human immunodeficiency virus and  
 1432 acquired immune deficiency syndrome, with an emphasis on  
 1433 appropriate behavior and attitude change.

1434 Section 55. Subsections (4) through (6) of section  
 1435 477.0135, Florida Statutes, are renumbered as subsections (3)  
 1436 through (5), respectively, and present subsection (3) of that  
 1437 section is amended to read:

1438 477.0135 Exemptions.—

1439 ~~(3) A license or registration is not required of any~~  
 1440 ~~person whose occupation or practice is confined solely to~~  
 1441 ~~cutting, trimming, polishing, or cleansing the fingernails of~~  
 1442 ~~any person when said cutting, trimming, polishing, or cleansing~~  
 1443 ~~is done in a barbershop licensed pursuant to chapter 476 which~~  
 1444 ~~is carrying on a regular and customary business of barbering,~~  
 1445 ~~and such individual has been practicing the activities set forth~~  
 1446 ~~in this subsection prior to October 1, 1985.~~

1447 Section 56. Subsection (1) of section 480.034, Florida  
 1448 Statutes, is amended to read:

1449 480.034 Exemptions.—

1450 (1) ~~Nothing in This act~~ does not ~~shall~~ modify or repeal  
 1451 any provision of chapters 458-464, inclusive, ~~or of chapter 476,~~  
 1452 chapter 477, or chapter 486.

1453 Section 57. Subsections (1), (3), and (6) of section  
 1454 477.0201, Florida Statutes, are amended to read:

1455 477.0201 Specialty registration; qualifications;  
 1456 registration renewal; endorsement.—

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1457 (1) Any person is qualified for registration as a  
 1458 specialist in ~~any one or more of the~~ a specialty practice  
 1459 ~~practices~~ within the practice of cosmetology under this chapter  
 1460 who:

1461 (a) Is at least 16 years of age or has received a high  
 1462 school diploma.

1463 (b) Has received a certificate of completion in a  
 1464 specialty pursuant to s. 477.013(6) from one of the following:

- 1465 1. A school licensed pursuant to s. 477.023.
- 1466 2. A school licensed pursuant to chapter 1005 or the  
 1467 equivalent licensing authority of another state.
- 1468 3. A specialty program within the public school system.
- 1469 4. A specialty division within the Cosmetology Division of  
 1470 the Florida School for the Deaf and the Blind, provided the  
 1471 training programs comply with minimum curriculum requirements  
 1472 established by the board.

1473 (3) Upon paying the initial registration fee, the  
 1474 department shall register the applicant to practice ~~one or more~~  
 1475 ~~of the~~ a specialty practice practices within the practice of  
 1476 cosmetology.

1477 (6) Pending issuance of registration, a person is eligible  
 1478 to practice as a specialist upon submission of a registration  
 1479 application that includes proof of successful completion of the  
 1480 education requirements and payment of the applicable fees  
 1481 required by this chapter, provided such practice is under the  
 1482 supervision of a registered specialist in a licensed ~~specialty~~  
 1483 ~~or~~ cosmetology salon.

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1484 Section 58. Subsections (5) through (13) of section  
 1485 477.013, Florida Statutes, are amended to read:

1486 477.013 Definitions.—As used in this chapter:

1487 (5) "Specialist" means any person holding a specialty  
 1488 registration in ~~one or more of the~~ a specialty specialties  
 1489 registered under this chapter.

1490 (6) "Specialty" means the practice of ~~one or more of the~~  
 1491 ~~following:~~

1492 ~~(a) Manicuring, or the cutting, polishing, tinting,~~  
 1493 ~~coloring, cleansing, adding, or extending of the nails, and~~  
 1494 ~~massaging of the hands. This term includes any procedure or~~  
 1495 ~~process for the affixing of artificial nails, except those nails~~  
 1496 ~~which may be applied solely by use of a simple adhesive.~~

1497 ~~(b) Pedicuring, or the shaping, polishing, tinting, or~~  
 1498 ~~cleansing of the nails of the feet, and massaging or beautifying~~  
 1499 ~~of the feet.~~

1500 ~~(c) Facials, facials, or the massaging or treating of the~~  
 1501 ~~face or scalp with oils, creams, lotions, or other preparations,~~  
 1502 ~~and skin care services.~~

1503 (5)~~(7)~~ "Shampooing" means the washing of the hair with  
 1504 soap and water or with a special preparation, or applying hair  
 1505 tonics.

1506 ~~(8) "Specialty salon" means any place of business wherein~~  
 1507 ~~the practice of one or all of the specialties as defined in~~  
 1508 ~~subsection (6) are engaged in or carried on.~~

1509 (6)~~(9)~~ "Hair braiding" means the weaving or interweaving  
 1510 of natural human hair for compensation without cutting,  
 1511 coloring, permanent waving, relaxing, removing, or chemical

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1512 treatment and does not include the use of hair extensions or  
 1513 wefts.

1514 (7)~~(10)~~ "Hair wrapping" means the wrapping of manufactured  
 1515 materials around a strand or strands of human hair, for  
 1516 compensation, without cutting, coloring, permanent waving,  
 1517 relaxing, removing, weaving, chemically treating, braiding,  
 1518 using hair extensions, or performing any other service defined  
 1519 as cosmetology.

1520 (8)~~(11)~~ "Photography studio salon" means an establishment  
 1521 where the hair-arranging services and the application of  
 1522 cosmetic products are performed solely for the purpose of  
 1523 preparing the model or client for the photographic session  
 1524 without shampooing, cutting, coloring, permanent waving,  
 1525 relaxing, or removing of hair or performing any other service  
 1526 defined as cosmetology.

1527 (9)~~(12)~~ "Body wrapping" means a treatment program that  
 1528 uses herbal wraps for the purposes of cleansing and beautifying  
 1529 the skin of the body, but does not include:

1530 (a) The application of oils, lotions, or other fluids to  
 1531 the body, except fluids contained in presoaked materials used in  
 1532 the wraps; or

1533 (b) Manipulation of the body's superficial tissue, other  
 1534 than that arising from compression emanating from the wrap  
 1535 materials.

1536 (10)~~(13)~~ "Skin care services" means the treatment of the  
 1537 skin of the body, other than the head, face, and scalp, by the  
 1538 use of a sponge, brush, cloth, or similar device to apply or  
 1539 remove a chemical preparation or other substance, except that

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1540 chemical peels may be removed by peeling an applied preparation  
 1541 from the skin by hand. Skin care services must be performed by a  
 1542 licensed cosmetologist or facial specialist within a licensed  
 1543 cosmetology ~~or specialty~~ salon, and such services may not  
 1544 involve massage, as defined in s. 480.033(3), through  
 1545 manipulation of the superficial tissue.

1546 Section 59. Section 477.0132, Florida Statutes, is amended  
 1547 to read:

1548 (Substantial rewording of section. See  
 1549 s. 477.0132, F.S., for present text.)

1550 477.0132 Hair braiding, hair wrapping, and body wrapping  
 1551 registration; application of chapter.—This chapter does not  
 1552 apply to a person whose occupation or practice is confined  
 1553 solely to hair braiding, hair wrapping, or body wrapping.

1554 Section 60. Subsections (5) and (7) of section 477.019,  
 1555 Florida Statutes, are amended to read:

1556 477.019 Cosmetologists; qualifications; licensure;  
 1557 supervised practice; license renewal; endorsement; continuing  
 1558 education.—

1559 (5) Renewal of license registration shall be accomplished  
 1560 pursuant to rules adopted by the board.

1561 (7) (a) The board shall prescribe by rule continuing  
 1562 education requirements intended to ensure protection of the  
 1563 public through updated training of licensees and registered  
 1564 specialists, not to exceed 16 hours biennially, as a condition  
 1565 for renewal of a license or registration as a specialist under  
 1566 this chapter. Continuing education courses shall include, but  
 1567 not be limited to, the following subjects as they relate to the



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1568 practice of cosmetology: human immunodeficiency virus and  
 1569 acquired immune deficiency syndrome; Occupational Safety and  
 1570 Health Administration regulations; workers' compensation issues;  
 1571 state and federal laws and rules as they pertain to  
 1572 cosmetologists, cosmetology, salons, specialists, ~~specialty~~  
 1573 ~~salons~~, and booth renters; chemical makeup as it pertains to  
 1574 hair, skin, and nails; and environmental issues. Courses given  
 1575 at cosmetology conferences may be counted toward the number of  
 1576 continuing education hours required if approved by the board.

1577 ~~(b) Any person whose occupation or practice is confined~~  
 1578 ~~solely to hair braiding, hair wrapping, or body wrapping is~~  
 1579 ~~exempt from the continuing education requirements of this~~  
 1580 ~~subsection.~~

1581 (b) ~~(e)~~ The board may, by rule, require any licensee in  
 1582 violation of a continuing education requirement to take a  
 1583 refresher course or refresher course and examination in addition  
 1584 to any other penalty. The number of hours for the refresher  
 1585 course may not exceed 48 hours.

1586 Section 61. Subsections (1) through (9) of section  
 1587 477.025, Florida Statutes, are amended to read:

1588 477.025 Cosmetology salons; ~~specialty salons~~; requisites;  
 1589 licensure; inspection; mobile cosmetology salons.—

1590 (1) No cosmetology salon ~~or specialty salon~~ shall be  
 1591 permitted to operate without a license issued by the department  
 1592 except as provided in subsection (11).

1593 (2) The board shall adopt rules governing the licensure  
 1594 and operation of salons ~~and specialty salons~~ and their  
 1595 facilities, personnel, safety and sanitary requirements, and the

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1596 license application and granting process.

1597 (3) Any person, firm, or corporation desiring to operate a

1598 cosmetology salon ~~or specialty salon~~ in the state shall submit

1599 to the department an application upon forms provided by the

1600 department and accompanied by any relevant information requested

1601 by the department and by an application fee.

1602 (4) Upon receiving the application, the department may

1603 cause an investigation to be made of the proposed cosmetology

1604 salon ~~or specialty salon~~.

1605 (5) When an applicant fails to meet all the requirements

1606 provided herein, the department shall deny the application in

1607 writing and shall list the specific requirements not met. No

1608 applicant denied licensure because of failure to meet the

1609 requirements herein shall be precluded from reapplying for

1610 licensure.

1611 (6) When the department determines that the proposed

1612 cosmetology salon ~~or specialty salon~~ may reasonably be expected

1613 to meet the requirements set forth herein, the department shall

1614 grant the license upon such conditions as it shall deem proper

1615 under the circumstances and upon payment of the original

1616 licensing fee.

1617 (7) A ~~No~~ license for operation of a cosmetology salon ~~or~~

1618 ~~specialty salon~~ may not be transferred from the name of the

1619 original licensee to another. It may be transferred from one

1620 location to another only upon approval by the department, which

1621 approval shall not be unreasonably withheld.

1622 (8) Renewal of license ~~registration~~ for cosmetology salons

1623 ~~or specialty salons~~ shall be accomplished pursuant to rules

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1624 adopted by the board. The board is further authorized to adopt  
 1625 rules governing delinquent renewal of licenses and may impose  
 1626 penalty fees for delinquent renewal.

1627 (9) The board is authorized to adopt rules governing the  
 1628 periodic inspection of cosmetology salons ~~and specialty salons~~  
 1629 licensed under this chapter.

1630 Section 62. Subsection (1) of section 477.026, Florida  
 1631 Statutes, is amended to read:

1632 477.026 Fees; disposition.—

1633 (1) The board shall set fees according to the following  
 1634 schedule:

1635 (a) For cosmetologists, fees for original licensing,  
 1636 license renewal, and delinquent renewal may ~~shall~~ not exceed  
 1637 \$50.

1638 (b) For cosmetologists, fees for endorsement application,  
 1639 examination, and reexamination may ~~shall~~ not exceed \$50.

1640 (c) For cosmetology ~~and specialty~~ salons, fees for license  
 1641 application, original licensing, license renewal, and delinquent  
 1642 renewal may ~~shall~~ not exceed \$50.

1643 (d) For specialists, fees for application and endorsement  
 1644 registration shall not exceed \$30.

1645 (e) For specialists, fees for initial registration,  
 1646 registration renewal, and delinquent renewal shall not exceed  
 1647 \$50.

1648 ~~(f) For hair braiders, hair wrappers, and body wrappers,~~  
 1649 ~~fees for registration shall not exceed \$25.~~

1650 Section 63. Section 477.0265, Florida Statutes, is amended  
 1651 to read:

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1652 477.0265 Prohibited acts.—  
 1653 (1) It is unlawful for any person to:  
 1654 (a) Engage in the practice of cosmetology or a specialty  
 1655 without an active license as a cosmetologist or registration as  
 1656 a specialist issued by the department pursuant to ~~the provisions~~  
 1657 ~~of~~ this chapter.  
 1658 (b) Own, operate, maintain, open, establish, conduct, or  
 1659 have charge of, either alone or with another person or persons,  
 1660 a cosmetology salon ~~or specialty salon~~:  
 1661 1. Which is not licensed under ~~the provisions of~~ this  
 1662 chapter; or  
 1663 2. In which a person not licensed or registered as a  
 1664 cosmetologist or a specialist is permitted to perform  
 1665 cosmetology services or any specialty.  
 1666 (c) Engage in willful or repeated violations of this  
 1667 chapter or of any rule adopted by the board.  
 1668 (d) Permit an employed person to engage in the practice of  
 1669 cosmetology or of a specialty unless such person holds a valid,  
 1670 active license as a cosmetologist or registration as a  
 1671 specialist.  
 1672 (e) Obtain or attempt to obtain a license ~~or registration~~  
 1673 for money, other than the required fee, or any other thing of  
 1674 value or by fraudulent misrepresentations.  
 1675 (f) Use or attempt to use a license to practice  
 1676 cosmetology or a registration to practice a specialty, which  
 1677 license or registration is suspended or revoked.  
 1678 (g) Advertise or imply that skin care services ~~or body~~  
 1679 ~~wrapping~~, as performed under this chapter, have any relationship

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1680 to the practice of massage therapy as defined in s. 480.033(3),  
 1681 except those practices or activities defined in s. 477.013.

1682 (h) In the practice of cosmetology, use or possess a  
 1683 cosmetic product containing a liquid nail monomer containing any  
 1684 trace of methyl methacrylate (MMA).

1685 (2) Any person who violates ~~any provision of~~ this section  
 1686 commits a misdemeanor of the second degree, punishable as  
 1687 provided in s. 775.082 or s. 775.083.

1688 Section 64. Section 477.028, Florida Statutes, is amended  
 1689 to read:

1690 477.028 Disciplinary proceedings.—

1691 (1) The board may ~~shall have the power to~~ revoke or  
 1692 suspend the license of a cosmetologist licensed under this  
 1693 chapter, or the registration of a specialist registered under  
 1694 this chapter, and to reprimand, censure, deny subsequent  
 1695 licensure or registration of, or otherwise discipline a  
 1696 cosmetologist or a specialist licensed or registered under this  
 1697 chapter in any of the following cases:

1698 (a) Upon proof that a license or registration has been  
 1699 obtained by fraud or misrepresentation.

1700 (b) Upon proof that the holder of a license or  
 1701 registration is guilty of fraud or deceit or of gross  
 1702 negligence, incompetency, or misconduct in the practice or  
 1703 instruction of cosmetology or a specialty.

1704 (c) Upon proof that the holder of a license or  
 1705 registration is guilty of aiding, assisting, procuring, or  
 1706 advising any unlicensed person to practice as a cosmetologist.

1707 (2) The board may ~~shall have the power to~~ revoke or

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1708 suspend the license of a cosmetology salon ~~or a specialty salon~~  
 1709 ~~licensed under this chapter,~~ to deny subsequent licensure of  
 1710 such salon, or to reprimand, censure, or otherwise discipline  
 1711 the owner of such salon in either of the following cases:

1712 (a) Upon proof that a license has been obtained by fraud  
 1713 or misrepresentation.

1714 (b) Upon proof that the holder of a license is guilty of  
 1715 fraud or deceit or of gross negligence, incompetency, or  
 1716 misconduct in the operation of the salon so licensed.

1717 (3) Disciplinary proceedings shall be conducted pursuant  
 1718 to the provisions of chapter 120.

1719 (4) The department may ~~shall~~ not issue or renew a license  
 1720 or certificate of registration under this chapter to any person  
 1721 against whom or salon against which the board has assessed a  
 1722 fine, interest, or costs associated with investigation and  
 1723 prosecution until the person or salon has paid in full such  
 1724 fine, interest, or costs associated with investigation and  
 1725 prosecution or until the person or salon complies with or  
 1726 satisfies all terms and conditions of the final order.

1727 Section 65. Paragraphs (a) and (c) of subsection (1) and  
 1728 paragraph (a) of subsection (2) of section 477.029, Florida  
 1729 Statutes, are amended to read:

1730 477.029 Penalty.—

1731 (1) It is unlawful for any person to:

1732 (a) Hold himself or herself out as a cosmetologist, or  
 1733 ~~specialist, hair wrapper, hair braider, or body wrapper~~ unless  
 1734 duly licensed or registered, or otherwise authorized, ~~as~~  
 1735 provided in this chapter.

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1736 (c) Permit an employed person to practice cosmetology or a  
 1737 specialty unless duly licensed or registered, or otherwise  
 1738 authorized, as provided in this chapter.

1739 (2) Any person who violates the provisions of this  
 1740 section shall be subject to one or more of the following  
 1741 penalties, as determined by the board:

1742 (a) Revocation or suspension of any license or  
 1743 registration issued pursuant to this chapter.

1744 Section 66. Sections 481.2131 and 481.2251, Florida  
 1745 Statutes, are repealed.

1746 Section 67. Section 481.201, Florida Statutes, is amended  
 1747 to read:

1748 481.201 Purpose.—The primary legislative purpose for  
 1749 enacting this part is to ensure that every architect practicing  
 1750 in this state meets minimum requirements for safe practice. It  
 1751 is the legislative intent that architects who fall below minimum  
 1752 competency or who otherwise present a danger to the public shall  
 1753 be prohibited from practicing in this state. ~~The Legislature~~  
 1754 ~~further finds that it is in the interest of the public to limit~~  
 1755 ~~the practice of interior design to interior designers or~~  
 1756 ~~architects who have the design education and training required~~  
 1757 ~~by this part or to persons who are exempted from the provisions~~  
 1758 ~~of this part.~~

1759 Section 68. Subsections (1), (4), (5), (6), and (8)  
 1760 through (16) of section 481.203, Florida Statutes, are amended  
 1761 to read:

1762 481.203 Definitions.—As used in this part:

1763 (1) "Board" means the Board of Architecture ~~and Interior~~

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1764 ~~Design.~~

1765 (4) "Certificate of registration" means a license issued

1766 by the department to a natural person to engage in the practice

1767 of architecture ~~or interior design.~~

1768 (5) "Certificate of authorization" means a certificate

1769 issued by the department to a corporation or partnership to

1770 practice architecture ~~or interior design.~~

1771 (6) "Architecture" means the rendering or offering to

1772 render services in connection with the design and construction

1773 of a structure or group of structures which have as their

1774 principal purpose human habitation or use, ~~and~~ the utilization

1775 of space within and surrounding such structures, and interior

1776 design. These services include planning, providing preliminary

1777 study designs, drawings and specifications, job-site inspection,

1778 and administration of construction contracts.

1779 ~~(8) "Interior design" means designs, consultations,~~

1780 ~~studies, drawings, specifications, and administration of design~~

1781 ~~construction contracts relating to nonstructural interior~~

1782 ~~elements of a building or structure. "Interior design" includes,~~

1783 ~~but is not limited to, reflected ceiling plans, space planning,~~

1784 ~~furnishings, and the fabrication of nonstructural elements~~

1785 ~~within and surrounding interior spaces of buildings. "Interior~~

1786 ~~design" specifically excludes the design of or the~~

1787 ~~responsibility for architectural and engineering work, except~~

1788 ~~for specification of fixtures and their location within interior~~

1789 ~~spaces. As used in this subsection, "architectural and~~

1790 ~~engineering interior construction relating to the building~~

1791 ~~systems" includes, but is not limited to, construction of~~



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1792 ~~structural, mechanical, plumbing, heating, air conditioning,~~  
 1793 ~~ventilating, electrical, or vertical transportation systems, or~~  
 1794 ~~construction which materially affects lifesafety systems~~  
 1795 ~~pertaining to firesafety protection such as fire-rated~~  
 1796 ~~separations between interior spaces, fire-rated vertical shafts~~  
 1797 ~~in multistory structures, fire-rated protection of structural~~  
 1798 ~~elements, smoke evacuation and compartmentalization, emergency~~  
 1799 ~~ingress or egress systems, and emergency alarm systems.~~

1800 ~~(9) "Registered interior designer" or "interior designer"~~  
 1801 ~~means a natural person who is licensed under this part.~~

1802 ~~(10) "Nonstructural element" means an element which does~~  
 1803 ~~not require structural bracing and which is something other than~~  
 1804 ~~a load-bearing wall, load-bearing column, or other load-bearing~~  
 1805 ~~element of a building or structure which is essential to the~~  
 1806 ~~structural integrity of the building.~~

1807 ~~(11) "Reflected ceiling plan" means a ceiling design plan~~  
 1808 ~~which is laid out as if it were projected downward and which may~~  
 1809 ~~include lighting and other elements.~~

1810 ~~(12) "Space planning" means the analysis, programming, or~~  
 1811 ~~design of spatial requirements, including preliminary space~~  
 1812 ~~layouts and final planning.~~

1813 ~~(13) "Common area" means an area that is held out for use~~  
 1814 ~~by all tenants or owners in a multiple-unit dwelling, including,~~  
 1815 ~~but not limited to, a lobby, elevator, hallway, laundry room,~~  
 1816 ~~clubhouse, or swimming pool.~~

1817 ~~(14) "Diversified interior design experience" means~~  
 1818 ~~experience which substantially encompasses the various elements~~  
 1819 ~~of interior design services set forth under the definition of~~

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1820 ~~"interior design" in subsection (8).~~  
 1821 ~~(15) "Interior decorator services" includes the selection~~  
 1822 ~~or assistance in selection of surface materials, window~~  
 1823 ~~treatments, wallcoverings, paint, floor coverings, surface-~~  
 1824 ~~mounted lighting, surface-mounted fixtures, and loose~~  
 1825 ~~furnishings not subject to regulation under applicable building~~  
 1826 ~~codes.~~  
 1827 (8) ~~(16)~~ "Responsible supervising control" means the  
 1828 exercise of direct personal supervision and control throughout  
 1829 the preparation of documents, instruments of service, or any  
 1830 other work requiring the seal and signature of a licensee under  
 1831 this part.  
 1832 Section 69. Subsection (1) and paragraph (a) of subsection  
 1833 (3) of section 481.205, Florida Statutes, are amended to read:  
 1834 481.205 Board of Architecture ~~and Interior Design.~~  
 1835 (1) The Board of Architecture ~~and Interior Design~~ is  
 1836 created within the Department of Business and Professional  
 1837 Regulation. The board shall consist of seven ~~11~~ members. Five  
 1838 members must be registered architects who have been engaged in  
 1839 the practice of architecture for at least 5 years; ~~three members~~  
 1840 ~~must be registered interior designers who have been offering~~  
 1841 ~~interior design services for at least 5 years and who are not~~  
 1842 ~~also registered architects;~~ and two ~~three~~ members must be  
 1843 laypersons who are not, and have never been, architects,  
 1844 ~~interior designers,~~ or members of any closely related profession  
 1845 or occupation. At least one member of the board must be 60 years  
 1846 of age or older.  
 1847 (3) (a) Notwithstanding the provisions of ss. 455.225,

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1848 455.228, and 455.32, the duties and authority of the department  
 1849 to receive complaints and investigate and discipline persons  
 1850 licensed under this part, including the ability to determine  
 1851 legal sufficiency and probable cause; to initiate proceedings  
 1852 and issue final orders for summary suspension or restriction of  
 1853 a license pursuant to s. 120.60(6); to issue notices of  
 1854 noncompliance, notices to cease and desist, subpoenas, and  
 1855 citations; to retain legal counsel, investigators, or  
 1856 prosecutorial staff in connection with the licensed practice of  
 1857 architecture ~~and interior design~~; and to investigate and deter  
 1858 the unlicensed practice of architecture ~~and interior design~~ as  
 1859 provided in s. 455.228 are delegated to the board. All  
 1860 complaints and any information obtained pursuant to an  
 1861 investigation authorized by the board are confidential and  
 1862 exempt from s. 119.07(1) as provided in s. 455.225(2) and (10).

1863 Section 70. Section 481.207, Florida Statutes, is amended  
 1864 to read:

1865 481.207 Fees.—The board, by rule, may establish separate  
 1866 fees for architects ~~and interior designers~~, to be paid for  
 1867 applications, examination, reexamination, licensing and renewal,  
 1868 delinquency, reinstatement, and recordmaking and recordkeeping.  
 1869 The examination fee shall be in an amount that covers the cost  
 1870 of obtaining and administering the examination and shall be  
 1871 refunded if the applicant is found ineligible to sit for the  
 1872 examination. The application fee is nonrefundable. The fee for  
 1873 initial application and examination for architects ~~and interior~~  
 1874 ~~designers~~ may not exceed \$775 plus the actual per applicant cost  
 1875 to the department for purchase of the examination from the

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1876 National Council of Architectural Registration Boards ~~or the~~  
 1877 ~~National Council of Interior Design Qualifications,~~  
 1878 ~~respectively,~~ or similar national organizations. The biennial  
 1879 renewal fee for architects may not exceed \$200. ~~The biennial~~  
 1880 ~~renewal fee for interior designers may not exceed \$500.~~ The  
 1881 delinquency fee may not exceed the biennial renewal fee  
 1882 established by the board for an active license. The board shall  
 1883 establish fees that are adequate to ensure the continued  
 1884 operation of the board and to fund the proportionate expenses  
 1885 incurred by the department which are allocated to the regulation  
 1886 of architects ~~and interior designers.~~ Fees shall be based on  
 1887 department estimates of the revenue required to implement this  
 1888 part and the provisions of law with respect to the regulation of  
 1889 architects ~~and interior designers.~~

1890 Section 71. Section 481.209, Florida Statutes, is amended  
 1891 to read:

1892 481.209 Examinations.—

1893 ~~(1)~~ A person desiring to be licensed as a registered  
 1894 architect shall apply to the department to take the licensure  
 1895 examination. The department shall administer the licensure  
 1896 examination for architects to each applicant who the board  
 1897 certifies:

1898 (1)(a) Has completed the application form and remitted a  
 1899 nonrefundable application fee and an examination fee which is  
 1900 refundable if the applicant is found to be ineligible to take  
 1901 the examination;

1902 (2)(a) ~~(b)1.~~ Is a graduate of a school or college of  
 1903 architecture accredited by the National Architectural

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1904 Accreditation Board; or  
 1905 (b)2- Is a graduate of an approved architectural  
 1906 curriculum, evidenced by a degree from an unaccredited school or  
 1907 college of architecture approved by the board. The board shall  
 1908 adopt rules providing for the review and approval of  
 1909 unaccredited schools and colleges of architecture and courses of  
 1910 architectural study based on a review and inspection by the  
 1911 board of the curriculum of accredited schools and colleges of  
 1912 architecture in the United States; and  
 1913 (3)(e) Has completed, prior to examination, 1 year of the  
 1914 internship experience required by s. 481.211(1).  
 1915 ~~(2) A person desiring to be licensed as a registered~~  
 1916 ~~interior designer shall apply to the department for licensure.~~  
 1917 ~~The department shall administer the licensure examination for~~  
 1918 ~~interior designers to each applicant who has completed the~~  
 1919 ~~application form and remitted the application and examination~~  
 1920 ~~fees specified in s. 481.207 and who the board certifies:~~  
 1921 ~~(a) Is a graduate from an interior design program of 5~~  
 1922 ~~years or more and has completed 1 year of diversified interior~~  
 1923 ~~design experience;~~  
 1924 ~~(b) Is a graduate from an interior design program of 4~~  
 1925 ~~years or more and has completed 2 years of diversified interior~~  
 1926 ~~design experience;~~  
 1927 ~~(c) Has completed at least 3 years in an interior design~~  
 1928 ~~curriculum and has completed 3 years of diversified interior~~  
 1929 ~~design experience; or~~  
 1930 ~~(d) Is a graduate from an interior design program of at~~  
 1931 ~~least 2 years and has completed 4 years of diversified interior~~

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1932 ~~design experience.~~  
 1933  
 1934 ~~Subsequent to October 1, 2000, for the purpose of having the~~  
 1935 ~~educational qualification required under this subsection~~  
 1936 ~~accepted by the board, the applicant must complete his or her~~  
 1937 ~~education at a program, school, or college of interior design~~  
 1938 ~~whose curriculum has been approved by the board as of the time~~  
 1939 ~~of completion. Subsequent to October 1, 2003, all of the~~  
 1940 ~~required amount of educational credits shall have been obtained~~  
 1941 ~~in a program, school, or college of interior design whose~~  
 1942 ~~curriculum has been approved by the board, as of the time each~~  
 1943 ~~educational credit is gained. The board shall adopt rules~~  
 1944 ~~providing for the review and approval of programs, schools, and~~  
 1945 ~~colleges of interior design and courses of interior design study~~  
 1946 ~~based on a review and inspection by the board of the curriculum~~  
 1947 ~~of programs, schools, and colleges of interior design in the~~  
 1948 ~~United States, including those programs, schools, and colleges~~  
 1949 ~~accredited by the Foundation for Interior Design Education~~  
 1950 ~~Research. The board shall adopt rules providing for the review~~  
 1951 ~~and approval of diversified interior design experience required~~  
 1952 ~~by this subsection.~~

1953 Section 72. Subsection (2) of section 481.211, Florida  
 1954 Statutes, is amended to read:

1955 481.211 Architecture internship required.—

1956 (2) Each applicant for licensure shall complete 1 year of  
 1957 the internship experience required by this section subsequent to  
 1958 graduation from a school or college of architecture as defined  
 1959 in s. 481.209(1).

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1960 Section 73. Subsections (1) through (4) of section  
 1961 481.213, Florida Statutes, are amended to read:  
 1962 481.213 Licensure.—  
 1963 (1) The department shall license any applicant who the  
 1964 board certifies is qualified for licensure and who has paid the  
 1965 initial licensure fee. ~~Licensure as an architect under this~~  
 1966 ~~section shall be deemed to include all the rights and privileges~~  
 1967 ~~of licensure as an interior designer under this section.~~  
 1968 (2) The board shall certify for licensure by examination  
 1969 any applicant who passes the prescribed licensure examination  
 1970 and satisfies the requirements of ss. 481.209 and 481.211, for  
 1971 architects, ~~or the requirements of s. 481.209, for interior~~  
 1972 ~~designers.~~  
 1973 (3) The board shall certify as qualified for a license by  
 1974 endorsement as an architect ~~or as an interior designer~~ an  
 1975 applicant who:  
 1976 (a) Qualifies to take the prescribed licensure  
 1977 examination, and has passed the prescribed licensure examination  
 1978 or a substantially equivalent examination in another  
 1979 jurisdiction, as set forth in s. 481.209 for architects ~~or~~  
 1980 ~~interior designers, as applicable,~~ and has satisfied the  
 1981 internship requirements set forth in s. 481.211 for architects;  
 1982 (b) Holds a valid license to practice architecture ~~or~~  
 1983 ~~interior design~~ issued by another jurisdiction of the United  
 1984 States, if the criteria for issuance of such license were  
 1985 substantially equivalent to the licensure criteria that existed  
 1986 in this state at the time the license was issued; ~~provided,~~  
 1987 ~~however, that an applicant who has been licensed for use of the~~

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1988 title "~~interior design~~" rather than licensed to practice  
 1989 interior design shall not qualify hereunder; or  
 1990 (c) Has passed the prescribed licensure examination and  
 1991 holds a valid certificate issued by the National Council of  
 1992 Architectural Registration Boards, and holds a valid license to  
 1993 practice architecture issued by another state or jurisdiction of  
 1994 the United States. For the purposes of this paragraph, any  
 1995 applicant licensed in another state or jurisdiction after June  
 1996 30, 1984, must also hold a degree in architecture and such  
 1997 degree must be equivalent to that required in s.  
 1998 481.209 (2) ~~(1) (b)~~. Also for the purposes of this paragraph, any  
 1999 applicant licensed in another state or jurisdiction after June  
 2000 30, 1985, must have completed an internship equivalent to that  
 2001 required by s. 481.211 and any rules adopted with respect  
 2002 thereto.  
 2003 (4) The board may refuse to certify any applicant who has  
 2004 violated any of the provisions of s. 481.223, or s. 481.225, ~~or~~  
 2005 ~~s. 481.2251~~, as applicable.  
 2006 Section 74. Subsections (3) and (5) of section 481.215,  
 2007 Florida Statutes, are amended to read:  
 2008 481.215 Renewal of license.—  
 2009 (3) A ~~No~~ license renewal may not ~~shall~~ be issued to an  
 2010 architect ~~or an interior designer~~ by the department until the  
 2011 licensee submits proof satisfactory to the department that,  
 2012 during the 2 years before ~~prior to~~ application for renewal, the  
 2013 licensee participated per biennium in not less than 20 hours of  
 2014 at least 50 minutes each per biennium of continuing education  
 2015 approved by the board. The board shall approve only continuing



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2016 education that builds upon the basic knowledge of architecture  
 2017 ~~or interior design~~. The board may make exception from the  
 2018 requirements of continuing education in emergency or hardship  
 2019 cases.

2020 (5) The board shall require, by rule adopted pursuant to  
 2021 ss. 120.536(1) and 120.54, a specified number of hours in  
 2022 specialized or advanced courses, approved by the Florida  
 2023 Building Commission, on any portion of the Florida Building  
 2024 Code, adopted pursuant to part IV of chapter 553, relating to  
 2025 the licensee's ~~respective~~ area of practice.

2026 Section 75. Subsection (1) of section 481.217, Florida  
 2027 Statutes, is amended to read:

2028 481.217 Inactive status.—

2029 (1) The board may prescribe by rule continuing education  
 2030 requirements as a condition of reactivating a license. The  
 2031 continuing education requirements for reactivating a license for  
 2032 a registered architect may not exceed 12 contact hours for each  
 2033 year the license was inactive. ~~The minimum continuing education~~  
 2034 ~~requirement for reactivating a license for a registered interior~~  
 2035 ~~designer shall be those of the most recent biennium plus one-~~  
 2036 ~~half of the requirements in s. 481.215 for each year or part~~  
 2037 ~~thereof during which the license was inactive. The board shall~~  
 2038 ~~only approve continuing education that builds upon the basic~~  
 2039 ~~knowledge of interior design.~~

2040 Section 76. Section 481.219, Florida Statutes, is amended  
 2041 to read:

2042 481.219 Certification of partnerships, limited liability  
 2043 companies, and corporations.—

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2044 (1) The practice of or the offer to practice architecture  
 2045 ~~or interior design~~ by licensees through a corporation, limited  
 2046 liability company, or partnership offering architectural ~~or~~  
 2047 ~~interior design~~ services to the public, or by a corporation,  
 2048 limited liability company, or partnership offering architectural  
 2049 ~~or interior design~~ services to the public through licensees  
 2050 under this part as agents, employees, officers, or partners, is  
 2051 permitted, subject to ~~the provisions of~~ this section.

2052 (2) For the purposes of this section, a certificate of  
 2053 authorization is ~~shall be~~ required for a corporation, limited  
 2054 liability company, partnership, or person practicing under a  
 2055 fictitious name, offering architectural services to the public  
 2056 jointly or separately. However, when an individual is practicing  
 2057 architecture in her or his own name, she or he is ~~shall not be~~  
 2058 required to be certified under this section. ~~Certification under~~  
 2059 ~~this subsection to offer architectural services shall include~~  
 2060 ~~all the rights and privileges of certification under subsection~~  
 2061 ~~(3) to offer interior design services.~~

2062 ~~(3) For the purposes of this section, a certificate of~~  
 2063 ~~authorization shall be required for a corporation, limited~~  
 2064 ~~liability company, partnership, or person operating under a~~  
 2065 ~~fictitious name, offering interior design services to the public~~  
 2066 ~~jointly or separately. However, when an individual is practicing~~  
 2067 ~~interior design in her or his own name, she or he shall not be~~  
 2068 ~~required to be certified under this section.~~

2069 (3)-(4) All final construction documents and instruments of  
 2070 service which include drawings, specifications, plans, reports,  
 2071 or other papers or documents involving the practice of

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2072 architecture which are prepared or approved for the use of the  
 2073 corporation, limited liability company, or partnership and filed  
 2074 for public record within the state shall bear the signature and  
 2075 seal of the licensee who prepared or approved them and the date  
 2076 on which they were sealed.

2077 ~~(5) All drawings, specifications, plans, reports, or other~~  
 2078 ~~papers or documents prepared or approved for the use of the~~  
 2079 ~~corporation, limited liability company, or partnership by an~~  
 2080 ~~interior designer in her or his professional capacity and filed~~  
 2081 ~~for public record within the state shall bear the signature and~~  
 2082 ~~seal of the licensee who prepared or approved them and the date~~  
 2083 ~~on which they were sealed.~~

2084 (4)~~(6)~~ The department shall issue a certificate of  
 2085 authorization to any applicant who the board certifies as  
 2086 qualified for a certificate of authorization and who has paid  
 2087 the fee set in s. 481.207.

2088 (5)~~(7)~~ The board shall certify an applicant as qualified  
 2089 for a certificate of authorization to offer architectural ~~or~~  
 2090 ~~interior design~~ services, provided that:

2091 ~~(a)~~ one or more of the principal officers of the  
 2092 corporation or limited liability company, or one or more  
 2093 partners of the partnership, and all personnel of the  
 2094 corporation, limited liability company, or partnership who act  
 2095 in its behalf in this state as architects, are registered as  
 2096 provided by this part; ~~or~~

2097 ~~(b) One or more of the principal officers of the~~  
 2098 ~~corporation or one or more partners of the partnership, and all~~  
 2099 ~~personnel of the corporation, limited liability company, or~~

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2100 ~~partnership who act in its behalf in this state as interior~~  
 2101 ~~designers, are registered as provided by this part.~~

2102 (6)~~(8)~~ The department shall adopt rules establishing a  
 2103 procedure for the biennial renewal of certificates of  
 2104 authorization.

2105 (7)~~(9)~~ The department shall renew a certificate of  
 2106 authorization upon receipt of the renewal application and  
 2107 biennial renewal fee.

2108 (8)~~(10)~~ Each partnership, limited liability company, and  
 2109 corporation certified under this section shall notify the  
 2110 department within 30 days of any change in the information  
 2111 contained in the application upon which the certification is  
 2112 based. Any registered architect ~~or interior designer~~ who  
 2113 qualifies the corporation, limited liability company, or  
 2114 partnership as provided in subsection (6) ~~(7)~~ shall be  
 2115 responsible for ensuring responsible supervising control of  
 2116 projects of the entity and upon termination of her or his  
 2117 employment with a partnership, limited liability company, or  
 2118 corporation certified under this section shall notify the  
 2119 department of the termination within 30 days.

2120 (9)~~(11)~~ A ~~No~~ corporation, limited liability company, or  
 2121 partnership may not ~~shall~~ be relieved of responsibility for the  
 2122 conduct or acts of its agents, employees, or officers by reason  
 2123 of its compliance with this section. However, the architect who  
 2124 signs and seals the construction documents and instruments of  
 2125 service is ~~shall be~~ liable for the professional services  
 2126 performed, ~~and the interior designer who signs and seals the~~  
 2127 ~~interior design drawings, plans, or specifications shall be~~

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2128 ~~liable for the professional services performed.~~  
 2129 (10)~~(12)~~ Disciplinary action against a corporation,  
 2130 limited liability company, or partnership shall be administered  
 2131 in the same manner and on the same grounds as disciplinary  
 2132 action against a registered architect ~~or interior designer,~~  
 2133 ~~respectively.~~  
 2134 (11)~~(13)~~ Nothing in This section does not ~~shall be~~  
 2135 ~~construed to~~ mean that a certificate of registration to practice  
 2136 architecture ~~or interior design~~ shall be held by a corporation,  
 2137 limited liability company, or partnership. ~~Nothing in~~ This  
 2138 section does not prohibit ~~prohibits~~ corporations, limited  
 2139 liability companies, and partnerships from joining together to  
 2140 offer architectural, engineering, ~~interior design,~~ surveying and  
 2141 mapping, and landscape architectural services, or any  
 2142 combination of such services, to the public, provided that each  
 2143 corporation, limited liability company, or partnership otherwise  
 2144 meets the requirements of law.  
 2145 ~~(14) Corporations, limited liability companies, or~~  
 2146 ~~partnerships holding a valid certificate of authorization to~~  
 2147 ~~practice architecture shall be permitted to use in their title~~  
 2148 ~~the term "interior designer" or "registered interior designer."~~  
 2149 Section 77. Section 481.221, Florida Statutes, is amended  
 2150 to read:  
 2151 481.221 Seals; display of certificate number.—  
 2152 (1) The board shall prescribe, by rule, one or more forms  
 2153 of seals to be used by registered architects holding valid  
 2154 certificates of registration.  
 2155 (2) Each registered architect shall obtain one seal in a

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2156 form approved by rule of the board and may, in addition,  
 2157 register her or his seal electronically in accordance with ss.  
 2158 668.001-668.006. All final construction documents and  
 2159 instruments of service which include drawings, plans,  
 2160 specifications, or reports prepared or issued by the registered  
 2161 architect and being filed for public record shall bear the  
 2162 signature and seal of the registered architect who prepared or  
 2163 approved the document and the date on which they were sealed.  
 2164 The signature, date, and seal shall be evidence of the  
 2165 authenticity of that to which they are affixed. Final plans,  
 2166 specifications, or reports prepared or issued by a registered  
 2167 architect may be transmitted electronically and may be signed by  
 2168 the registered architect, dated, and sealed electronically with  
 2169 the seal in accordance with ss. 668.001-668.006.

2170 ~~(3) The board shall adopt a rule prescribing the~~  
 2171 ~~distinctly different seals to be used by registered interior~~  
 2172 ~~designers holding valid certificates of registration. Each~~  
 2173 ~~registered interior designer shall obtain a seal as prescribed~~  
 2174 ~~by the board, and all drawings, plans, specifications, or~~  
 2175 ~~reports prepared or issued by the registered interior designer~~  
 2176 ~~and being filed for public record shall bear the signature and~~  
 2177 ~~seal of the registered interior designer who prepared or~~  
 2178 ~~approved the document and the date on which they were sealed.~~  
 2179 ~~The signature, date, and seal shall be evidence of the~~  
 2180 ~~authenticity of that to which they are affixed. Final plans,~~  
 2181 ~~specifications, or reports prepared or issued by a registered~~  
 2182 ~~interior designer may be transmitted electronically and may be~~  
 2183 ~~signed by the registered interior designer, dated, and sealed~~

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2184 ~~electronically with the seal in accordance with ss. 668.001-~~  
 2185 ~~668.006.~~

2186 (3)~~(4)~~ No registered architect shall affix, or permit to  
 2187 be affixed, her or his seal or signature to any final  
 2188 construction document or instrument of service which includes  
 2189 any plan, specification, drawing, or other document which  
 2190 depicts work which she or he is not competent to perform.

2191 ~~(5) No registered interior designer shall affix, or permit~~  
 2192 ~~to be affixed, her or his seal or signature to any plan,~~  
 2193 ~~specification, drawing, or other document which depicts work~~  
 2194 ~~which she or he is not competent or licensed to perform.~~

2195 ~~(7) No registered interior designer shall affix her or his~~  
 2196 ~~signature or seal to any plans, specifications, or other~~  
 2197 ~~documents which were not prepared by her or him or under her or~~  
 2198 ~~his responsible supervising control or by another registered~~  
 2199 ~~interior designer and reviewed, approved, or modified and~~  
 2200 ~~adopted by her or him as her or his own work according to rules~~  
 2201 ~~adopted by the board.~~

2202 ~~(9) Studies, drawings, specifications, and other related~~  
 2203 ~~documents prepared by a registered interior designer in~~  
 2204 ~~providing interior design services shall be of a sufficiently~~  
 2205 ~~high standard to clearly and accurately indicate all essential~~  
 2206 ~~parts of the work to which they refer.~~

2207 (4)~~(10)~~ Each registered architect and each ~~or interior~~  
 2208 ~~designer, and each~~ corporation, limited liability company, or  
 2209 partnership holding a certificate of authorization, shall  
 2210 include its certificate number in any newspaper, telephone  
 2211 directory, or other advertising medium used by the registered

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2212 architect, ~~interior designer~~, corporation, limited liability  
 2213 company, or partnership. A corporation, limited liability  
 2214 company, or partnership is not required to display the  
 2215 certificate number of individual registered architects ~~or~~  
 2216 ~~interior designers~~ employed by or working within the  
 2217 corporation, limited liability company, or partnership.

2218 (5) ~~(11)~~ When the certificate of registration of a  
 2219 registered architect ~~or interior designer~~ has been revoked or  
 2220 suspended by the board, the registered architect ~~or interior~~  
 2221 ~~designer~~ shall surrender her or his seal to the secretary of the  
 2222 board within a period of 30 days after the revocation or  
 2223 suspension has become effective. If the certificate of the  
 2224 registered architect ~~or interior designer~~ has been suspended for  
 2225 a period of time, her or his seal shall be returned to her or  
 2226 him upon expiration of the suspension period.

2227 (6) ~~(12)~~ A person may not sign and seal by any means any  
 2228 final plan, specification, or report after her or his  
 2229 certificate of registration has expired or is suspended or  
 2230 revoked. A registered architect ~~or interior designer~~ whose  
 2231 certificate of registration is suspended or revoked shall,  
 2232 within 30 days after the effective date of the suspension or  
 2233 revocation, surrender her or his seal to the executive director  
 2234 of the board and confirm in writing to the executive director  
 2235 the cancellation of the registered architect's ~~or interior~~  
 2236 ~~designer's~~ electronic signature in accordance with ss. 668.001-  
 2237 668.006. When a registered architect's ~~or interior designer's~~  
 2238 certificate of registration is suspended for a period of time,  
 2239 her or his seal shall be returned upon expiration of the period



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2240 of suspension.

2241 Section 78. Section 481.222, Florida Statutes, is amended

2242 to read:

2243 481.222 Architects performing building code inspection

2244 services.—Notwithstanding any other provision of law, a person

2245 who is currently licensed to practice as an architect under this

2246 part may provide building code inspection services described in

2247 s. 468.603(6) and (7) to a local government or state agency upon

2248 its request, without being certified by the Florida Building

2249 Code Administrators and Inspectors Board under part XII of

2250 chapter 468. With respect to the performance of such building

2251 code inspection services, the architect is subject to the

2252 disciplinary guidelines of this part and s. 468.621(1)(c)-(h).

2253 Any complaint processing, investigation, and discipline that

2254 arise out of an architect's performance of building code

2255 inspection services shall be conducted by the Board of

2256 Architecture ~~and Interior Design~~ rather than the Florida

2257 Building Code Administrators and Inspectors Board. An architect

2258 may not perform plans review as an employee of a local

2259 government upon any job that the architect or the architect's

2260 company designed.

2261 Section 79. Section 481.223, Florida Statutes, are amended

2262 to read:

2263 481.223 Prohibitions; penalties; injunctive relief.—

2264 (1) A person may not knowingly:

2265 (a) Practice architecture unless the person is an

2266 architect or a registered architect; however, a licensed

2267 architect who has been licensed by the board and who chooses to

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2268 | relinquish or not to renew his or her license may use the title  
 2269 | "Architect, Retired" but may not otherwise render any  
 2270 | architectural services.

2271 |       ~~(b) Practice interior design unless the person is a~~  
 2272 | ~~registered interior designer unless otherwise exempted herein;~~  
 2273 | ~~however, an interior designer who has been licensed by the board~~  
 2274 | ~~and who chooses to relinquish or not to renew his or her license~~  
 2275 | ~~may use the title "Interior Designer, Retired" but may not~~  
 2276 | ~~otherwise render any interior design services.~~

2277 |       (b)(e) Use the name or title "architect" or "registered  
 2278 | architect," ~~or "interior designer" or "registered interior~~  
 2279 | ~~designer,"~~ or words to that effect, when the person is not then  
 2280 | the holder of a valid license issued pursuant to this part.

2281 |       (c)(d) Present as his or her own the license of another.

2282 |       (d)(e) Give false or forged evidence to the board or a  
 2283 | member thereof.

2284 |       (e)(f) Use or attempt to use an architect ~~or interior~~  
 2285 | ~~designer~~ license that has been suspended, revoked, or placed on  
 2286 | inactive or delinquent status.

2287 |       (f)(g) Employ unlicensed persons to practice architecture  
 2288 | ~~or interior design.~~

2289 |       (g)(h) Conceal information relative to violations of this  
 2290 | part.

2291 |       (2) Any person who violates any provision of subsection  
 2292 | (1) commits a misdemeanor of the first degree, punishable as  
 2293 | provided in s. 775.082 or s. 775.083.

2294 |       (3) (a) Notwithstanding chapter 455 or any other law to the  
 2295 | contrary, an affected person may maintain an action for

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2296 injunctive relief to restrain or prevent a person from violating  
 2297 paragraph (1) (a), ~~paragraph (1) (b)~~, or paragraph (1) (b) (e). The  
 2298 prevailing party is entitled to actual costs and attorney's  
 2299 fees.

2300 (b) For purposes of this subsection, the term "affected  
 2301 person" means a person directly affected by the actions of a  
 2302 person suspected of violating paragraph (1) (a), ~~paragraph~~  
 2303 ~~(1) (b)~~, or paragraph (1) (b) (e) and includes, but is not limited  
 2304 to, the department, any person who received services from the  
 2305 alleged violator, or any private association composed primarily  
 2306 of members of the profession the alleged violator is practicing  
 2307 or offering to practice or holding himself or herself out as  
 2308 qualified to practice.

2309 Section 80. Subsections (5) through (8) of section  
 2310 481.229, Florida Statutes, are amended to read:

2311 481.229 Exceptions; exemptions from licensure.-

2312 ~~(5) (a) Nothing contained in this part shall prevent a~~  
 2313 ~~registered architect or a partnership, limited liability~~  
 2314 ~~company, or corporation holding a valid certificate of~~  
 2315 ~~authorization to provide architectural services from performing~~  
 2316 ~~any interior design service or from using the title "interior~~  
 2317 ~~designer" or "registered interior designer."~~

2318 ~~(b) Notwithstanding any other provision of this part, all~~  
 2319 ~~persons licensed as architects under this part shall be~~  
 2320 ~~qualified for interior design licensure upon submission of a~~  
 2321 ~~completed application for such license and a fee not to exceed~~  
 2322 ~~\$30. Such persons shall be exempt from the requirements of s.~~  
 2323 ~~481.209(2). For architects licensed as interior designers,~~

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2324 ~~satisfaction of the requirements for renewal of licensure as an~~  
 2325 ~~architect under s. 481.215 shall be deemed to satisfy the~~  
 2326 ~~requirements for renewal of licensure as an interior designer~~  
 2327 ~~under that section. Complaint processing, investigation, or~~  
 2328 ~~other discipline-related legal costs related to persons licensed~~  
 2329 ~~as interior designers under this paragraph shall be assessed~~  
 2330 ~~against the architects' account of the Regulatory Trust Fund.~~

2331 ~~(c) Notwithstanding any other provision of this part, any~~  
 2332 ~~corporation, partnership, or person operating under a fictitious~~  
 2333 ~~name which holds a certificate of authorization to provide~~  
 2334 ~~architectural services shall be qualified, without fee, for a~~  
 2335 ~~certificate of authorization to provide interior design services~~  
 2336 ~~upon submission of a completed application therefor. For~~  
 2337 ~~corporations, partnerships, and persons operating under a~~  
 2338 ~~fictitious name which hold a certificate of authorization to~~  
 2339 ~~provide interior design services, satisfaction of the~~  
 2340 ~~requirements for renewal of the certificate of authorization to~~  
 2341 ~~provide architectural services under s. 481.219 shall be deemed~~  
 2342 ~~to satisfy the requirements for renewal of the certificate of~~  
 2343 ~~authorization to provide interior design services under that~~  
 2344 ~~section.~~

2345 ~~(6) This part shall not apply to:~~

2346 ~~(a) A person who performs interior design services or~~  
 2347 ~~interior decorator services for any residential application,~~  
 2348 ~~provided that such person does not advertise as, or represent~~  
 2349 ~~himself or herself as, an interior designer. For purposes of~~  
 2350 ~~this paragraph, "residential applications" includes all types of~~  
 2351 ~~residences, including, but not limited to, residence buildings,~~

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2352 ~~single-family homes, multifamily homes, townhouses, apartments,~~  
 2353 ~~condominiums, and domestic outbuildings appurtenant to one-~~  
 2354 ~~family or two-family residences. However, "residential~~  
 2355 ~~applications" does not include common areas associated with~~  
 2356 ~~instances of multiple-unit dwelling applications.~~

2357 ~~(b) An employee of a retail establishment providing~~  
 2358 ~~"interior decorator services" on the premises of the retail~~  
 2359 ~~establishment or in the furtherance of a retail sale or~~  
 2360 ~~prospective retail sale, provided that such employee does not~~  
 2361 ~~advertise as, or represent himself or herself as, an interior~~  
 2362 ~~designer.~~

2363 ~~(7) Nothing in this part shall be construed as authorizing~~  
 2364 ~~or permitting an interior designer to engage in the business of,~~  
 2365 ~~or to act as, a contractor within the meaning of chapter 489,~~  
 2366 ~~unless registered or certified as a contractor pursuant to~~  
 2367 ~~chapter 489.~~

2368 (5) ~~(8)~~ A manufacturer of commercial food service equipment  
 2369 or the manufacturer's representative, distributor, or dealer or  
 2370 an employee thereof, who prepares designs, specifications, or  
 2371 layouts for the sale or installation of such equipment is exempt  
 2372 from licensure as an architect ~~or interior designer~~, if:

2373 (a) The designs, specifications, or layouts are not used  
 2374 for construction or installation that may affect structural,  
 2375 mechanical, plumbing, heating, air conditioning, ventilating,  
 2376 electrical, or vertical transportation systems.

2377 (b) The designs, specifications, or layouts do not  
 2378 materially affect lifesafety systems pertaining to firesafety  
 2379 protection, smoke evacuation and compartmentalization, and

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2380 emergency ingress or egress systems.

2381 (c) Each design, specification, or layout document  
 2382 prepared by a person or entity exempt under this subsection  
 2383 contains a statement on each page of the document that the  
 2384 designs, specifications, or layouts are not architectural,  
 2385 ~~interior design,~~ or engineering designs, specifications, or  
 2386 layouts and not used for construction unless reviewed and  
 2387 approved by a licensed architect or engineer.

2388 Section 81. Subsection (1) of section 481.231, Florida  
 2389 Statutes, is amended to read:

2390 481.231 Effect of part locally.-

2391 (1) ~~Nothing in~~ This part does not ~~shall be construed to~~  
 2392 ~~repeal, amend, limit, or otherwise affect any specific provision~~  
 2393 ~~of any local building code or zoning law or ordinance that has~~  
 2394 ~~been duly adopted, now or hereafter enacted, which is more~~  
 2395 ~~restrictive, with respect to the services of registered~~  
 2396 ~~architects or registered interior designers, than the provisions~~  
 2397 ~~of this part; provided, however, that a licensed architect shall~~  
 2398 ~~be deemed licensed as an interior designer for purposes of~~  
 2399 ~~offering or rendering interior design services to a county,~~  
 2400 ~~municipality, or other local government or political~~  
 2401 ~~subdivision.~~

2402 Section 82. Paragraph (c) of subsection (5) of section  
 2403 553.79, Florida Statutes, is amended to read:

2404 553.79 Permits; applications; issuance; inspections.-

2405 (5)

2406 (c) The architect or engineer of record may act as the  
 2407 special inspector provided she or he is on the Board of

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2408 Professional Engineers' or the Board of Architecture's  
 2409 ~~Architecture and Interior Design's~~ list of persons qualified to  
 2410 be special inspectors. School boards may utilize employees as  
 2411 special inspectors provided such employees are on one of the  
 2412 professional licensing board's list of persons qualified to be  
 2413 special inspectors.

2414 Section 83. Subsection (7) of section 558.002, Florida  
 2415 Statutes, is amended to read:

2416 558.002 Definitions.—As used in this chapter, the term:

2417 (7) "Design professional" means a person, as defined in s.  
 2418 1.01, ~~licensed in this state as~~ who is an architect, interior  
 2419 designer, landscape architect, engineer, or surveyor.

2420 Section 84. Subsections (17) and (18) are added to section  
 2421 481.203, Florida Statutes, to read:

2422 481.203 Definitions.—As used in this part:

2423 (17) "Landscape Architect" means a person qualified by  
 2424 education and experience to practice landscape architecture.

2425 (18) "Landscape architecture" means professional services,  
 2426 including, but not limited to, the following:

2427 (a) Consultation, investigation, research, planning,  
 2428 design, preparation of drawings, specifications, contract  
 2429 documents and reports, responsible construction supervision, or  
 2430 landscape management in connection with the planning and  
 2431 development of land and incidental water areas, including the  
 2432 use of Florida-friendly landscaping as defined in s. 373.185,  
 2433 where, and to the extent that, the dominant purpose of such  
 2434 services or creative works is the preservation, conservation,  
 2435 enhancement, or determination of proper land uses, natural land

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2436 features, ground cover and plantings, or naturalistic and  
 2437 aesthetic values;

2438 (b) The determination of settings, grounds, and approaches  
 2439 for and the siting of buildings and structures, outdoor areas,  
 2440 or other improvements;

2441 (c) The setting of grades, shaping and contouring of land  
 2442 and water forms, determination of drainage, and provision for  
 2443 storm drainage and irrigation systems where such systems are  
 2444 necessary to the purposes outlined herein; and

2445 (d) The design of such tangible objects and features as  
 2446 are necessary to the purpose outlined herein.

2447 Section 85. (1) Part II of chapter 481, Florida Statutes,  
 2448 consisting of sections 481.301, 481.303, 481.305, 481.306,  
 2449 481.307, 481.309, 481.310, 481.311, 481.313, 481.315, 481.317,  
 2450 481.319, 481.321, 481.323, 481.325, and 481.329, is repealed.

2451 (2) The Division of Statutory Revision of the Office of  
 2452 Legislative Services is directed to prepare a reviser's bill for  
 2453 introduction at a subsequent session of the Legislature to  
 2454 redesignate part I of chapter 481, Florida Statutes, as chapter  
 2455 481, Florida Statutes, to change references to that "part" as  
 2456 references to that "chapter," and conform any corresponding  
 2457 cross-references.

2458 Section 86. Paragraphs (a), (h), and (k) of subsection (2)  
 2459 of section 287.055, Florida Statutes, are amended to read:

2460 287.055 Acquisition of professional architectural,  
 2461 engineering, landscape architectural, or surveying and mapping  
 2462 services; definitions; procedures; contingent fees prohibited;  
 2463 penalties.—



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2464 (2) DEFINITIONS.—For purposes of this section:  
 2465 (a) "Professional services" means those services within  
 2466 the scope of the practice of architecture, professional  
 2467 engineering, landscape architecture, or registered surveying and  
 2468 mapping, as defined by the laws of the state, or those performed  
 2469 by any architect, professional engineer, landscape architect, or  
 2470 registered surveyor and mapper in connection with his or her  
 2471 professional employment or practice.  
 2472 (h) A "design-build firm" means a partnership,  
 2473 corporation, or other legal entity that:  
 2474 1. Is certified under s. 489.119 to engage in contracting  
 2475 through a certified or registered general contractor or a  
 2476 certified or registered building contractor as the qualifying  
 2477 agent; or  
 2478 2. Is certified under s. 471.023 to practice or to offer  
 2479 to practice engineering; or certified under s. 481.219 to  
 2480 practice or to offer to practice architecture; ~~or certified~~  
 2481 ~~under s. 481.319 to practice or to offer to practice~~ practices  
 2482 landscape architecture.  
 2483 (k) A "design criteria professional" means a firm who  
 2484 holds a current certificate of registration under chapter 481 to  
 2485 practice architecture ~~or landscape architecture~~ or a firm who  
 2486 holds a current certificate as a registered engineer under  
 2487 chapter 471 to practice engineering, or a firm practicing  
 2488 landscape architecture and who is employed by or under contract  
 2489 to the agency for the providing of professional architect  
 2490 services, landscape architect services, or engineering services  
 2491 in connection with the preparation of the design criteria

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2492 package.

2493 Section 87. Subsection (1) of section 339.2405, Florida

2494 Statutes, is amended to read:

2495 339.2405 Florida Highway Beautification Council.—

2496 (1) There is created within the Department of

2497 Transportation the Florida Highway Beautification Council. It

2498 shall consist of seven members appointed by the Governor. All

2499 appointed members must be residents of this state. One member

2500 must be a ~~licensed~~ landscape architect, one member must be a

2501 representative of the Florida Federation of Garden Clubs, Inc.,

2502 one member must be a representative of the Florida Nurserymen

2503 and Growers Association, one member must be a representative of

2504 the department as designated by the head of the department, one

2505 member must be a representative of the Department of Agriculture

2506 and Consumer Services, and two members must be private citizens.

2507 The members of the council shall serve at the pleasure of the

2508 Governor.

2509 Section 88. Paragraph (d) of subsection (7) of section

2510 373.62, Florida Statutes, is amended to read:

2511 373.62 Water conservation; automatic sprinkler systems.—

2512 (7)

2513 (d) Upon installation of a soil moisture sensor control

2514 system, the licensed contractor shall certify to the monitoring

2515 entity that subparagraphs (c)1. and (c)2. have been met.

2516 1. The monitoring entity shall post the notice required by

2517 subparagraph (c)5. on the user's property and update the

2518 Internet listing of users of active soil moisture sensor control

2519 systems to include the new user.

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2520           2. On an annual basis a professional engineer licensed  
 2521 under chapter 471 or a ~~professional landscape architect licensed~~  
 2522 ~~under chapter 481~~ shall perform an annual maintenance review of  
 2523 all soil moisture sensor control systems within the monitoring  
 2524 entity's jurisdiction and certify to the monitoring entity which  
 2525 systems are properly operating and in compliance with paragraph  
 2526 (c). The monitoring entity shall update its Internet listing of  
 2527 users of active soil moisture sensor control systems based on  
 2528 the certification.

2529           Section 89. Subsection (1) of section 403.0877, Florida  
 2530 Statutes, is amended to read:

2531           403.0877 Certification by professionals regulated by the  
 2532 Department of Business and Professional Regulation.—

2533           (1) ~~Nothing in This section~~ does not authorize ~~shall be~~  
 2534 ~~construed as specific authority for~~ a water management district  
 2535 or the department to require certification by a professional  
 2536 engineer licensed under chapter 471, ~~a professional landscape~~  
 2537 ~~architect licensed under part II of chapter 481~~, a professional  
 2538 geologist licensed under chapter 492, or a professional surveyor  
 2539 and mapper licensed under chapter 472, for an activity that is  
 2540 not within the definition or scope of practice of the regulated  
 2541 profession.

2542           Section 90. Paragraphs (f) and (g) of subsection (1) of  
 2543 section 403.9329, Florida Statutes, are redesignated as  
 2544 paragraphs (e) and (f), respectively, and paragraph (e) of  
 2545 subsection (1) and paragraph (d) of subsection (7) of that  
 2546 section are amended, to read:

2547           403.9329 Professional mangrove trimmers.—

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2548 (1) For purposes of ss. 403.9321-403.9333, the following  
 2549 persons are considered professional mangrove trimmers:

2550 ~~(c) Persons licensed under part II of chapter 481. The~~  
 2551 ~~Board of Landscape Architecture shall establish appropriate~~  
 2552 ~~standards and continuing legal education requirements to assure~~  
 2553 ~~the competence of licensees to conduct the activities authorized~~  
 2554 ~~under ss. 403.9321-403.9333. Trimming by landscape architects as~~  
 2555 ~~professional mangrove trimmers is not allowed until the~~  
 2556 ~~establishment of standards by the board. The board shall also~~  
 2557 ~~establish penalties for violating ss. 403.9321-403.9333. Only~~  
 2558 ~~those landscape architects who are certified in the state may~~  
 2559 ~~qualify as professional mangrove trimmers under ss. 403.9321-~~  
 2560 ~~403.9333, notwithstanding any reciprocity agreements that may~~  
 2561 ~~exist between this state and other states;~~

2562 (7)

2563 (d) Any person who qualifies as a professional mangrove  
 2564 trimmer under this subsection may conduct trimming activities  
 2565 within the jurisdiction of a delegated local government if the  
 2566 person registers and pays any appropriate fee required by a  
 2567 delegated local government. A delegated local government that  
 2568 wishes to discipline persons ~~licensed under part II of chapter~~  
 2569 ~~481~~ for mangrove-trimming or alteration activities ~~may file a~~  
 2570 ~~complaint against the licensee as provided for by chapter 481~~  
 2571 ~~and~~ may take appropriate local disciplinary action. Any local  
 2572 disciplinary action imposed against a licensee is subject to  
 2573 administrative and judicial review.

2574 Section 91. Subsection (30) of section 440.02, Florida  
 2575 Statutes, is amended to read:

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2576 440.02 Definitions.—When used in this chapter, unless the  
 2577 context clearly requires otherwise, the following terms shall  
 2578 have the following meanings:

2579 (30) "Construction design professional" means an  
 2580 architect, professional engineer, landscape architect, or  
 2581 surveyor and mapper, or any corporation, professional or  
 2582 general, that has a certificate to practice in the construction  
 2583 design field from the Department of Business and Professional  
 2584 Regulation.

2585 Section 92. Paragraph (c) of subsection (6) of section  
 2586 479.106, Florida Statutes, is amended to read:

2587 479.106 Vegetation management.—

2588 (6) Beautification projects, trees, or other vegetation  
 2589 shall not be planted or located in the view zone of legally  
 2590 erected and permitted outdoor advertising signs which have been  
 2591 permitted prior to the date of the beautification project or  
 2592 other planting, where such planting will, at the time of  
 2593 planting or after future growth, screen such sign from view.

2594 (c) If a sign owner alleges any governmental entity or  
 2595 other party has violated this subsection, the sign owner must  
 2596 provide 90 days' written notice to the governmental entity or  
 2597 other party allegedly violating this subsection. If the alleged  
 2598 violation is not cured by the governmental entity or other party  
 2599 within the 90-day period, the sign owner may file a claim in the  
 2600 circuit court where the sign is located. A copy of such  
 2601 complaint shall be served contemporaneously upon the  
 2602 governmental entity or other party. If the circuit court  
 2603 determines a violation of this subsection has occurred, the

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2604 court shall award a claim for compensation equal to the lesser  
 2605 of the revenue from the sign lost during the time of screening  
 2606 or the fair market value of the sign, and the governmental  
 2607 entity or other party shall pay the award of compensation  
 2608 subject to available appeal. Any modification or removal of  
 2609 material within a beautification project or other planting by  
 2610 the governmental entity or other party to cure an alleged  
 2611 violation shall not require the issuance of a permit from the  
 2612 Department of Transportation provided not less than 48 hours'  
 2613 notice is provided to the department of the modification or  
 2614 removal of the material. A natural person, private corporation,  
 2615 or private partnership ~~licensed under part II of chapter 481~~  
 2616 providing design services for beautification or other projects  
 2617 shall not be subject to a claim of compensation under this  
 2618 section when the initial project design meets the requirements  
 2619 of this section.

2620 Section 93. Subsection (16) of section 489.103, Florida  
 2621 Statutes, is amended to read:

2622 489.103 Exemptions.—This part does not apply to:

2623 (16) An architect ~~or landscape architect~~ licensed pursuant  
 2624 to chapter 481 or an engineer licensed pursuant to chapter 471  
 2625 who offers or renders design-build services which may require  
 2626 the services of a contractor certified or registered pursuant to  
 2627 the provisions of this chapter, as long as the contractor  
 2628 services to be performed under the terms of the design-build  
 2629 contract are offered and rendered by a certified or registered  
 2630 general contractor in accordance with this chapter.

2631 Section 94. Subsection (7) of section 558.002, Florida

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2632 Statutes, is amended to read:  
 2633 558.002 Definitions.—As used in this chapter, the term:  
 2634 (7) "Design professional" means a person, as defined in s.  
 2635 1.01, ~~licensed in this state as~~ who is an architect, interior  
 2636 designer, landscape architect, engineer, or surveyor.

2637 Section 95. Subsection (4) of section 725.08, Florida  
 2638 Statutes, is amended to read:

2639 725.08 Design professional contracts; limitation in  
 2640 indemnification.—

2641 (4) "Design professional" means an ~~individual or entity~~  
 2642 ~~licensed by the state who holds a current certificate of~~  
 2643 ~~registration under chapter 481 to practice architecture or~~  
 2644 ~~landscape architecture,~~ architect, landscape architect,  
 2645 professional surveyor and mapper or engineer under chapter 472  
 2646 ~~to practice land surveying and mapping, or under chapter 471 to~~  
 2647 ~~practice engineering,~~ and who enters into a professional  
 2648 services contract.

2649 Section 96. Chapter 492, Florida Statutes, consisting of  
 2650 sections 492.101, 492.102, 492.103, 492.104, 492.105, 492.106,  
 2651 492.107, 492.108, 492.109, 492.1101, 492.111, 492.112, 492.113,  
 2652 492.114, 492.115, 492.116, and 492.1165, is repealed.

2653 Section 97. Section 373.1175, Florida Statutes, is amended  
 2654 to read:

2655 373.1175 Signing and sealing by ~~professional~~ geologists.—

2656 (1) If an application for a permit or license, or the  
 2657 performance of an activity regulated under this chapter,  
 2658 requires the services of a ~~professional~~ geologist ~~as provided~~  
 2659 ~~for in chapter 492,~~ the department or governing board of a water

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2660 management district may require that a ~~professional~~ geologist  
 2661 ~~licensed under chapter 492~~ sign and seal any documents and  
 2662 reports submitted in connection with the permit application or  
 2663 regulated activity.

2664 (2) The cost of such signing and sealing by a ~~professional~~  
 2665 geologist shall be borne by the permit applicant or permittee.

2666 (3) ~~Nothing in This section does not shall be construed to~~  
 2667 prevent or prohibit the practice by professional engineers  
 2668 pursuant to chapter 471.

2669 Section 98. Paragraph (b) of subsection (5) of section  
 2670 376.80, Florida Statutes, is amended to read:

2671 376.80 Brownfield program administration process.—

2672 (5) The person responsible for brownfield site  
 2673 rehabilitation must enter into a brownfield site rehabilitation  
 2674 agreement with the department or an approved local pollution  
 2675 control program if actual contamination exists at the brownfield  
 2676 site. The brownfield site rehabilitation agreement must include:

2677 (b) A commitment to conduct site rehabilitation activities  
 2678 under the observation of professional engineers ~~or geologists~~  
 2679 who are registered in accordance with the requirements of  
 2680 chapter 471 or geologists ~~chapter 492, respectively~~. Submittals  
 2681 provided by the person responsible for brownfield site  
 2682 rehabilitation must be signed and sealed by a professional  
 2683 engineer registered under chapter 471, or a ~~professional~~  
 2684 geologist ~~registered under chapter 492~~, certifying that the  
 2685 submittal and associated work comply with the law and rules of  
 2686 the department and those governing the profession. In addition,  
 2687 upon completion of the approved remedial action, the department



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2688 shall require a professional engineer registered under chapter  
 2689 471 or a ~~professional geologist registered under chapter 492~~ to  
 2690 certify that the corrective action was, to the best of his or  
 2691 her knowledge, completed in substantial conformance with the  
 2692 plans and specifications approved by the department.

2693 Section 99. Subsection (3) of section 377.075, Florida  
 2694 Statutes, is amended to read:

2695 377.075 Division of Technical Services; geological  
 2696 functions.—

2697 (3) STATE GEOLOGIST.—The geological functions of the  
 2698 division shall be under the direction of a full-time  
 2699 ~~professional geologist who is registered in this state,~~ who  
 2700 shall be of established reputation, and who shall be known as  
 2701 the State Geologist.

2702 Section 100. Paragraph (a) of subsection (6) of section  
 2703 403.087, Florida Statutes, is amended to read:

2704 403.087 Permits; general issuance; denial; revocation;  
 2705 prohibition; penalty.—

2706 (6) (a) The department shall require a processing fee in an  
 2707 amount sufficient, to the greatest extent possible, to cover the  
 2708 costs of reviewing and acting upon any application for a permit  
 2709 or request for site-specific alternative criteria or for an  
 2710 exemption from water quality criteria and to cover the costs of  
 2711 surveillance and other field services and related support  
 2712 activities associated with any permit or plan approval issued  
 2713 pursuant to this chapter. The department shall review the fees  
 2714 authorized under this chapter at least once every 5 years and  
 2715 shall adjust the fees upward, as necessary, within the fee caps

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2716 established in this paragraph to reflect changes in the Consumer  
 2717 Price Index or similar inflation indicator. The department shall  
 2718 establish by rule the inflation index to be used for this  
 2719 purpose. In the event of deflation, the department shall consult  
 2720 with the Executive Office of the Governor and the Legislature to  
 2721 determine whether downward fee adjustments are appropriate based  
 2722 on the current budget and appropriation considerations. However,  
 2723 when an application is received without the required fee, the  
 2724 department shall acknowledge receipt of the application and  
 2725 shall immediately return the unprocessed application to the  
 2726 applicant and shall take no further action until the application  
 2727 is received with the appropriate fee. The department shall adopt  
 2728 a schedule of fees by rule, subject to the following  
 2729 limitations:

- 2730 1. The fee for any of the following may not exceed
- 2731 \$32,500:
  - 2732 a. Hazardous waste, construction permit.
  - 2733 b. Hazardous waste, operation permit.
  - 2734 c. Hazardous waste, postclosure permit, or clean closure
  - 2735 plan approval.
  - 2736 d. Hazardous waste, corrective action permit.
- 2737 2. The permit fee for a drinking water construction or
- 2738 operation permit, not including the operation license fee
- 2739 required under s. 403.861(7), shall be at least \$500 and may not
- 2740 exceed \$15,000.
- 2741 3. The permit fee for a Class I injection well
- 2742 construction permit may not exceed \$12,500.
- 2743 4. The permit fee for any of the following permits may not

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2744	exceed \$10,000:	
2745	a. Solid waste, construction permit.	
2746	b. Solid waste, operation permit.	
2747	c. Class I injection well, operation permit.	
2748	5. The permit fee for any of the following permits may not	
2749	exceed \$7,500:	
2750	a. Air pollution, construction permit.	
2751	b. Solid waste, closure permit.	
2752	c. Domestic waste residuals, construction or operation	
2753	permit.	
2754	d. Industrial waste, operation permit.	
2755	e. Industrial waste, construction permit.	
2756	6. The permit fee for any of the following permits may not	
2757	exceed \$5,000:	
2758	a. Domestic waste, operation permit.	
2759	b. Domestic waste, construction permit.	
2760	7. The permit fee for any of the following permits may not	
2761	exceed \$4,000:	
2762	a. Wetlands resource management—(dredge and fill and	
2763	mangrove alteration).	
2764	b. Hazardous waste, research and development permit.	
2765	c. Air pollution, operation permit, for sources not	
2766	subject to s. 403.0872.	
2767	d. Class III injection well, construction, operation, or	
2768	abandonment permits.	
2769	8. The permit fee for a drinking water distribution system	
2770	permit, including a general permit, shall be at least \$500 and	
2771	may not exceed \$1,000.	

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2772 9. The permit fee for Class V injection wells,  
 2773 construction, operation, and abandonment permits may not exceed  
 2774 \$750.

2775 10. The permit fee for domestic waste collection system  
 2776 permits may not exceed \$500.

2777 11. The permit fee for stormwater operation permits may  
 2778 not exceed \$100.

2779 12. Except as provided in subparagraph 8., the general  
 2780 permit fees for permits that require certification by a  
 2781 registered professional engineer or a ~~professional~~ geologist may  
 2782 not exceed \$500, and the general permit fee for other permit  
 2783 types may not exceed \$100.

2784 13. The fee for a permit issued pursuant to s. 403.816 is  
 2785 \$5,000, and the fee for any modification of such permit  
 2786 requested by the applicant is \$1,000.

2787 14. The regulatory program and surveillance fees for  
 2788 facilities permitted pursuant to s. 403.088 or s. 403.0885, or  
 2789 for facilities permitted pursuant to s. 402 of the Clean Water  
 2790 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the  
 2791 department has been granted administrative authority, shall be  
 2792 limited as follows:

2793 a. The fees for domestic wastewater facilities shall not  
 2794 exceed \$7,500 annually. The department shall establish a sliding  
 2795 scale of fees based on the permitted capacity and shall ensure  
 2796 smaller domestic waste dischargers do not bear an inordinate  
 2797 share of costs of the program.

2798 b. The annual fees for industrial waste facilities shall  
 2799 not exceed \$11,500. The department shall establish a sliding

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2800 scale of fees based upon the volume, concentration, or nature of  
 2801 the industrial waste discharge and shall ensure smaller  
 2802 industrial waste dischargers do not bear an inordinate share of  
 2803 costs of the program.

2804 c. The department may establish a fee, not to exceed the  
 2805 amounts in subparagraphs 5. and 6., to cover additional costs of  
 2806 review required for permit modification or construction  
 2807 engineering plans.

2808 Section 101. Subsection (1) of section 403.0877, Florida  
 2809 Statutes, is amended to read:

2810 403.0877 Certification by professionals regulated by the  
 2811 Department of Business and Professional Regulation.—

2812 (1) ~~Nothing in~~ This section does not authorize ~~shall be~~  
 2813 ~~construed as specific authority for~~ a water management district  
 2814 or the department to require certification by a professional  
 2815 engineer licensed under chapter 471, a professional landscape  
 2816 architect licensed under part II of chapter 481, ~~a professional~~  
 2817 ~~geologist licensed under chapter 492,~~ or a professional surveyor  
 2818 and mapper licensed under chapter 472, for an activity that is  
 2819 not within the definition or scope of practice of the regulated  
 2820 profession.

2821 Section 102. Subsection (1) of section 469.004, Florida  
 2822 Statutes, is amended to read:

2823 469.004 License; asbestos consultant; asbestos  
 2824 contractor.—

2825 (1) All asbestos consultants must be licensed by the  
 2826 department. An asbestos consultant's license may be issued only  
 2827 to an applicant who holds a current, valid, active license as an

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2828 architect issued under chapter 481; holds a current, valid,  
 2829 active license as a professional engineer issued under chapter  
 2830 471; ~~holds a current, valid, active license as a professional~~  
 2831 ~~geologist issued under chapter 492;~~ is a diplomat of the  
 2832 American Board of Industrial Hygiene; or has been awarded  
 2833 designation as a Certified Safety Professional by the Board of  
 2834 Certified Safety Professionals.

2835 Section 103. Subsection (2) of section 627.706, Florida  
 2836 Statutes, is amended to read:

2837 627.706 Sinkhole insurance; catastrophic ground cover  
 2838 collapse; definitions.—

2839 (2) As used in ss. 627.706-627.7074, and as used in  
 2840 connection with any policy providing coverage for a catastrophic  
 2841 ground cover collapse or for sinkhole losses:

2842 (a) "Catastrophic ground cover collapse" means geological  
 2843 activity that results in all the following:

- 2844 1. The abrupt collapse of the ground cover;
- 2845 2. A depression in the ground cover clearly visible to the  
 2846 naked eye;
- 2847 3. Structural damage to the building, including the  
 2848 foundation; and
- 2849 4. The insured structure being condemned and ordered to be  
 2850 vacated by the governmental agency authorized by law to issue  
 2851 such an order for that structure.

2852  
 2853 Contents coverage applies if there is a loss resulting from a  
 2854 catastrophic ground cover collapse. Structural damage consisting  
 2855 merely of the settling or cracking of a foundation, structure,

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2856 or building does not constitute a loss resulting from a  
 2857 catastrophic ground cover collapse.

2858 (b)~~(f)~~ "~~Professional~~ Geologist" means a person, ~~as defined~~  
 2859 ~~by s. 492.102,~~ who has a bachelor's degree or higher in geology  
 2860 or related earth science with expertise in the geology of  
 2861 Florida. A ~~professional~~ geologist must have geological  
 2862 experience and expertise in the identification of sinkhole  
 2863 activity as well as other potential geologic causes of damage to  
 2864 the structure.

2865 (c)~~(e)~~ "Professional engineer" means a person, as defined  
 2866 in s. 471.005, who has a bachelor's degree or higher in  
 2867 engineering with a specialty in the geotechnical engineering  
 2868 field. A professional engineer must have geotechnical experience  
 2869 and expertise in the identification of sinkhole activity as well  
 2870 as other potential causes of damage to the structure.

2871 (d)~~(b)~~ "Sinkhole" means a landform created by subsidence  
 2872 of soil, sediment, or rock as underlying strata are dissolved by  
 2873 groundwater. A sinkhole may form by collapse into subterranean  
 2874 voids created by dissolution of limestone or dolostone or by  
 2875 subsidence as these strata are dissolved.

2876 (e)~~(d)~~ "Sinkhole activity" means settlement or systematic  
 2877 weakening of the earth supporting such property only when such  
 2878 settlement or systematic weakening results from movement or  
 2879 raveling of soils, sediments, or rock materials into  
 2880 subterranean voids created by the effect of water on a limestone  
 2881 or similar rock formation.

2882 (f)~~(e)~~ "Sinkhole loss" means structural damage to the  
 2883 building, including the foundation, caused by sinkhole activity.

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2884 Contents coverage shall apply only if there is structural damage  
 2885 to the building caused by sinkhole activity.

2886 Section 104. Subsections (2), (3), and (6) of section  
 2887 627.707, Florida Statutes, are amended to read:

2888 627.707 Standards for investigation of sinkhole claims by  
 2889 insurers; nonrenewals.—Upon receipt of a claim for a sinkhole  
 2890 loss, an insurer must meet the following standards in  
 2891 investigating a claim:

2892 (2) Following the insurer's initial inspection, the  
 2893 insurer shall engage a professional engineer or a ~~professional~~  
 2894 geologist to conduct testing as provided in s. 627.7072 to  
 2895 determine the cause of the loss within a reasonable professional  
 2896 probability and issue a report as provided in s. 627.7073, if:

2897 (a) The insurer is unable to identify a valid cause of the  
 2898 damage or discovers damage to the structure which is consistent  
 2899 with sinkhole loss; or

2900 (b) The policyholder demands testing in accordance with  
 2901 this section or s. 627.7072.

2902 (3) Following the initial inspection of the insured  
 2903 premises, the insurer shall provide written notice to the  
 2904 policyholder disclosing the following information:

2905 (a) What the insurer has determined to be the cause of  
 2906 damage, if the insurer has made such a determination.

2907 (b) A statement of the circumstances under which the  
 2908 insurer is required to engage a professional engineer or a  
 2909 ~~professional~~ geologist to verify or eliminate sinkhole loss and  
 2910 to engage a professional engineer to make recommendations  
 2911 regarding land and building stabilization and foundation repair.



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2912 (c) A statement regarding the right of the policyholder to  
 2913 request testing by a professional engineer or a ~~professional~~  
 2914 geologist and the circumstances under which the policyholder may  
 2915 demand certain testing.

2916 (6) Except as provided in subsection (7), the fees and  
 2917 costs of the professional engineer or the ~~professional~~ geologist  
 2918 shall be paid by the insurer.

2919 Section 105. Section 627.7072, Florida Statutes, is  
 2920 amended to read:

2921 627.7072 Testing standards for sinkholes.—The professional  
 2922 engineer and the ~~professional~~ geologist shall perform such tests  
 2923 as sufficient, in their professional opinion, to determine the  
 2924 presence or absence of sinkhole loss or other cause of damage  
 2925 within reasonable professional probability and for the  
 2926 professional engineer to make recommendations regarding  
 2927 necessary building stabilization and foundation repair.

2928 Section 106. Subsection (1) of section 627.7073, Florida  
 2929 Statutes, is amended to read:

2930 627.7073 Sinkhole reports.—

2931 (1) Upon completion of testing as provided in s. 627.7072,  
 2932 the professional engineer or the ~~professional~~ geologist shall  
 2933 issue a report and certification to the insurer and the  
 2934 policyholder as provided in this section.

2935 (a) Sinkhole loss is verified if, based upon tests  
 2936 performed in accordance with s. 627.7072, a professional  
 2937 engineer or a ~~professional~~ geologist issues a written report and  
 2938 certification stating:

2939 1. That the cause of the actual physical and structural

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2940 damage is sinkhole activity within a reasonable professional  
 2941 probability.

2942 2. That the analyses conducted were of sufficient scope to  
 2943 identify sinkhole activity as the cause of damage within a  
 2944 reasonable professional probability.

2945 3. A description of the tests performed.

2946 4. A recommendation by the professional engineer of  
 2947 methods for stabilizing the land and building and for making  
 2948 repairs to the foundation.

2949 (b) If sinkhole activity is eliminated as the cause of  
 2950 damage to the structure, the professional engineer or the  
 2951 ~~professional~~ geologist shall issue a written report and  
 2952 certification to the policyholder and the insurer stating:

2953 1. That the cause of the damage is not sinkhole activity  
 2954 within a reasonable professional probability.

2955 2. That the analyses and tests conducted were of  
 2956 sufficient scope to eliminate sinkhole activity as the cause of  
 2957 damage within a reasonable professional probability.

2958 3. A statement of the cause of the damage within a  
 2959 reasonable professional probability.

2960 4. A description of the tests performed.

2961 (c) The respective findings, opinions, and recommendations  
 2962 of the professional engineer or the ~~professional~~ geologist as to  
 2963 the cause of distress to the property and the findings,  
 2964 opinions, and recommendations of the professional engineer as to  
 2965 land and building stabilization and foundation repair shall be  
 2966 presumed correct.

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2967 Section 107. Paragraph (b) of subsection (1) of section  
 2968 627.7074, Florida Statutes, is amended to read:  
 2969 627.7074 Alternative procedure for resolution of disputed  
 2970 sinkhole insurance claims.—  
 2971 (1) As used in this section, the term:  
 2972 (b) "Neutral evaluator" means a professional engineer or a  
 2973 ~~professional~~ geologist who has completed a course of study in  
 2974 alternative dispute resolution designed or approved by the  
 2975 department for use in the neutral evaluation process, who is  
 2976 determined to be fair and impartial.  
 2977 Section 108. Subsection (2) of section 849.0935, Florida  
 2978 Statutes, is amended to read:  
 2979 849.0935 Charitable, nonprofit organizations; drawings by  
 2980 chance; required disclosures; unlawful acts and practices;  
 2981 penalties.—  
 2982 (2) The provisions of s. 849.09 shall not be construed to  
 2983 prohibit an organization qualified under 26 U.S.C. s. 501(c)(3),  
 2984 (4), (7), (8), (10), or (19) from conducting drawings by chance  
 2985 pursuant to the authority granted by this section, ~~provided the~~  
 2986 ~~organization has complied with all applicable provisions of~~  
 2987 ~~chapter 496.~~  
 2988 Section 109. Chapter 496, Florida Statutes, consisting of  
 2989 sections 496.401, 496.402, 496.403, 496.404, 496.405, 496.406,  
 2990 496.407, 496.409, 496.410, 496.411, 496.412, 496.413, 496.414,  
 2991 496.415, 496.416, 496.417, 496.418, 496.419, 496.420, 496.421,  
 2992 496.422, 496.423, 496.424, 496.425, 496.4255, and 496.426, is  
 2993 repealed.

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2994 Section 110. Paragraph (b) of subsection (3) of section  
 2995 110.181, Florida Statutes, is amended to read:

2996 110.181 Florida State Employees' Charitable Campaign.—

2997 (3) RULEMAKING AUTHORITY; ADMINISTRATIVE REVIEW.—

2998 (b) Department action which adversely affects the  
 2999 substantial interests of a party may be subject to a hearing.  
 3000 The proceeding shall be conducted in accordance with chapter  
 3001 120, ~~except that the time limits set forth in s. 496.405(7)~~  
 3002 ~~shall prevail to the extent of any conflict.~~

3003 Section 111. Subsections (2) and (3) of section 316.2045,  
 3004 Florida Statutes, are amended to read:

3005 316.2045 Obstruction of public streets, highways, and  
 3006 roads.—

3007 (2) It is unlawful, without proper authorization or a  
 3008 lawful permit, for any person or persons willfully to obstruct  
 3009 the free, convenient, and normal use of any public street,  
 3010 highway, or road by any of the means specified in subsection (1)  
 3011 in order to solicit. Any person who violates the provisions of  
 3012 this subsection is guilty of a misdemeanor of the second degree,  
 3013 punishable as provided in s. 775.082 or s. 775.083.

3014 Organizations qualified under s. 501(c)(3) of the Internal  
 3015 Revenue Code ~~and registered pursuant to chapter 496~~, or persons  
 3016 or organizations acting on their behalf are exempted from the  
 3017 provisions of this subsection for activities on streets or roads  
 3018 not maintained by the state. Permits for the use of any portion  
 3019 of a state-maintained road or right-of-way shall be required  
 3020 only for those purposes and in the manner set out in s. 337.406.

3021 (3) Permits for the use of any street, road, or right-of-

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3022 way not maintained by the state may be issued by the appropriate  
 3023 local government. An organization that is qualified under s.  
 3024 501(c)(3) of the Internal Revenue Code ~~and registered under~~  
 3025 ~~chapter 496~~, or a person or organization acting on behalf of  
 3026 that organization, is exempt from local requirements for a  
 3027 permit issued under this subsection for charitable solicitation  
 3028 activities on or along streets or roads that are not maintained  
 3029 by the state under the following conditions:

3030 (a) The organization, or the person or organization acting  
 3031 on behalf of the organization, must provide all of the following  
 3032 to the local government:

3033 1. No fewer than 14 calendar days prior to the proposed  
 3034 solicitation, the name and address of the person or organization  
 3035 that will perform the solicitation and the name and address of  
 3036 the organization that will receive funds from the solicitation.

3037 2. For review and comment, a plan for the safety of all  
 3038 persons participating in the solicitation, as well as the  
 3039 motoring public, at the locations where the solicitation will  
 3040 take place.

3041 3. Specific details of the location or locations of the  
 3042 proposed solicitation and the hours during which the  
 3043 solicitation activities will occur.

3044 4. Proof of commercial general liability insurance against  
 3045 claims for bodily injury and property damage occurring on  
 3046 streets, roads, or rights-of-way or arising from the solicitor's  
 3047 activities or use of the streets, roads, or rights-of-way by the  
 3048 solicitor or the solicitor's agents, contractors, or employees.  
 3049 The insurance shall have a limit of not less than \$1 million per

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3050 occurrence for the general aggregate. The certificate of  
 3051 insurance shall name the local government as an additional  
 3052 insured and shall be filed with the local government no later  
 3053 than 72 hours before the date of the solicitation.

3054 ~~5. Proof of registration with the Department of~~  
 3055 ~~Agriculture and Consumer Services pursuant to s. 496.405 or~~  
 3056 ~~proof that the soliciting organization is exempt from the~~  
 3057 ~~registration requirement.~~

3058 (b) Organizations or persons meeting the requirements of  
 3059 subparagraphs (a)1.-5. may solicit for a period not to exceed 10  
 3060 cumulative days within 1 calendar year.

3061 (c) All solicitation shall occur during daylight hours  
 3062 only.

3063 (d) Solicitation activities shall not interfere with the  
 3064 safe and efficient movement of traffic and shall not cause  
 3065 danger to the participants or the public.

3066 (e) No person engaging in solicitation activities shall  
 3067 persist after solicitation has been denied, act in a demanding  
 3068 or harassing manner, or use any sound or voice-amplifying  
 3069 apparatus or device.

3070 (f) All persons participating in the solicitation shall be  
 3071 at least 18 years of age and shall possess picture  
 3072 identification.

3073 (g) Signage providing notice of the solicitation shall be  
 3074 posted at least 500 feet before the site of the solicitation.

3075 (h) The local government may stop solicitation activities  
 3076 if any conditions or requirements of this subsection are not  
 3077 met.

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3078 Section 112. Subsection (8) of section 320.023, Florida  
 3079 Statutes, is amended to read:

3080 320.023 Requests to establish voluntary checkoff on motor  
 3081 vehicle registration application.—

3082 ~~(8) All organizations seeking to establish a voluntary~~  
 3083 ~~contribution on a motor vehicle registration application that~~  
 3084 ~~are required to operate under the Solicitation of Contributions~~  
 3085 ~~Act, as provided in chapter 496, must do so before funds may be~~  
 3086 ~~distributed.~~

3087 Section 113. Subsection (8) of section 322.081, Florida  
 3088 Statutes, is amended to read:

3089 322.081 Requests to establish voluntary checkoff on  
 3090 driver's license application.—

3091 ~~(8) All organizations seeking to establish a voluntary~~  
 3092 ~~contribution on a driver's license application that are required~~  
 3093 ~~to operate under the Solicitation of Contributions Act, as~~  
 3094 ~~provided in chapter 496, must do so before funds may be~~  
 3095 ~~distributed.~~

3096 Section 114. Paragraph (d) of subsection (3) and paragraph  
 3097 (d) of subsection (4) of section 413.033, Florida Statutes, are  
 3098 amended to read:

3099 413.033 Definitions.—As used in ss. 413.032-413.037:

3100 (3) "Qualified nonprofit agency for the blind" means an  
 3101 agency:

3102 (d) Which meets the criteria for determining nonprofit  
 3103 status under the provisions of s. 196.195 ~~and is registered and~~  
 3104 ~~in good standing as a charitable organization with the~~  
 3105 ~~Department of Agriculture and Consumer Services under the~~

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3106 ~~provisions of chapter 496.~~

3107 (4) "Qualified nonprofit agency for other severely  
3108 handicapped" means an agency:

3109 (d) Which meets the criteria for determining nonprofit  
3110 status under the provisions of s. 196.195 ~~and is registered and~~  
3111 ~~in good standing as a charitable organization with the~~  
3112 ~~Department of Agriculture and Consumer Services under the~~  
3113 ~~provisions of chapter 496.~~

3114 Section 115. Subsection (2) of section 550.0351, Florida  
3115 Statutes, is amended to read:

3116 550.0351 Charity racing days.—

3117 (2) The proceeds of charity performances shall be paid to  
3118 qualified beneficiaries selected by the permitholders from an  
3119 authorized list of charities on file with the division. Eligible  
3120 charities include any charity that provides ~~evidence of~~  
3121 ~~compliance with the provisions of chapter 496 and~~ evidence of  
3122 possession of a valid exemption from federal taxation issued by  
3123 the Internal Revenue Service. In addition, the authorized list  
3124 must include the Racing Scholarship Trust Fund, the Historical  
3125 Resources Operating Trust Fund, major state and private  
3126 institutions of higher learning, and Florida community colleges.

3127 Section 116. Section 550.1647, Florida Statutes, is  
3128 amended to read:

3129 550.1647 Greyhound permitholders; unclaimed tickets;  
3130 breaks.—All money or other property represented by any  
3131 unclaimed, uncashed, or abandoned pari-mutuel ticket which has  
3132 remained in the custody of or under the control of any  
3133 permitholder authorized to conduct greyhound racing pari-mutuel



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3134 pools in this state for a period of 1 year after the date the  
 3135 pari-mutuel ticket was issued, if the rightful owner or owners  
 3136 thereof have made no claim or demand for such money or other  
 3137 property within that period of time, shall, with respect to live  
 3138 races conducted by the permitholder, be remitted to the state  
 3139 pursuant to s. 550.1645; however, such permitholder shall be  
 3140 entitled to a credit in each state fiscal year in an amount  
 3141 equal to the actual amount remitted in the prior state fiscal  
 3142 year which may be applied against any taxes imposed pursuant to  
 3143 this chapter. In addition, each permitholder shall pay, from any  
 3144 source, including the proceeds from performances conducted  
 3145 pursuant to s. 550.0351, an amount not less than 10 percent of  
 3146 the amount of the credit provided by this section to any bona  
 3147 fide organization that promotes or encourages the adoption of  
 3148 greyhounds. As used in this chapter, the term "bona fide  
 3149 organization that promotes or encourages the adoption of  
 3150 greyhounds" means any organization that ~~provides evidence of~~  
 3151 ~~compliance with chapter 496 and~~ possesses a valid exemption from  
 3152 federal taxation issued by the Internal Revenue Service. Such  
 3153 bona fide organization, as a condition of adoption, must provide  
 3154 sterilization of greyhounds by a licensed veterinarian before  
 3155 relinquishing custody of the greyhound to the adopter. The fee  
 3156 for sterilization may be included in the cost of adoption.

3157 Section 117. Paragraph (a) of subsection (3) of section  
 3158 741.0305, Florida Statutes, is amended to read:

3159 741.0305 Marriage fee reduction for completion of  
 3160 premarital preparation course.—

3161 (3) (a) All individuals electing to participate in a

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- 3162 premarital preparation course shall choose from the following  
 3163 list of qualified instructors:
- 3164 1. A psychologist licensed under chapter 490.
  - 3165 2. A clinical social worker licensed under chapter 491.
  - 3166 3. A marriage and family therapist licensed under chapter  
 3167 491.
  - 3168 4. A mental health counselor licensed under chapter 491.
  - 3169 5. An official representative of a religious institution  
 3170 ~~which is recognized under s. 496.404(19)~~, if the representative  
 3171 has relevant training.
  - 3172 6. Any other provider designated by a judicial circuit,  
 3173 including, but not limited to, school counselors who are  
 3174 certified to offer such courses. Each judicial circuit may  
 3175 establish a roster of area course providers, including those who  
 3176 offer the course on a sliding fee scale or for free.

3177 Section 118. Paragraph (a) of subsection (1) of section  
 3178 775.0861, Florida Statutes, is amended to read:

3179 775.0861 Offenses against persons on the grounds of  
 3180 religious institutions; reclassification.-

3181 (1) For purposes of this section, the term:

3182 (a) "Religious institution" means any church,  
 3183 ecclesiastical or denominational organization, or established  
 3184 physical place for worship in this state at which nonprofit  
 3185 religious services and activities are regularly conducted and  
 3186 carried on, and includes those bona fide religious groups which  
 3187 do not maintain specific places of worship. The term includes  
 3188 any separate group or corporation which forms an integral part  
 3189 of a religious institution which is exempt from federal income

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3190 tax under the provisions of s. 501(c)(3) of the Internal Revenue  
 3191 Code, and which is not primarily supported by funds solicited  
 3192 outside its own membership or congregation is as defined in s.  
 3193 ~~496.404.~~

3194 Section 119. Paragraph (a) of subsection (8) of section  
 3195 790.166, Florida Statutes, is amended to read:

3196 790.166 Manufacture, possession, sale, delivery, display,  
 3197 use, or attempted or threatened use of a weapon of mass  
 3198 destruction or hoax weapon of mass destruction prohibited;  
 3199 definitions; penalties.—

3200 (8) For purposes of this section, the term "weapon of mass  
 3201 destruction" does not include:

3202 (a) A device or instrument that emits or discharges smoke  
 3203 or an offensive, noxious, or irritant liquid, powder, gas, or  
 3204 chemical for the purpose of immobilizing, incapacitating, or  
 3205 thwarting an attack by a person or animal and that is lawfully  
 3206 possessed or used by a person for the purpose of self-protection  
 3207 or, as provided in subsection (7), is lawfully possessed or used  
 3208 by any member or employee of the Armed Forces of the United  
 3209 States, a federal or state governmental agency, or a private  
 3210 entity. A member or employee of a federal or state governmental  
 3211 agency includes, but is not limited to, a law enforcement  
 3212 officer, as defined in s. 784.07; a federal law enforcement  
 3213 officer, as defined in s. 901.1505; a firefighter, as defined in  
 3214 s. 633.30; and an ambulance driver, emergency medical  
 3215 technician, or paramedic, as defined in s. 401.23 ~~emergency~~  
 3216 ~~service employee, as defined in s. 496.404.~~

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3217 Section 120. Paragraph (d) of subsection (3) of section  
 3218 843.16, Florida Statutes, is amended to read:

3219 843.16 Unlawful to install or transport radio equipment  
 3220 using assigned frequency of state or law enforcement officers;  
 3221 definitions; exceptions; penalties.—

3222 (3) This section does not apply to the following:

3223 (d) Any sworn law enforcement officer as defined in s.  
 3224 943.10; a firefighter, as defined in s. 633.30; or an ambulance  
 3225 driver, emergency medical technician, or paramedic, as defined  
 3226 in s. 401.23 ~~or emergency service employee as defined in s.~~  
 3227 ~~496.404~~ while using personal transportation to and from work.

3228 Section 121. Section 500.459, Florida Statutes, is  
 3229 repealed.

3230 Section 122. Section 500.511, Florida Statutes, is amended  
 3231 to read:

3232 500.511 Bottled water plants; packed ice plants; Fees;  
 3233 enforcement; preemption.—

3234 ~~(1) FEES.—All fees collected under s. 500.459 shall be~~  
 3235 ~~deposited into the General Inspection Trust Fund and shall be~~  
 3236 ~~accounted for separately and used for the sole purpose of~~  
 3237 ~~administering the provisions of such section.~~

3238 ~~(2) ENFORCEMENT AND PENALTIES.—In addition to the~~  
 3239 ~~provisions contained in s. 500.459, the department may enforce~~  
 3240 ~~s. 500.459 in the manner provided in s. 500.121. Any person who~~  
 3241 ~~violates a provision of s. 500.459 or any rule adopted under~~  
 3242 ~~such section shall be punished as provided in such section.~~  
 3243 ~~However, criminal penalties may not be imposed against any~~  
 3244 ~~person who violates a rule.~~

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3245 ~~(3) PREEMPTION OF AUTHORITY TO REGULATE.~~ Regulation of  
 3246 bottled water plants, ~~water vending machines, water vending~~  
 3247 ~~machine operators,~~ and packaged ice plants is preempted by the  
 3248 state. No county or municipality may adopt or enforce any  
 3249 ordinance that regulates the licensure or operation of bottled  
 3250 water plants, ~~water vending machines,~~ or packaged ice plants,  
 3251 unless it is determined that unique conditions exist within the  
 3252 county which require the county to regulate such entities in  
 3253 order to protect the public health. This subsection does not  
 3254 prohibit a county or municipality from requiring a business tax  
 3255 pursuant to chapter 205.

3256 Section 123. Sections 501.012, 501.0125, 501.013, 501.014,  
 3257 501.015, 501.016, 501.017, 501.018, and 501.019, Florida  
 3258 Statutes, are repealed.

3259 Section 124. Paragraph (d) of subsection (2) of section  
 3260 501.165, Florida Statutes, is amended to read:

3261 501.165 Automatic renewal of service contracts.—

3262 (2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS.—

3263 (d) This subsection does not apply to:

3264 1. A financial institution as defined in s. 655.005(1)(h)  
 3265 or any depository institution as defined in 12 U.S.C. s.  
 3266 1813(c)(2).

3267 2. A foreign bank maintaining a branch or agency licensed  
 3268 under the laws of any state of the United States.

3269 3. Any subsidiary or affiliate of an entity described in  
 3270 subparagraph 1. or subparagraph 2.

3271 ~~4. A health studio as defined in s. 501.0125(1).~~

3272 ~~4.5.~~ Any entity licensed under chapter 624, chapter 627,

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3273 chapter 634, chapter 636, or chapter 641.

3274 ~~5.6.~~ Any electric utility as defined in s. 366.02(2).

3275 ~~6.7.~~ Any private company as defined in s. 180.05 providing

3276 services described in chapter 180 that is competing against a

3277 governmental entity or has a governmental entity providing

3278 billing services on its behalf.

3279 Section 125. Section 501.143, Florida Statutes, is

3280 repealed.

3281 Section 126. Section 205.1969, Florida Statutes, is

3282 repealed.

3283 Section 127. Part IV of chapter 501, Florida Statutes,

3284 consisting of sections 501.601, 501.602, 501.603, 501.604,

3285 501.605, 501.606, 501.607, 501.608, 501.609, 501.611, 501.612,

3286 501.613, 501.614, 501.615, 501.616, 501.617, 501.618, 501.619,

3287 501.621, 501.622, 501.623, 501.624, 501.625, and 501.626, is

3288 repealed.

3289 Section 128. Section 205.1973, Florida Statutes, is

3290 repealed.

3291 Section 129. Paragraph (b) of subsection (1) of section

3292 501.165, Florida Statutes, is amended to read:

3293 501.165 Automatic renewal of service contracts.—

3294 (1) DEFINITIONS.—As used in this section:

3295 (b) "Consumer" means a natural person ~~an individual, as~~

3296 ~~defined in s. 501.603,~~ receiving service, maintenance, or repair

3297 under a service contract. The term does not include an

3298 individual engaged in business or employed by or otherwise

3299 acting on behalf of a governmental entity if the individual

3300 enters into the service contract as part of or ancillary to the

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3301 individual's business activities or on behalf of the business or  
 3302 governmental entity.

3303 Section 130. Paragraph (c) of subsection (1) of section  
 3304 648.44, Florida Statutes, is amended to read:

3305 648.44 Prohibitions; penalty.—

3306 (1) A bail bond agent or temporary bail bond agent may  
 3307 not:

3308 (c) Initiate in-person or telephone solicitation after  
 3309 9:00 p.m. or before 8:00 a.m., in the case of domestic violence  
 3310 cases, at the residence of the detainee or the detainee's  
 3311 family. Any solicitation not prohibited by this chapter must  
 3312 comply with the telephone solicitation requirements in s. ss.  
 3313 501.059(2) and (4), ~~501.613~~, and ~~501.616(6)~~.

3314 Section 131. Paragraph (a) of subsection (1) of section  
 3315 772.102, Florida Statutes, is amended to read:

3316 772.102 Definitions.—As used in this chapter, the term:

3317 (1) "Criminal activity" means to commit, to attempt to  
 3318 commit, to conspire to commit, or to solicit, coerce, or  
 3319 intimidate another person to commit:

3320 (a) Any crime that is chargeable by indictment or  
 3321 information under the following provisions:

3322 1. Section 210.18, relating to evasion of payment of  
 3323 cigarette taxes.

3324 2. Section 414.39, relating to public assistance fraud.

3325 3. Section 440.105 or s. 440.106, relating to workers'  
 3326 compensation.

3327 ~~4. Part IV of chapter 501, relating to telemarketing.~~

3328 4.5. Chapter 517, relating to securities transactions.

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3329	<del>5.6.</del> Section 550.235 or s. 550.3551, relating to dogracing	
3330	and horseracing.	
3331	<del>6.7.</del> Chapter 550, relating to jai alai frontons.	
3332	<del>7.8.</del> Chapter 552, relating to the manufacture,	
3333	distribution, and use of explosives.	
3334	<del>8.9.</del> Chapter 562, relating to beverage law enforcement.	
3335	<del>9.10.</del> Section 624.401, relating to transacting insurance	
3336	without a certificate of authority, s. 624.437(4)(c)1., relating	
3337	to operating an unauthorized multiple-employer welfare	
3338	arrangement, or s. 626.902(1)(b), relating to representing or	
3339	aiding an unauthorized insurer.	
3340	<del>10.11.</del> Chapter 687, relating to interest and usurious	
3341	practices.	
3342	<del>11.12.</del> Section 721.08, s. 721.09, or s. 721.13, relating	
3343	to real estate timeshare plans.	
3344	<del>12.13.</del> Chapter 782, relating to homicide.	
3345	<del>13.14.</del> Chapter 784, relating to assault and battery.	
3346	<del>14.15.</del> Chapter 787, relating to kidnapping or human	
3347	trafficking.	
3348	<del>15.16.</del> Chapter 790, relating to weapons and firearms.	
3349	<del>16.17.</del> Section 796.03, s. 796.04, s. 796.045, s. 796.05,	
3350	or s. 796.07, relating to prostitution.	
3351	<del>17.18.</del> Chapter 806, relating to arson.	
3352	<del>18.19.</del> Section 810.02(2)(c), relating to specified	
3353	burglary of a dwelling or structure.	
3354	<del>19.20.</del> Chapter 812, relating to theft, robbery, and	
3355	related crimes.	
3356	<del>20.21.</del> Chapter 815, relating to computer-related crimes.	



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3357 | 21.22. Chapter 817, relating to fraudulent practices,  
 3358 | false pretenses, fraud generally, and credit card crimes.  
 3359 | 22.23. Section 827.071, relating to commercial sexual  
 3360 | exploitation of children.  
 3361 | 23.24. Chapter 831, relating to forgery and  
 3362 | counterfeiting.  
 3363 | 24.25. Chapter 832, relating to issuance of worthless  
 3364 | checks and drafts.  
 3365 | 25.26. Section 836.05, relating to extortion.  
 3366 | 26.27. Chapter 837, relating to perjury.  
 3367 | 27.28. Chapter 838, relating to bribery and misuse of  
 3368 | public office.  
 3369 | 28.29. Chapter 843, relating to obstruction of justice.  
 3370 | 29.30. Section 847.011, s. 847.012, s. 847.013, s. 847.06,  
 3371 | or s. 847.07, relating to obscene literature and profanity.  
 3372 | 30.31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or  
 3373 | s. 849.25, relating to gambling.  
 3374 | 31.32. Chapter 893, relating to drug abuse prevention and  
 3375 | control.  
 3376 | 32.33. Section 914.22 or s. 914.23, relating to witnesses,  
 3377 | victims, or informants.  
 3378 | 33.34. Section 918.12 or s. 918.13, relating to tampering  
 3379 | with jurors and evidence.  
 3380 | Section 132. Paragraph (a) of subsection (1) of section  
 3381 | 895.02, Florida Statutes, is amended to read:  
 3382 | 895.02 Definitions.—As used in ss. 895.01–895.08, the  
 3383 | term:  
 3384 | (1) "Racketeering activity" means to commit, to attempt to

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3385 | commit, to conspire to commit, or to solicit, coerce, or  
 3386 | intimidate another person to commit:  
 3387 |       (a) Any crime that is chargeable by petition, indictment,  
 3388 | or information under the following provisions of the Florida  
 3389 | Statutes:  
 3390 |       1. Section 210.18, relating to evasion of payment of  
 3391 | cigarette taxes.  
 3392 |       2. Section 316.1935, relating to fleeing or attempting to  
 3393 | elude a law enforcement officer and aggravated fleeing or  
 3394 | eluding.  
 3395 |       3. Section 403.727(3)(b), relating to environmental  
 3396 | control.  
 3397 |       4. Section 409.920 or s. 409.9201, relating to Medicaid  
 3398 | fraud.  
 3399 |       5. Section 414.39, relating to public assistance fraud.  
 3400 |       6. Section 440.105 or s. 440.106, relating to workers'  
 3401 | compensation.  
 3402 |       7. Section 443.071(4), relating to creation of a  
 3403 | fictitious employer scheme to commit unemployment compensation  
 3404 | fraud.  
 3405 |       8. Section 465.0161, relating to distribution of medicinal  
 3406 | drugs without a permit as an Internet pharmacy.  
 3407 |       9. Section 499.0051, relating to crimes involving  
 3408 | contraband and adulterated drugs.  
 3409 |       ~~10. Part IV of chapter 501, relating to telemarketing.~~  
 3410 |       10.11. Chapter 517, relating to sale of securities and  
 3411 | investor protection.  
 3412 |       11.12. Section 550.235 or s. 550.3551, relating to

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3413	dogracing and horseracing.	
3414	<u>12.13.</u> Chapter 550, relating to jai alai frontons.	
3415	<u>13.14.</u> Section 551.109, relating to slot machine gaming.	
3416	<u>14.15.</u> Chapter 552, relating to the manufacture,	
3417	distribution, and use of explosives.	
3418	<u>15.16.</u> Chapter 560, relating to money transmitters, if the	
3419	violation is punishable as a felony.	
3420	<u>16.17.</u> Chapter 562, relating to beverage law enforcement.	
3421	<u>17.18.</u> Section 624.401, relating to transacting insurance	
3422	without a certificate of authority, s. 624.437(4)(c)1., relating	
3423	to operating an unauthorized multiple-employer welfare	
3424	arrangement, or s. 626.902(1)(b), relating to representing or	
3425	aiding an unauthorized insurer.	
3426	<u>18.19.</u> Section 655.50, relating to reports of currency	
3427	transactions, when such violation is punishable as a felony.	
3428	<u>19.20.</u> Chapter 687, relating to interest and usurious	
3429	practices.	
3430	<u>20.21.</u> Section 721.08, s. 721.09, or s. 721.13, relating	
3431	to real estate timeshare plans.	
3432	<u>21.22.</u> Section 775.13(5)(b), relating to registration of	
3433	persons found to have committed any offense for the purpose of	
3434	benefiting, promoting, or furthering the interests of a criminal	
3435	gang.	
3436	<u>22.23.</u> Section 777.03, relating to commission of crimes by	
3437	accessories after the fact.	
3438	<u>23.24.</u> Chapter 782, relating to homicide.	
3439	<u>24.25.</u> Chapter 784, relating to assault and battery.	
3440	<u>25.26.</u> Chapter 787, relating to kidnapping or human	

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3441 trafficking.

3442 ~~26.27.~~ Chapter 790, relating to weapons and firearms.

3443 ~~27.28.~~ Chapter 794, relating to sexual battery, but only

3444 if such crime was committed with the intent to benefit, promote,

3445 or further the interests of a criminal gang, or for the purpose

3446 of increasing a criminal gang member's own standing or position

3447 within a criminal gang.

3448 ~~28.29.~~ Section 796.03, s. 796.035, s. 796.04, s. 796.045,

3449 s. 796.05, or s. 796.07, relating to prostitution and sex

3450 trafficking.

3451 ~~29.30.~~ Chapter 806, relating to arson and criminal

3452 mischief.

3453 ~~30.31.~~ Chapter 810, relating to burglary and trespass.

3454 ~~31.32.~~ Chapter 812, relating to theft, robbery, and

3455 related crimes.

3456 ~~32.33.~~ Chapter 815, relating to computer-related crimes.

3457 ~~33.34.~~ Chapter 817, relating to fraudulent practices,

3458 false pretenses, fraud generally, and credit card crimes.

3459 ~~34.35.~~ Chapter 825, relating to abuse, neglect, or

3460 exploitation of an elderly person or disabled adult.

3461 ~~35.36.~~ Section 827.071, relating to commercial sexual

3462 exploitation of children.

3463 ~~36.37.~~ Chapter 831, relating to forgery and

3464 counterfeiting.

3465 ~~37.38.~~ Chapter 832, relating to issuance of worthless

3466 checks and drafts.

3467 ~~38.39.~~ Section 836.05, relating to extortion.

3468 ~~39.40.~~ Chapter 837, relating to perjury.

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3469 | ~~40.41.~~ Chapter 838, relating to bribery and misuse of  
 3470 | public office.  
 3471 | ~~41.42.~~ Chapter 843, relating to obstruction of justice.  
 3472 | ~~42.43.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,  
 3473 | or s. 847.07, relating to obscene literature and profanity.  
 3474 | ~~43.44.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or  
 3475 | s. 849.25, relating to gambling.  
 3476 | ~~44.45.~~ Chapter 874, relating to criminal gangs.  
 3477 | ~~45.46.~~ Chapter 893, relating to drug abuse prevention and  
 3478 | control.  
 3479 | ~~46.47.~~ Chapter 896, relating to offenses related to  
 3480 | financial transactions.  
 3481 | ~~47.48.~~ Sections 914.22 and 914.23, relating to tampering  
 3482 | with or harassing a witness, victim, or informant, and  
 3483 | retaliation against a witness, victim, or informant.  
 3484 | ~~48.49.~~ Sections 918.12 and 918.13, relating to tampering  
 3485 | with jurors and evidence.  
 3486 | Section 133. Chapter 507, Florida Statutes, consisting of  
 3487 | sections 507.01, 507.02, 507.03, 507.04, 507.05, 507.06, 507.07,  
 3488 | 507.08, 507.09, 507.10, 507.11, 507.12, and 507.13, is repealed.  
 3489 | Section 134. Section 205.1975, Florida Statutes, is  
 3490 | repealed.  
 3491 | Section 135. Subsection (1) of section 509.242, Florida  
 3492 | Statutes, is amended to read:  
 3493 | 509.242 Public lodging establishments; classifications.—  
 3494 | (1) A public lodging establishment shall be classified as  
 3495 | a hotel, motel, resort condominium, nontransient apartment,  
 3496 | transient apartment, ~~roominghouse,~~ bed and breakfast inn, or

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3497 resort dwelling if the establishment satisfies the following  
3498 criteria:

3499 (a) Hotel.—A hotel is any public lodging establishment  
3500 containing sleeping room accommodations for 25 or more guests  
3501 and providing the services generally provided by a hotel and  
3502 recognized as a hotel in the community in which it is situated  
3503 or by the industry.

3504 (b) Motel.—A motel is any public lodging establishment  
3505 which offers rental units with an exit to the outside of each  
3506 rental unit, daily or weekly rates, offstreet parking for each  
3507 unit, a central office on the property with specified hours of  
3508 operation, a bathroom or connecting bathroom for each rental  
3509 unit, and at least six rental units, and which is recognized as  
3510 a motel in the community in which it is situated or by the  
3511 industry.

3512 (c) Resort condominium.—A resort condominium is any unit  
3513 or group of units in a condominium, cooperative, or timeshare  
3514 plan which is rented more than three times in a calendar year  
3515 for periods of less than 30 days or 1 calendar month, whichever  
3516 is less, or which is advertised or held out to the public as a  
3517 place regularly rented for periods of less than 30 days or 1  
3518 calendar month, whichever is less.

3519 (d) Nontransient apartment ~~or roominghouse~~.—A nontransient  
3520 apartment ~~or roominghouse~~ is a building or complex of buildings  
3521 in which 75 percent or more of the units are available for rent  
3522 to nontransient tenants.

3523 (e) Transient apartment ~~or roominghouse~~.—A transient  
3524 apartment ~~or roominghouse~~ is a building or complex of buildings

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3525 in which more than 25 percent of the units are advertised or  
 3526 held out to the public as available for transient occupancy.

3527 ~~(f) Roominghouse.—A roominghouse is any public lodging~~  
 3528 ~~establishment that may not be classified as a hotel, motel,~~  
 3529 ~~resort condominium, nontransient apartment, bed and breakfast~~  
 3530 ~~inn, or transient apartment under this section. A roominghouse~~  
 3531 ~~includes, but is not limited to, a boardinghouse.~~

3532 (f)~~(g)~~ Resort dwelling.—A resort dwelling is any  
 3533 individually or collectively owned one-family, two-family,  
 3534 three-family, or four-family dwelling house or dwelling unit  
 3535 which is rented more than three times in a calendar year for  
 3536 periods of less than 30 days or 1 calendar month, whichever is  
 3537 less, or which is advertised or held out to the public as a  
 3538 place regularly rented for periods of less than 30 days or 1  
 3539 calendar month, whichever is less.

3540 (g)~~(h)~~ Bed and breakfast inn.—A bed and breakfast inn is a  
 3541 family home structure, with no more than 15 sleeping rooms,  
 3542 which has been modified to serve as a transient public lodging  
 3543 establishment, which provides the accommodation and meal  
 3544 services generally offered by a bed and breakfast inn, and which  
 3545 is recognized as a bed and breakfast inn in the community in  
 3546 which it is situated or by the hospitality industry.

3547 Section 136. Subsection (9) of section 509.221, Florida  
 3548 Statutes, is amended to read:

3549 509.221 Sanitary regulations.—

3550 (9) Subsections (2), (5), and (6) do not apply to any  
 3551 facility or unit classified as a resort condominium,  
 3552 nontransient apartment, or resort dwelling as described in s.

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3553 509.242(1)(c), (d), and (f)~~(g)~~.

3554  
 3555 Section 137. Chapter 555, Florida Statutes, consisting of  
 3556 sections 555.01, 555.02, 555.03, 555.04, 555.05, 555.07, and  
 3557 555.08, is repealed.

3558 Section 138. Part VIII of chapter 559, Florida Statutes,  
 3559 consisting of sections 559.80, 559.801, 559.802, 559.803,  
 3560 559.805, 559.807, 559.809, 559.811, 559.813, and 559.815, is  
 3561 repealed.

3562 Section 139. Part IX of chapter 559, Florida Statutes,  
 3563 consisting of sections 559.901, 559.902, 559.903, 559.904,  
 3564 559.905, 559.907, 559.909, 559.911, 559.915, 559.916, 559.917,  
 3565 559.919, 559.920, 559.921, 559.9215, 559.922, 559.92201, and  
 3566 559.9221, is repealed.

3567 Section 140. Paragraph (a) of subsection (9) of section  
 3568 320.27, Florida Statutes, is amended to read:

3569 320.27 Motor vehicle dealers.—

3570 (9) DENIAL, SUSPENSION, OR REVOCATION.—

3571 (a) The department may deny, suspend, or revoke any  
 3572 license issued hereunder or under the provisions of s. 320.77 or  
 3573 s. 320.771 upon proof that an applicant or a licensee has:

3574 1. Committed fraud or willful misrepresentation in  
 3575 application for or in obtaining a license.

3576 2. Been convicted of a felony.

3577 3. Failed to honor a bank draft or check given to a motor  
 3578 vehicle dealer for the purchase of a motor vehicle by another  
 3579 motor vehicle dealer within 10 days after notification that the  
 3580 bank draft or check has been dishonored. ~~If the transaction is~~



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3581 ~~disputed, the maker of the bank draft or check shall post a bond~~  
 3582 ~~in accordance with the provisions of s. 559.917, and no~~  
 3583 ~~proceeding for revocation or suspension shall be commenced until~~  
 3584 ~~the dispute is resolved.~~

3585 4.a. Failed to provide payment within 10 business days to  
 3586 the department for a check payable to the department that was  
 3587 dishonored due to insufficient funds in the amount due plus any  
 3588 statutorily authorized fee for uttering a worthless check. The  
 3589 department shall notify an applicant or licensee when the  
 3590 applicant or licensee makes payment to the department by a check  
 3591 that is subsequently dishonored by the bank due to insufficient  
 3592 funds. The applicant or licensee shall, within 10 business days  
 3593 after receiving the notice, provide payment to the department in  
 3594 the form of cash in the amount due plus any statutorily  
 3595 authorized fee. If the applicant or licensee fails to make such  
 3596 payment within 10 business days, the department may deny,  
 3597 suspend, or revoke the applicant's or licensee's motor vehicle  
 3598 dealer license.

3599 b. Stopped payment on a check payable to the department,  
 3600 issued a check payable to the department from an account that  
 3601 has been closed, or charged back a credit card transaction to  
 3602 the department. If an applicant or licensee commits any such  
 3603 act, the department may deny, suspend, or revoke the applicant's  
 3604 or licensee's motor vehicle dealer license.

3605 Section 141. Paragraph (a) of subsection (1) of section  
 3606 445.025, Florida Statutes, is amended to read:

3607 445.025 Other support services.—Support services shall be  
 3608 provided, if resources permit, to assist participants in

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3609 complying with work activity requirements outlined in s.  
 3610 445.024. If resources do not permit the provision of needed  
 3611 support services, the regional workforce board may prioritize or  
 3612 otherwise limit provision of support services. This section does  
 3613 not constitute an entitlement to support services. Lack of  
 3614 provision of support services may be considered as a factor in  
 3615 determining whether good cause exists for failing to comply with  
 3616 work activity requirements but does not automatically constitute  
 3617 good cause for failing to comply with work activity  
 3618 requirements, and does not affect any applicable time limit on  
 3619 the receipt of temporary cash assistance or the provision of  
 3620 services under chapter 414. Support services shall include, but  
 3621 need not be limited to:

3622 (1) TRANSPORTATION.—Transportation expenses may be  
 3623 provided to any participant when the assistance is needed to  
 3624 comply with work activity requirements or employment  
 3625 requirements, including transportation to and from a child care  
 3626 provider. Payment may be made in cash or tokens in advance or  
 3627 through reimbursement paid against receipts or invoices.  
 3628 Transportation services may include, but are not limited to,  
 3629 cooperative arrangements with the following: public transit  
 3630 providers; community transportation coordinators designated  
 3631 under chapter 427; school districts; churches and community  
 3632 centers; donated motor vehicle programs, van pools, and  
 3633 ridesharing programs; small enterprise developments and  
 3634 entrepreneurial programs that encourage participants to become  
 3635 transportation providers; public and private transportation  
 3636 partnerships; and other innovative strategies to expand

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3637 transportation options available to program participants.  
 3638 (a) Regional workforce boards may provide payment for  
 3639 vehicle operational and repair expenses, including repair  
 3640 expenditures necessary to make a vehicle functional; vehicle  
 3641 registration fees; driver's license fees; and liability  
 3642 insurance for the vehicle for a period of up to 6 months.  
 3643 Request for vehicle repairs must be accompanied by an estimate  
 3644 of the cost prepared by a repair facility ~~registered under s.~~  
 3645 ~~559.904.~~

3646 Section 142. Paragraph (i) of subsection (1) of section  
 3647 713.585, Florida Statutes, is redesignated as paragraph (h),  
 3648 subsections (12) and (13) of that section are renumbered as  
 3649 subsections (11) and (12), respectively, and present paragraph  
 3650 (h) of subsection (1) and present subsection (11) of that  
 3651 section is amended, to read:

3652 713.585 Enforcement of lien by sale of motor vehicle.—A  
 3653 person claiming a lien under s. 713.58 for performing labor or  
 3654 services on a motor vehicle may enforce such lien by sale of the  
 3655 vehicle in accordance with the following procedures:

3656 (1) The lienor must give notice, by certified mail, return  
 3657 receipt requested, within 15 business days, excluding Saturday  
 3658 and Sunday, from the beginning date of the assessment of storage  
 3659 charges on said motor vehicle, to the registered owner of the  
 3660 vehicle, to the customer as indicated on the order for repair,  
 3661 and to all other persons claiming an interest in or lien  
 3662 thereon, as disclosed by the records of the Department of  
 3663 Highway Safety and Motor Vehicles or of a corresponding agency  
 3664 of any other state in which the vehicle appears registered. Such

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3665 notice must contain:  
 3666 ~~(h) Notice that the owner of the vehicle has a right to~~  
 3667 ~~recover possession of the vehicle without instituting judicial~~  
 3668 ~~proceedings by posting bond in accordance with the provisions of~~  
 3669 ~~s. 559.917.~~  
 3670 ~~(11) Nothing in this section shall operate in derogation~~  
 3671 ~~of the rights and remedies established by s. 559.917.~~  
 3672 Section 143. Part XI of chapter 559, Florida Statutes,  
 3673 consisting of sections 559.926, 559.927, 559.928, 559.9285,  
 3674 559.929, 559.9295, 559.931, 559.932, 559.933, 559.9335, 559.934,  
 3675 559.935, 559.9355, 559.936, 559.937, 559.938, and 559.939, is  
 3676 repealed.  
 3677 Section 144. Section 205.1971, Florida Statutes, is  
 3678 repealed.  
 3679 Section 145. Subsections (21) through (28) of section  
 3680 501.604, Florida Statutes, are renumbered as subsections (20)  
 3681 through (28), respectively, and present subsection (20) of that  
 3682 section is amended to read:  
 3683 501.604 Exemptions.—The provisions of this part, except  
 3684 ss. 501.608 and 501.616(6) and (7), do not apply to:  
 3685 ~~(20) A person who is registered pursuant to part XI of~~  
 3686 ~~chapter 559 and who is soliciting within the scope of the~~  
 3687 ~~registration.~~  
 3688 Section 146. Paragraph (b) of subsection (1) of section  
 3689 501.608, Florida Statutes, is amended to read:  
 3690 501.608 License or affidavit of exemption; occupational  
 3691 license.—  
 3692 (1)

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3693 (b) Any commercial telephone seller claiming to be exempt  
 3694 from the act under s. 501.604(2), (3), (5), (6), (9), (10),  
 3695 (11), (12), (17), (20) ~~(21)~~, (21) ~~(22)~~, (23) ~~(24)~~, or (25) ~~(26)~~  
 3696 must file with the department a notarized affidavit of  
 3697 exemption. The affidavit of exemption must be on forms  
 3698 prescribed by the department and must require the name of the  
 3699 commercial telephone seller, the name of the business, and the  
 3700 business address. Any commercial telephone seller maintaining  
 3701 more than one business may file a single notarized affidavit of  
 3702 exemption that clearly indicates the location of each place of  
 3703 business. If a change of ownership occurs, the commercial  
 3704 telephone seller must notify the department.

3705 Section 147. Subsection (5) of section 636.044, Florida  
 3706 Statutes, is amended to read:

3707 636.044 Agent licensing.—

3708 ~~(5) A person registered as a seller of travel under s.~~  
 3709 ~~559.928 is not required to be licensed under this section in~~  
 3710 ~~order to sell prepaid limited health service contracts that~~  
 3711 ~~cover the cost of transportation provided by an air ambulance~~  
 3712 ~~service licensed pursuant to s. 401.251. The prepaid limited~~  
 3713 ~~health service contract for such coverage is, however, subject~~  
 3714 ~~to all applicable provisions of this chapter.~~

3715 Section 148. Paragraph (d) of subsection (3) of section  
 3716 721.11, Florida Statutes, is amended to read:

3717 721.11 Advertising materials; oral statements.—

3718 (3) The term "advertising material" does not include:

3719 (d) Any audio, written, or visual publication or material  
 3720 relating to the promotion of the availability of any

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3721 accommodations or facilities, or both, for transient rental,  
 3722 ~~including any arrangement governed by part XI of chapter 559,~~ so  
 3723 long as a mandatory tour of a timeshare plan or attendance at a  
 3724 mandatory sales presentation is not a term or condition of the  
 3725 availability of such accommodations or facilities, or both, and  
 3726 so long as the failure of any transient renter to take a tour of  
 3727 a timeshare plan or attend a sales presentation does not result  
 3728 in the transient renter receiving less than what was promised to  
 3729 the transient renter in such materials.

3730 Section 149. Section 686.201, Florida Statutes, is  
 3731 repealed.

3732 Section 150. Section 817.559, Florida Statutes, is  
 3733 repealed.

3734 Section 151. Subsection (1) of section 73.072, Florida  
 3735 Statutes, is amended to read:

3736 73.072 Mobile home parks; compensation for permanent  
 3737 improvements by mobile home owners.—

3738 (1) When all or a portion of a mobile home park as defined  
 3739 in s. 723.003~~(6)~~ is appropriated under this chapter, the  
 3740 condemning authority shall separately determine the compensation  
 3741 for any permanent improvements made to each site. This  
 3742 compensation shall be awarded to the mobile home owner leasing  
 3743 the site if:

3744 (a) The effect of the taking includes a requirement that  
 3745 the mobile home owner remove or relocate his or her mobile home  
 3746 from the site;

3747 (b) The mobile home owner currently leasing the site has  
 3748 paid for the permanent improvements to the site; and

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3749 (c) The value of the permanent improvements on the site  
 3750 exceeds \$1,000 as of the date of taking.

3751 Section 152. Paragraph (e) of subsection (6) of section  
 3752 192.037, Florida Statutes, is amended to read:

3753 192.037 Fee timeshare real property; taxes and  
 3754 assessments; escrow.—

3755 (6)

3756 (e) On or before May 1 of each year, a statement of  
 3757 receipts and disbursements of the escrow account must be filed  
 3758 with the Division of Florida Condominiums, Timeshares, and  
 3759 Mobile Homes of the Department of Business and Professional  
 3760 Regulation, ~~which may enforce this paragraph pursuant to s.~~  
 3761 ~~721.26~~. This statement must appropriately show the amount of  
 3762 principal and interest in such account.

3763 Section 153. Paragraph (b) of subsection (8) of section  
 3764 475.011, Florida Statutes, is amended to read:

3765 475.011 Exemptions.—This part does not apply to:

3766 (8)

3767 (b) An exchange company, as that term is defined by s.  
 3768 721.05 (14) ~~(15)~~, but only to the extent that the exchange company  
 3769 is engaged in exchange program activities as described in and is  
 3770 in compliance with s. 721.18.

3771 Section 154. Subsections (18) through (30) of section  
 3772 718.103, Florida Statutes, are renumbered as subsections (17)  
 3773 through (29), respectively, and subsection (17) of that section  
 3774 is amended to read:

3775 718.103 Definitions.—As used in this chapter, the term:

3776 ~~(17) "Division" means the Division of Florida~~

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3777 ~~Condominiums, Timeshares, and Mobile Homes of the Department of~~  
 3778 ~~Business and Professional Regulation.~~

3779 Section 155. Subsection (2) of section 718.1085, Florida  
 3780 Statutes, is amended to read:

3781 718.1085 Certain regulations not to be retroactively  
 3782 applied.—Notwithstanding the provisions of chapter 633 or of any  
 3783 other code, statute, ordinance, administrative rule, or  
 3784 regulation, or any interpretation thereof, an association,  
 3785 condominium, or unit owner is not obligated to retrofit the  
 3786 common elements or units of a residential condominium that meets  
 3787 the definition of "housing for older persons" in s.

3788 760.29(4)(b)3. to comply with requirements relating to handrails  
 3789 and guardrails if the unit owners have voted to forego such  
 3790 retrofitting by the affirmative vote of two-thirds of all voting  
 3791 interests in the affected condominium. However, a condominium  
 3792 association may not vote to forego the retrofitting in common  
 3793 areas in a high-rise building. For the purposes of this section,  
 3794 the term "high-rise building" means a building that is greater  
 3795 than 75 feet in height where the building height is measured  
 3796 from the lowest level of fire department access to the floor of  
 3797 the highest occupiable level. For the purposes of this section,  
 3798 the term "common areas" means stairwells and exposed, outdoor  
 3799 walkways and corridors. In no event shall the local authority  
 3800 having jurisdiction require retrofitting of common areas with  
 3801 handrails and guardrails before the end of 2014.

3802 (2) As part of the information collected annually from  
 3803 condominiums, ~~the division shall require~~ condominium  
 3804 associations must ~~to~~ report the membership vote and recording of



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3805 a certificate under this subsection and, if retrofitting has  
 3806 been undertaken, the per-unit cost of such work. ~~The division~~  
 3807 ~~shall annually report~~ to the Division of State Fire Marshal of  
 3808 the Department of Financial Services ~~the number of condominiums~~  
 3809 ~~that have elected to forego retrofitting.~~

3810 Section 156. Paragraph (a) of subsection (1), paragraph  
 3811 (b) of subsection (7), and paragraphs (a) and (c) of subsection  
 3812 (12) of section 718.111, Florida Statutes, are amended to read:

3813 718.111 The association.—

3814 (1) CORPORATE ENTITY.—

3815 (a) The operation of the condominium shall be by the  
 3816 association, which must be a Florida corporation for profit or a  
 3817 Florida corporation not for profit. However, any association  
 3818 which was in existence on January 1, 1977, need not be  
 3819 incorporated. The owners of units shall be shareholders or  
 3820 members of the association. The officers and directors of the  
 3821 association have a fiduciary relationship to the unit owners. It  
 3822 is the intent of the Legislature that nothing in this paragraph  
 3823 shall be construed as providing for or removing a requirement of  
 3824 a fiduciary relationship between any manager employed by the  
 3825 association and the unit owners. An officer, director, or  
 3826 manager may not solicit, offer to accept, or accept any thing or  
 3827 service of value for which consideration has not been provided  
 3828 for his or her own benefit or that of his or her immediate  
 3829 family, from any person providing or proposing to provide goods  
 3830 or services to the association. ~~Any such officer, director, or~~  
 3831 ~~manager who knowingly so solicits, offers to accept, or accepts~~  
 3832 ~~any thing or service of value is subject to a civil penalty~~

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3833 ~~pursuant to s. 718.501(1)(d).~~ However, this paragraph does not  
 3834 prohibit an officer, director, or manager from accepting  
 3835 services or items received in connection with trade fairs or  
 3836 education programs. An association may operate more than one  
 3837 condominium.

3838 (7) TITLE TO PROPERTY.—

3839 (b) Subject to the provisions of s. 718.112(2) (1) ~~(m)~~, the  
 3840 association, through its board, has the limited power to convey  
 3841 a portion of the common elements to a condemning authority for  
 3842 the purposes of providing utility easements, right-of-way  
 3843 expansion, or other public purposes, whether negotiated or as a  
 3844 result of eminent domain proceedings.

3845 (12) OFFICIAL RECORDS.—

3846 (a) From the inception of the association, the association  
 3847 shall maintain each of the following items, if applicable, which  
 3848 shall constitute the official records of the association:

3849 1. A copy of the plans, permits, warranties, and other  
 3850 items provided by the developer pursuant to s. 718.301(4).

3851 2. A photocopy of the recorded declaration of condominium  
 3852 of each condominium operated by the association and of each  
 3853 amendment to each declaration.

3854 3. A photocopy of the recorded bylaws of the association  
 3855 and of each amendment to the bylaws.

3856 4. A certified copy of the articles of incorporation of  
 3857 the association, or other documents creating the association,  
 3858 and of each amendment thereto.

3859 5. A copy of the current rules of the association.

3860 6. A book or books which contain the minutes of all

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3861 meetings of the association, of the board of administration, and  
 3862 of unit owners, which minutes must be retained for at least 7  
 3863 years.

3864 7. A current roster of all unit owners and their mailing  
 3865 addresses, unit identifications, voting certifications, and, if  
 3866 known, telephone numbers. The association shall also maintain  
 3867 the electronic mailing addresses and the numbers designated by  
 3868 unit owners for receiving notice sent by electronic transmission  
 3869 of those unit owners consenting to receive notice by electronic  
 3870 transmission. The electronic mailing addresses and telephone  
 3871 numbers must be removed from association records if consent to  
 3872 receive notice by electronic transmission is revoked. However,  
 3873 the association is not liable for an erroneous disclosure of the  
 3874 electronic mail address or the number for receiving electronic  
 3875 transmission of notices.

3876 8. All current insurance policies of the association and  
 3877 condominiums operated by the association.

3878 9. A current copy of any management agreement, lease, or  
 3879 other contract to which the association is a party or under  
 3880 which the association or the unit owners have an obligation or  
 3881 responsibility.

3882 10. Bills of sale or transfer for all property owned by  
 3883 the association.

3884 11. Accounting records for the association and separate  
 3885 accounting records for each condominium which the association  
 3886 operates. All accounting records shall be maintained for at  
 3887 least 7 years. ~~Any person who knowingly or intentionally defaces~~  
 3888 ~~or destroys accounting records required to be created and~~

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3889 ~~maintained by this chapter during the period for which such~~  
 3890 ~~records are required to be maintained, or who knowingly or~~  
 3891 ~~intentionally fails to create or maintain such records, with the~~  
 3892 ~~intent of causing harm to the association or one or more of its~~  
 3893 ~~members, is personally subject to a civil penalty pursuant to s.~~  
 3894 ~~718.501(1)(d).~~ The accounting records must include, but are not  
 3895 limited to:

3896       a. Accurate, itemized, and detailed records of all  
 3897 receipts and expenditures.

3898       b. A current account and a monthly, bimonthly, or  
 3899 quarterly statement of the account for each unit designating the  
 3900 name of the unit owner, the due date and amount of each  
 3901 assessment, the amount paid upon the account, and the balance  
 3902 due.

3903       c. All audits, reviews, accounting statements, and  
 3904 financial reports of the association or condominium.

3905       d. All contracts for work to be performed. Bids for work  
 3906 to be performed are also considered official records and must be  
 3907 maintained by the association.

3908       12. Ballots, sign-in sheets, voting proxies, and all other  
 3909 papers relating to voting by unit owners, which must be  
 3910 maintained for 1 year from the date of the election, vote, or  
 3911 meeting to which the document relates, notwithstanding paragraph  
 3912 (b).

3913       13. All rental records if the association is acting as  
 3914 agent for the rental of condominium units.

3915       14. A copy of the current question and answer sheet as  
 3916 described in s. 718.504.

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3917 15. All other records of the association not specifically  
 3918 included in the foregoing which are related to the operation of  
 3919 the association.

3920 16. A copy of the inspection report as provided in s.  
 3921 718.301(4)(p).

3922 (c) The official records of the association are open to  
 3923 inspection by any association member or the authorized  
 3924 representative of such member at all reasonable times. The right  
 3925 to inspect the records includes the right to make or obtain  
 3926 copies, at the reasonable expense, if any, of the member. The  
 3927 association may adopt reasonable rules regarding the frequency,  
 3928 time, location, notice, and manner of record inspections and  
 3929 copying. The failure of an association to provide the records  
 3930 within 10 working days after receipt of a written request  
 3931 creates a rebuttable presumption that the association willfully  
 3932 failed to comply with this paragraph. A unit owner who is denied  
 3933 access to official records is entitled to the actual damages or  
 3934 minimum damages for the association's willful failure to comply.  
 3935 Minimum damages shall be \$50 per calendar day up to 10 days, the  
 3936 calculation to begin on the 11th working day after receipt of  
 3937 the written request. The failure to permit inspection of the  
 3938 association records as provided herein entitles any person  
 3939 prevailing in an enforcement action to recover reasonable  
 3940 attorney's fees from the person in control of the records who,  
 3941 directly or indirectly, knowingly denied access to the records.  
 3942 ~~Any person who knowingly or intentionally defaces or destroys~~  
 3943 ~~accounting records that are required by this chapter to be~~  
 3944 ~~maintained during the period for which such records are required~~

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3945 ~~to be maintained, or who knowingly or intentionally fails to~~  
 3946 ~~create or maintain accounting records that are required to be~~  
 3947 ~~created or maintained, with the intent of causing harm to the~~  
 3948 ~~association or one or more of its members, is personally subject~~  
 3949 ~~to a civil penalty pursuant to s. 718.501(1)(d).~~ The association  
 3950 shall maintain an adequate number of copies of the declaration,  
 3951 articles of incorporation, bylaws, and rules, and all amendments  
 3952 to each of the foregoing, as well as the question and answer  
 3953 sheet provided for in s. 718.504 and year-end financial  
 3954 information required in this section, on the condominium  
 3955 property to ensure their availability to unit owners and  
 3956 prospective purchasers, and may charge its actual costs for  
 3957 preparing and furnishing these documents to those requesting the  
 3958 documents. Notwithstanding the provisions of this paragraph, the  
 3959 following records are not accessible to unit owners:

3960       1. Any record protected by the lawyer-client privilege as  
 3961 described in s. 90.502; and any record protected by the work-  
 3962 product privilege, including any record prepared by an  
 3963 association attorney or prepared at the attorney's express  
 3964 direction; which reflects a mental impression, conclusion,  
 3965 litigation strategy, or legal theory of the attorney or the  
 3966 association, and which was prepared exclusively for civil or  
 3967 criminal litigation or for adversarial administrative  
 3968 proceedings, or which was prepared in anticipation of imminent  
 3969 civil or criminal litigation or imminent adversarial  
 3970 administrative proceedings until the conclusion of the  
 3971 litigation or adversarial administrative proceedings.

3972       2. Information obtained by an association in connection

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3973 with the approval of the lease, sale, or other transfer of a  
 3974 unit.

3975 3. Personnel records of association employees, including,  
 3976 but not limited to, disciplinary, payroll, health, and insurance  
 3977 records.

3978 4. Medical records of unit owners.

3979 5. Social security numbers, driver's license numbers,  
 3980 credit card numbers, e-mail addresses, telephone numbers,  
 3981 emergency contact information, any addresses of a unit owner  
 3982 other than as provided to fulfill the association's notice  
 3983 requirements, and other personal identifying information of any  
 3984 person, excluding the person's name, unit designation, mailing  
 3985 address, and property address.

3986 6. Any electronic security measure that is used by the  
 3987 association to safeguard data, including passwords.

3988 7. The software and operating system used by the  
 3989 association which allows manipulation of data, even if the owner  
 3990 owns a copy of the same software used by the association. The  
 3991 data is part of the official records of the association.

3992 Section 157. Paragraphs (l) through (o) of subsection (2)  
 3993 of section 718.112, Florida Statutes, are redesignated as  
 3994 paragraphs (k) through (n), respectively, and paragraphs (d),  
 3995 (j) and (k) of that subsection are amended to read:

3996 718.112 Bylaws.—

3997 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the  
 3998 following and, if they do not do so, shall be deemed to include  
 3999 the following:

4000 (d) Unit owner meetings.—

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4001           1.    An annual meeting of the unit owners shall be held at  
 4002 the location provided in the association bylaws and, if the  
 4003 bylaws are silent as to the location, the meeting shall be held  
 4004 within 45 miles of the condominium property. However, such  
 4005 distance requirement does not apply to an association governing  
 4006 a timeshare condominium. Unless the bylaws provide otherwise, a  
 4007 vacancy on the board caused by the expiration of a director's  
 4008 term shall be filled by electing a new board member, and the  
 4009 election must be by secret ballot. However, if the number of  
 4010 vacancies equals or exceeds the number of candidates, an  
 4011 election is not required. Except in a timeshare condominium, the  
 4012 terms of all members of the board expire at the annual meeting  
 4013 and such board members may stand for reelection unless otherwise  
 4014 permitted by the bylaws. If the bylaws permit staggered terms of  
 4015 no more than 2 years and upon approval of a majority of the  
 4016 total voting interests, the association board members may serve  
 4017 2-year staggered terms. If the number of board members whose  
 4018 terms have expired exceeds the number of eligible members  
 4019 showing interest in or demonstrating an intention to run for the  
 4020 vacant positions, each board member whose term has expired is  
 4021 eligible for reappointment to the board of administration and  
 4022 need not stand for reelection. In a condominium association of  
 4023 more than 10 units or in a condominium association that does not  
 4024 include timeshare units or timeshare interests, coowners of a  
 4025 unit may not serve as members of the board of directors at the  
 4026 same time unless they own more than one unit or unless there are  
 4027 not enough eligible candidates to fill the vacancies on the  
 4028 board at the time of the vacancy. Any unit owner desiring to be



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4029 a candidate for board membership must comply with sub-  
 4030 subparagraph 3.a. A person who has been suspended or removed by  
 4031 the division under this chapter, or who is delinquent in the  
 4032 payment of any fee, fine, or special or regular assessment as  
 4033 provided in paragraph (m) ~~(n)~~, is not eligible for board  
 4034 membership. A person who has been convicted of any felony in  
 4035 this state or in a United States District or Territorial Court,  
 4036 or who has been convicted of any offense in another jurisdiction  
 4037 that would be considered a felony if committed in this state, is  
 4038 not eligible for board membership unless such felon's civil  
 4039 rights have been restored for at least 5 years as of the date on  
 4040 which such person seeks election to the board. The validity of  
 4041 an action by the board is not affected if it is later determined  
 4042 that a member of the board is ineligible for board membership  
 4043 due to having been convicted of a felony.

4044 2. The bylaws must provide the method of calling meetings  
 4045 of unit owners, including annual meetings. Written notice, which  
 4046 must include an agenda, shall be mailed, hand delivered, or  
 4047 electronically transmitted to each unit owner at least 14 days  
 4048 before the annual meeting and must be posted in a conspicuous  
 4049 place on the condominium property at least 14 continuous days  
 4050 preceding the annual meeting. Upon notice to the unit owners,  
 4051 the board shall, by duly adopted rule, designate a specific  
 4052 location on the condominium property or association property  
 4053 upon which all notices of unit owner meetings shall be posted.  
 4054 However, if there is no condominium property or association  
 4055 property upon which notices can be posted, this requirement does  
 4056 not apply. In lieu of or in addition to the physical posting of

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4057 meeting notices, the association may, by reasonable rule, adopt  
 4058 a procedure for conspicuously posting and repeatedly  
 4059 broadcasting the notice and the agenda on a closed-circuit cable  
 4060 television system serving the condominium association. However,  
 4061 if broadcast notice is used in lieu of a notice posted  
 4062 physically on the condominium property, the notice and agenda  
 4063 must be broadcast at least four times every broadcast hour of  
 4064 each day that a posted notice is otherwise required under this  
 4065 section. If broadcast notice is provided, the notice and agenda  
 4066 must be broadcast in a manner and for a sufficient continuous  
 4067 length of time so as to allow an average reader to observe the  
 4068 notice and read and comprehend the entire content of the notice  
 4069 and the agenda. Unless a unit owner waives in writing the right  
 4070 to receive notice of the annual meeting, such notice must be  
 4071 hand delivered, mailed, or electronically transmitted to each  
 4072 unit owner. Notice for meetings and notice for all other  
 4073 purposes must be mailed to each unit owner at the address last  
 4074 furnished to the association by the unit owner, or hand  
 4075 delivered to each unit owner. However, if a unit is owned by  
 4076 more than one person, the association shall provide notice, for  
 4077 meetings and all other purposes, to that one address which the  
 4078 developer initially identifies for that purpose and thereafter  
 4079 as one or more of the owners of the unit shall advise the  
 4080 association in writing, or if no address is given or the owners  
 4081 of the unit do not agree, to the address provided on the deed of  
 4082 record. An officer of the association, or the manager or other  
 4083 person providing notice of the association meeting, shall  
 4084 provide an affidavit or United States Postal Service certificate

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4085 of mailing, to be included in the official records of the  
 4086 association affirming that the notice was mailed or hand  
 4087 delivered, in accordance with this provision.

4088 3. The members of the board shall be elected by written  
 4089 ballot or voting machine. Proxies may not be used in electing  
 4090 the board in general elections or elections to fill vacancies  
 4091 caused by recall, resignation, or otherwise, unless otherwise  
 4092 provided in this chapter.

4093 a. At least 60 days before a scheduled election, the  
 4094 association shall mail, deliver, or electronically transmit,  
 4095 whether by separate association mailing or included in another  
 4096 association mailing, delivery, or transmission, including  
 4097 regularly published newsletters, to each unit owner entitled to  
 4098 a vote, a first notice of the date of the election. Any unit  
 4099 owner or other eligible person desiring to be a candidate for  
 4100 the board must give written notice of his or her intent to be a  
 4101 candidate to the association at least 40 days before a scheduled  
 4102 election. Together with the written notice and agenda as set  
 4103 forth in subparagraph 2., the association shall mail, deliver,  
 4104 or electronically transmit a second notice of the election to  
 4105 all unit owners entitled to vote, together with a ballot that  
 4106 lists all candidates. Upon request of a candidate, an  
 4107 information sheet, no larger than 8 1/2 inches by 11 inches,  
 4108 which must be furnished by the candidate at least 35 days before  
 4109 the election, must be included with the mailing, delivery, or  
 4110 transmission of the ballot, with the costs of mailing, delivery,  
 4111 or electronic transmission and copying to be borne by the  
 4112 association. The association is not liable for the contents of

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4113 the information sheets prepared by the candidates. In order to  
 4114 reduce costs, the association may print or duplicate the  
 4115 information sheets on both sides of the paper. The division  
 4116 shall by rule establish voting procedures consistent with this  
 4117 sub-subparagraph, including rules establishing procedures for  
 4118 giving notice by electronic transmission and rules providing for  
 4119 the secrecy of ballots. Elections shall be decided by a  
 4120 plurality of those ballots cast. There is no quorum requirement;  
 4121 however, at least 20 percent of the eligible voters must cast a  
 4122 ballot in order to have a valid election of members of the  
 4123 board. A unit owner may not permit any other person to vote his  
 4124 or her ballot, and any ballots improperly cast are invalid,  
 4125 provided any unit owner who violates this provision may be fined  
 4126 by the association in accordance with s. 718.303. A unit owner  
 4127 who needs assistance in casting the ballot for the reasons  
 4128 stated in s. 101.051 may obtain such assistance. The regular  
 4129 election must occur on the date of the annual meeting. This sub-  
 4130 subparagraph does not apply to timeshare condominium  
 4131 associations. Notwithstanding this sub-subparagraph, an election  
 4132 is not required unless more candidates file notices of intent to  
 4133 run or are nominated than board vacancies exist.

4134 b. Within 90 days after being elected or appointed to the  
 4135 board, each newly elected or appointed director shall certify in  
 4136 writing to the secretary of the association that he or she has  
 4137 read the association's declaration of condominium, articles of  
 4138 incorporation, bylaws, and current written policies; that he or  
 4139 she will work to uphold such documents and policies to the best  
 4140 of his or her ability; and that he or she will faithfully

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4141 discharge his or her fiduciary responsibility to the  
 4142 association's members. In lieu of this written certification,  
 4143 the newly elected or appointed director may submit a certificate  
 4144 of satisfactory completion of the educational curriculum  
 4145 administered by a division-approved condominium education  
 4146 provider. A director who fails to timely file the written  
 4147 certification or educational certificate is suspended from  
 4148 service on the board until he or she complies with this sub-  
 4149 subparagraph. The board may temporarily fill the vacancy during  
 4150 the period of suspension. The secretary shall cause the  
 4151 association to retain a director's written certification or  
 4152 educational certificate for inspection by the members for 5  
 4153 years after a director's election. Failure to have such written  
 4154 certification or educational certificate on file does not affect  
 4155 the validity of any action.

4156 4. Any approval by unit owners called for by this chapter  
 4157 or the applicable declaration or bylaws, including, but not  
 4158 limited to, the approval requirement in s. 718.111(8), shall be  
 4159 made at a duly noticed meeting of unit owners and is subject to  
 4160 all requirements of this chapter or the applicable condominium  
 4161 documents relating to unit owner decisionmaking, except that  
 4162 unit owners may take action by written agreement, without  
 4163 meetings, on matters for which action by written agreement  
 4164 without meetings is expressly allowed by the applicable bylaws  
 4165 or declaration or any statute that provides for such action.

4166 5. Unit owners may waive notice of specific meetings if  
 4167 allowed by the applicable bylaws or declaration or any statute.  
 4168 If authorized by the bylaws, notice of meetings of the board of

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4169 administration, unit owner meetings, except unit owner meetings  
 4170 called to recall board members under paragraph (j), and  
 4171 committee meetings may be given by electronic transmission to  
 4172 unit owners who consent to receive notice by electronic  
 4173 transmission.

4174 6. Unit owners shall have the right to participate in  
 4175 meetings of unit owners with reference to all designated agenda  
 4176 items. However, the association may adopt reasonable rules  
 4177 governing the frequency, duration, and manner of unit owner  
 4178 participation.

4179 7. Any unit owner may tape record or videotape a meeting  
 4180 of the unit owners subject to reasonable rules adopted by the  
 4181 division.

4182 8. Unless otherwise provided in the bylaws, any vacancy  
 4183 occurring on the board before the expiration of a term may be  
 4184 filled by the affirmative vote of the majority of the remaining  
 4185 directors, even if the remaining directors constitute less than  
 4186 a quorum, or by the sole remaining director. In the alternative,  
 4187 a board may hold an election to fill the vacancy, in which case  
 4188 the election procedures must conform to the requirements of sub-  
 4189 subparagraph 3.a. unless the association governs 10 units or  
 4190 fewer and has opted out of the statutory election process, in  
 4191 which case the bylaws of the association control. Unless  
 4192 otherwise provided in the bylaws, a board member appointed or  
 4193 elected under this section shall fill the vacancy for the  
 4194 unexpired term of the seat being filled. Filling vacancies  
 4195 created by recall is governed by paragraph (j) and rules adopted  
 4196 by the division.

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4197  
 4198 Notwithstanding subparagraph (b)2. and sub-subparagraph (d)3.a.,  
 4199 an association of 10 or fewer units may, by affirmative vote of  
 4200 a majority of the total voting interests, provide for different  
 4201 voting and election procedures in its bylaws, which vote may be  
 4202 by a proxy specifically delineating the different voting and  
 4203 election procedures. The different voting and election  
 4204 procedures may provide for elections to be conducted by limited  
 4205 or general proxy.

4206 (j) Recall of board members.—Subject to the provisions of  
 4207 s. 718.301, any member of the board of administration may be  
 4208 recalled and removed from office with or without cause by the  
 4209 vote or agreement in writing by a majority of all the voting  
 4210 interests. A special meeting of the unit owners to recall a  
 4211 member or members of the board of administration may be called  
 4212 by 10 percent of the voting interests giving notice of the  
 4213 meeting as required for a meeting of unit owners, and the notice  
 4214 shall state the purpose of the meeting. Electronic transmission  
 4215 may not be used as a method of giving notice of a meeting called  
 4216 in whole or in part for this purpose.

4217 1. If the recall is approved by a majority of all voting  
 4218 interests by a vote at a meeting, the recall will be effective  
 4219 as provided herein. The board shall duly notice and hold a board  
 4220 meeting within 5 full business days of the adjournment of the  
 4221 unit owner meeting to recall one or more board members. At the  
 4222 meeting, the board shall ~~either~~ certify the recall, in which  
 4223 case such member or members shall be recalled effective  
 4224 immediately and shall turn over to the board within 5 full

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4225 business days any and all records and property of the  
 4226 association in their possession, ~~or shall proceed as set forth~~  
 4227 ~~in subparagraph 3.~~

4228 2. If the proposed recall is by an agreement in writing by  
 4229 a majority of all voting interests, the agreement in writing or  
 4230 a copy thereof shall be served on the association by certified  
 4231 mail or by personal service in the manner authorized by chapter  
 4232 48 and the Florida Rules of Civil Procedure. The board of  
 4233 administration shall duly notice and hold a meeting of the board  
 4234 within 5 full business days after receipt of the agreement in  
 4235 writing. At the meeting, the board shall ~~either~~ certify the  
 4236 written agreement to recall a member or members of the board, in  
 4237 which case such member or members shall be recalled effective  
 4238 immediately and shall turn over to the board within 5 full  
 4239 business days any and all records and property of the  
 4240 association in their possession, ~~or proceed as described in~~  
 4241 ~~subparagraph 3.~~

4242 ~~3. If the board determines not to certify the written~~  
 4243 ~~agreement to recall a member or members of the board, or does~~  
 4244 ~~not certify the recall by a vote at a meeting, the board shall,~~  
 4245 ~~within 5 full business days after the meeting, file with the~~  
 4246 ~~division a petition for arbitration pursuant to the procedures~~  
 4247 ~~in s. 718.1255. For the purposes of this section, the unit~~  
 4248 ~~owners who voted at the meeting or who executed the agreement in~~  
 4249 ~~writing shall constitute one party under the petition for~~  
 4250 ~~arbitration. If the arbitrator certifies the recall as to any~~  
 4251 ~~member or members of the board, the recall will be effective~~  
 4252 ~~upon mailing of the final order of arbitration to the~~



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4253 ~~association. If the association fails to comply with the order~~  
 4254 ~~of the arbitrator, the division may take action pursuant to s.~~  
 4255 ~~718.501. Any member or members so recalled shall deliver to the~~  
 4256 ~~board any and all records of the association in their possession~~  
 4257 ~~within 5 full business days of the effective date of the recall.~~

4258 3.4. If the board fails to duly notice and hold a board  
 4259 meeting within 5 full business days of service of an agreement  
 4260 in writing or within 5 full business days of the adjournment of  
 4261 the unit owner recall meeting, the recall shall be deemed  
 4262 effective and the board members so recalled shall immediately  
 4263 turn over to the board any and all records and property of the  
 4264 association.

4265 4.5. If a vacancy occurs on the board as a result of a  
 4266 recall or removal and less than a majority of the board members  
 4267 are removed, the vacancy may be filled by the affirmative vote  
 4268 of a majority of the remaining directors, notwithstanding any  
 4269 provision to the contrary contained in this subsection. If  
 4270 vacancies occur on the board as a result of a recall and a  
 4271 majority or more of the board members are removed, the vacancies  
 4272 shall be filled in accordance with procedural rules to be  
 4273 adopted by the division, which rules need not be consistent with  
 4274 this subsection. The rules must provide procedures governing the  
 4275 conduct of the recall election as well as the operation of the  
 4276 association during the period after a recall but prior to the  
 4277 recall election.

4278 ~~(k) Arbitration. There shall be a provision for mandatory~~  
 4279 ~~nonbinding arbitration as provided for in s. 718.1255.~~

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4280 Section 158. Section 718.1255, Florida Statutes, is  
 4281 repealed.

4282 Section 159. Subsection (11) of section 718.202, Florida  
 4283 Statutes, is renumbered as subsection (10) and subsections (1)  
 4284 and (10) of that section are amended to read:

4285 718.202 Sales or reservation deposits prior to closing.-

4286 (1) If a developer contracts to sell a condominium parcel  
 4287 and the construction, furnishing, and landscaping of the  
 4288 property submitted or proposed to be submitted to condominium  
 4289 ownership has not been substantially completed in accordance  
 4290 with the plans and specifications and representations made by  
 4291 the developer in the disclosures required by this chapter, the  
 4292 developer shall pay into an escrow account all payments up to 10  
 4293 percent of the sale price received by the developer from the  
 4294 buyer towards the sale price. The escrow agent shall give to the  
 4295 purchaser a receipt for the deposit, upon request. ~~In lieu of~~  
 4296 ~~the foregoing, the division director has the discretion to~~  
 4297 ~~accept other assurances, including, but not limited to, a surety~~  
 4298 ~~bond or an irrevocable letter of credit in an amount equal to~~  
 4299 ~~the escrow requirements of this section.~~ Default determinations  
 4300 and refund of deposits shall be governed by the escrow release  
 4301 provision of this subsection. Funds shall be released from  
 4302 escrow as follows:

4303 (a) If a buyer properly terminates the contract pursuant  
 4304 to its terms or pursuant to this chapter, the funds shall be  
 4305 paid to the buyer together with any interest earned.

4306 (b) If the buyer defaults in the performance of his or her  
 4307 obligations under the contract of purchase and sale, the funds

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4308 shall be paid to the developer together with any interest  
4309 earned.

4310 (c) If the contract does not provide for the payment of  
4311 any interest earned on the escrowed funds, interest shall be  
4312 paid to the developer at the closing of the transaction.

4313 (d) If the funds of a buyer have not been previously  
4314 disbursed in accordance with the provisions of this subsection,  
4315 they may be disbursed to the developer by the escrow agent at  
4316 the closing of the transaction, unless prior to the disbursement  
4317 the escrow agent receives from the buyer written notice of a  
4318 dispute between the buyer and developer.

4319 ~~(10) Nothing in this section shall be construed to require~~  
4320 ~~any filing with the division in the case of condominiums other~~  
4321 ~~than residential condominiums.~~

4322 Section 160. Subsection (2) of section 718.301, Florida  
4323 Statutes, is amended to read:

4324 718.301 Transfer of association control; claims of defect  
4325 by association.—

4326 (2) Within 75 days after the unit owners other than the  
4327 developer are entitled to elect a member or members of the board  
4328 of administration of an association, the association shall call,  
4329 and give not less than 60 days' notice of an election for the  
4330 members of the board of administration. The election shall  
4331 proceed as provided in s. 718.112(2)(d). The notice may be given  
4332 by any unit owner if the association fails to do so. ~~Upon~~  
4333 ~~election of the first unit owner other than the developer to the~~  
4334 ~~board of administration, the developer shall forward to the~~  
4335 ~~division the name and mailing address of the unit owner board~~

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4336 ~~member.~~

4337 Section 161. Section 718.501, Florida Statutes, is

4338 repealed.

4339 Section 162. Section 718.5011, Florida Statutes, is

4340 repealed.

4341 Section 163. Section 718.5012, Florida Statutes, is

4342 repealed.

4343 Section 164. Section 718.5014, Florida Statutes, is

4344 repealed.

4345 Section 165. Section 718.50151, Florida Statutes, is

4346 repealed.

4347 Section 166. Section 718.50152, Florida Statutes, is

4348 repealed.

4349 Section 167. Section 718.50153, Florida Statutes, is

4350 repealed.

4351 Section 168. Section 718.50154, Florida Statutes, is

4352 repealed.

4353 Section 169. Section 718.50155, Florida Statutes, is

4354 repealed.

4355 Section 170. Section 718.502, Florida Statutes, is

4356 repealed.

4357 Section 171. Paragraph (b) of subsection (1) and paragraph

4358 (a) of subsection (2) of section 718.503, Florida Statutes, are

4359 amended to read:

4360 718.503 Developer disclosure prior to sale; nondeveloper

4361 unit owner disclosure prior to sale; voidability.—

4362 (1) DEVELOPER DISCLOSURE.—

4363 (b) Copies of documents to be furnished to prospective

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4364 buyer or lessee.—Until such time as the developer has furnished  
 4365 the documents listed below to a person who has entered into a  
 4366 contract to purchase a residential unit or lease it for more  
 4367 than 5 years, the contract may be voided by that person,  
 4368 entitling the person to a refund of any deposit together with  
 4369 interest thereon as provided in s. 718.202. The contract may be  
 4370 terminated by written notice from the proposed buyer or lessee  
 4371 delivered to the developer within 15 days after the buyer or  
 4372 lessee receives all of the documents required by this section.  
 4373 The developer may not close for 15 days following the execution  
 4374 of the agreement and delivery of the documents to the buyer as  
 4375 evidenced by a signed receipt for documents unless the buyer is  
 4376 informed in the 15-day voidability period and agrees to close  
 4377 prior to the expiration of the 15 days. The developer shall  
 4378 retain in his or her records a separate agreement signed by the  
 4379 buyer as proof of the buyer's agreement to close prior to the  
 4380 expiration of said voidability period. Said proof shall be  
 4381 retained for a period of 5 years after the date of the closing  
 4382 of the transaction. The documents to be delivered to the  
 4383 prospective buyer are the prospectus or disclosure statement  
 4384 with all exhibits, if the development is subject to the  
 4385 provisions of s. 718.504, or, if not, then copies of the  
 4386 following which are applicable:  
 4387       1. The question and answer sheet described in s. 718.504,  
 4388 and declaration of condominium, or the proposed declaration if  
 4389 the declaration has not been recorded, which shall include the  
 4390 certificate of a surveyor approximately representing the  
 4391 locations required by s. 718.104.

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- 4392 | 2. The documents creating the association.
- 4393 | 3. The bylaws.
- 4394 | 4. The ground lease or other underlying lease of the
- 4395 | condominium.
- 4396 | 5. The management contract, maintenance contract, and
- 4397 | other contracts for management of the association and operation
- 4398 | of the condominium and facilities used by the unit owners having
- 4399 | a service term in excess of 1 year, and any management contracts
- 4400 | that are renewable.
- 4401 | 6. The estimated operating budget for the condominium and
- 4402 | a schedule of expenses for each type of unit, including fees
- 4403 | assessed pursuant to s. 718.113(1) for the maintenance of
- 4404 | limited common elements where such costs are shared only by
- 4405 | those entitled to use the limited common elements.
- 4406 | 7. The lease of recreational and other facilities that
- 4407 | will be used only by unit owners of the subject condominium.
- 4408 | 8. The lease of recreational and other common facilities
- 4409 | that will be used by unit owners in common with unit owners of
- 4410 | other condominiums.
- 4411 | 9. The form of unit lease if the offer is of a leasehold.
- 4412 | 10. Any declaration of servitude of properties serving the
- 4413 | condominium but not owned by unit owners or leased to them or
- 4414 | the association.
- 4415 | 11. If the development is to be built in phases or if the
- 4416 | association is to manage more than one condominium, a
- 4417 | description of the plan of phase development or the arrangements
- 4418 | for the association to manage two or more condominiums.
- 4419 | 12. If the condominium is a conversion of existing

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4420 improvements, the statements and disclosure required by s.  
 4421 718.616.

4422 13. The form of agreement for sale or lease of units.

4423 14. A copy of the floor plan of the unit and the plot plan  
 4424 showing the location of the residential buildings and the  
 4425 recreation and other common areas.

4426 15. A copy of all covenants and restrictions which will  
 4427 affect the use of the property and which are not contained in  
 4428 the foregoing.

4429 16. If the developer is required by state or local  
 4430 authorities to obtain acceptance or approval of any dock or  
 4431 marina facilities intended to serve the condominium, ~~a copy of~~  
 4432 ~~any such acceptance or approval acquired by the time of filing~~  
 4433 ~~with the division under s. 718.502(1), or~~ a statement that such  
 4434 acceptance or approval has not been acquired or received.

4435 17. Evidence demonstrating that the developer has an  
 4436 ownership, leasehold, or contractual interest in the land upon  
 4437 which the condominium is to be developed.

4438 (2) NONDEVELOPER DISCLOSURE.—

4439 (a) Each unit owner who is not a developer as defined by  
 4440 this chapter shall comply with the provisions of this subsection  
 4441 prior to the sale of his or her unit. Each prospective purchaser  
 4442 who has entered into a contract for the purchase of a  
 4443 condominium unit is entitled, at the seller's expense, to a  
 4444 current copy of the declaration of condominium, articles of  
 4445 incorporation of the association, bylaws and rules of the  
 4446 association, financial information required by s. 718.111, and  
 4447 the document entitled "Frequently Asked Questions and Answers"

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4448 required by s. 718.504. On and after January 1, 2009, the  
 4449 prospective purchaser shall also be entitled to receive from the  
 4450 seller a copy of a governance form. ~~Such form shall be provided~~  
 4451 ~~by the division summarizing governance of condominium~~  
 4452 ~~associations. In addition to such other information as the~~  
 4453 ~~division considers helpful to a prospective purchaser in~~  
 4454 ~~understanding association governance,~~ The governance form shall  
 4455 address the following subjects:

4456 1. The role of the board in conducting the day-to-day  
 4457 affairs of the association on behalf of, and in the best  
 4458 interests of, the owners.

4459 2. The board's responsibility to provide advance notice of  
 4460 board and membership meetings.

4461 3. The rights of owners to attend and speak at board and  
 4462 membership meetings.

4463 4. The responsibility of the board and of owners with  
 4464 respect to maintenance of the condominium property.

4465 5. The responsibility of the board and owners to abide by  
 4466 the condominium documents, this chapter, rules adopted by the  
 4467 division, and reasonable rules adopted by the board.

4468 6. Owners' rights to inspect and copy association records  
 4469 and the limitations on such rights.

4470 7. Remedies available to owners with respect to actions by  
 4471 the board which may be abusive or beyond the board's power and  
 4472 authority.

4473 8. The right of the board to hire a property management  
 4474 firm, subject to its own primary responsibility for such  
 4475 management.



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4476           9. The responsibility of owners with regard to payment of  
4477 regular or special assessments necessary for the operation of  
4478 the property and the potential consequences of failure to pay  
4479 such assessments.

4480           10. The voting rights of owners.

4481           11. Rights and obligations of the board in enforcement of  
4482 rules in the condominium documents and rules adopted by the  
4483 board.

4484  
4485 The governance form shall also include the following statement  
4486 in conspicuous type: "This publication is intended as an  
4487 informal educational overview of condominium governance. In the  
4488 event of a conflict, the provisions of chapter 718, Florida  
4489 Statutes, rules adopted by the Division of Florida Condominiums,  
4490 Timeshares, and Mobile Homes of the Department of Business and  
4491 Professional Regulation, the provisions of the condominium  
4492 documents, and reasonable rules adopted by the condominium  
4493 association's board of administration prevail over the contents  
4494 of this publication."

4495           Section 172. Section 718.504, Florida Statutes, is amended  
4496 to read:

4497           718.504 Prospectus or offering circular.—Every developer  
4498 of a residential condominium which contains more than 20  
4499 residential units, or which is part of a group of residential  
4500 condominiums which will be served by property to be used in  
4501 common by unit owners of more than 20 residential units, shall  
4502 prepare a prospectus or offering circular ~~and file it with the~~  
4503 ~~Division of Florida Condominiums, Timeshares, and Mobile Homes~~

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4504 prior to entering into an enforceable contract of purchase and  
 4505 sale of any unit or lease of a unit for more than 5 years and  
 4506 shall furnish a copy of the prospectus or offering circular to  
 4507 each buyer. In addition to the prospectus or offering circular,  
 4508 each buyer shall be furnished a separate page entitled  
 4509 "Frequently Asked Questions and Answers," ~~which shall be in~~  
 4510 ~~accordance with a format approved by the division~~ and a copy of  
 4511 the financial information required by s. 718.111. This page  
 4512 shall, in readable language, inform prospective purchasers  
 4513 regarding their voting rights and unit use restrictions,  
 4514 including restrictions on the leasing of a unit; shall indicate  
 4515 whether and in what amount the unit owners or the association is  
 4516 obligated to pay rent or land use fees for recreational or other  
 4517 commonly used facilities; shall contain a statement identifying  
 4518 that amount of assessment which, pursuant to the budget, would  
 4519 be levied upon each unit type, exclusive of any special  
 4520 assessments, and which shall further identify the basis upon  
 4521 which assessments are levied, whether monthly, quarterly, or  
 4522 otherwise; shall state and identify any court cases in which the  
 4523 association is currently a party of record in which the  
 4524 association may face liability in excess of \$100,000; and which  
 4525 shall further state whether membership in a recreational  
 4526 facilities association is mandatory, and if so, shall identify  
 4527 the fees currently charged per unit type. ~~The division shall by~~  
 4528 ~~rule require such other disclosure as in its judgment will~~  
 4529 ~~assist prospective purchasers. The prospectus or offering~~  
 4530 ~~circular may include more than one condominium, although not all~~  
 4531 ~~such units are being offered for sale as of the date of the~~

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4532 ~~prospectus or offering circular.~~ The prospectus or offering  
 4533 circular must contain the following information:  
 4534 (1) The front cover or the first page must contain only:  
 4535 (a) The name of the condominium.  
 4536 (b) The following statements in conspicuous type:  
 4537 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
 4538 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.  
 4539 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
 4540 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
 4541 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
 4542 MATERIALS.  
 4543 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
 4544 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
 4545 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
 4546 REPRESENTATIONS.  
 4547 (2) Summary: The next page must contain all statements  
 4548 required to be in conspicuous type in the prospectus or offering  
 4549 circular.  
 4550 (3) A separate index of the contents and exhibits of the  
 4551 prospectus.  
 4552 (4) Beginning on the first page of the text (not including  
 4553 the summary and index), a description of the condominium,  
 4554 including, but not limited to, the following information:  
 4555 (a) Its name and location.  
 4556 (b) A description of the condominium property, including,  
 4557 without limitation:  
 4558 1. The number of buildings, the number of units in each  
 4559 building, the number of bathrooms and bedrooms in each unit, and

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4560 the total number of units, if the condominium is not a phase  
 4561 condominium, or the maximum number of buildings that may be  
 4562 contained within the condominium, the minimum and maximum  
 4563 numbers of units in each building, the minimum and maximum  
 4564 numbers of bathrooms and bedrooms that may be contained in each  
 4565 unit, and the maximum number of units that may be contained  
 4566 within the condominium, if the condominium is a phase  
 4567 condominium.

4568 2. The page in the condominium documents where a copy of  
 4569 the plot plan and survey of the condominium is located.

4570 3. The estimated latest date of completion of  
 4571 constructing, finishing, and equipping. In lieu of a date, the  
 4572 description shall include a statement that the estimated date of  
 4573 completion of the condominium is in the purchase agreement and a  
 4574 reference to the article or paragraph containing that  
 4575 information.

4576 (c) The maximum number of units that will use facilities  
 4577 in common with the condominium. If the maximum number of units  
 4578 will vary, a description of the basis for variation and the  
 4579 minimum amount of dollars per unit to be spent for additional  
 4580 recreational facilities or enlargement of such facilities. If  
 4581 the addition or enlargement of facilities will result in a  
 4582 material increase of a unit owner's maintenance expense or  
 4583 rental expense, if any, the maximum increase and limitations  
 4584 thereon shall be stated.

4585 (5) (a) A statement in conspicuous type describing whether  
 4586 the condominium is created and being sold as fee simple  
 4587 interests or as leasehold interests. If the condominium is

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4588 | created or being sold on a leasehold, the location of the lease  
 4589 | in the disclosure materials shall be stated.

4590 |       (b) If timeshare estates are or may be created with  
 4591 | respect to any unit in the condominium, a statement in  
 4592 | conspicuous type stating that timeshare estates are created and  
 4593 | being sold in units in the condominium.

4594 |       (6) A description of the recreational and other commonly  
 4595 | used facilities that will be used only by unit owners of the  
 4596 | condominium, including, but not limited to, the following:

4597 |           (a) Each room and its intended purposes, location,  
 4598 | approximate floor area, and capacity in numbers of people.

4599 |           (b) Each swimming pool, as to its general location,  
 4600 | approximate size and depths, approximate deck size and capacity,  
 4601 | and whether heated.

4602 |           (c) Additional facilities, as to the number of each  
 4603 | facility, its approximate location, approximate size, and  
 4604 | approximate capacity.

4605 |           (d) A general description of the items of personal  
 4606 | property and the approximate number of each item of personal  
 4607 | property that the developer is committing to furnish for each  
 4608 | room or other facility or, in the alternative, a representation  
 4609 | as to the minimum amount of expenditure that will be made to  
 4610 | purchase the personal property for the facility.

4611 |           (e) The estimated date when each room or other facility  
 4612 | will be available for use by the unit owners.

4613 |           (f)1. An identification of each room or other facility to  
 4614 | be used by unit owners that will not be owned by the unit owners  
 4615 | or the association;

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4616 2. A reference to the location in the disclosure materials  
 4617 of the lease or other agreements providing for the use of those  
 4618 facilities; and

4619 3. A description of the terms of the lease or other  
 4620 agreements, including the length of the term; the rent payable,  
 4621 directly or indirectly, by each unit owner, and the total rent  
 4622 payable to the lessor, stated in monthly and annual amounts for  
 4623 the entire term of the lease; and a description of any option to  
 4624 purchase the property leased under any such lease, including the  
 4625 time the option may be exercised, the purchase price or how it  
 4626 is to be determined, the manner of payment, and whether the  
 4627 option may be exercised for a unit owner's share or only as to  
 4628 the entire leased property.

4629 (g) A statement as to whether the developer may provide  
 4630 additional facilities not described above; their general  
 4631 locations and types; improvements or changes that may be made;  
 4632 the approximate dollar amount to be expended; and the maximum  
 4633 additional common expense or cost to the individual unit owners  
 4634 that may be charged during the first annual period of operation  
 4635 of the modified or added facilities.

4636  
 4637 Descriptions as to locations, areas, capacities, numbers,  
 4638 volumes, or sizes may be stated as approximations or minimums.

4639 (7) A description of the recreational and other facilities  
 4640 that will be used in common with other condominiums, community  
 4641 associations, or planned developments which require the payment  
 4642 of the maintenance and expenses of such facilities, directly or  
 4643 indirectly, by the unit owners. The description shall include,

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4644 but not be limited to, the following:

4645       (a) Each building and facility committed to be built.

4646       (b) Facilities not committed to be built except under

4647 certain conditions, and a statement of those conditions or

4648 contingencies.

4649       (c) As to each facility committed to be built, or which

4650 will be committed to be built upon the happening of one of the

4651 conditions in paragraph (b), a statement of whether it will be

4652 owned by the unit owners having the use thereof or by an

4653 association or other entity which will be controlled by them, or

4654 others, and the location in the exhibits of the lease or other

4655 document providing for use of those facilities.

4656       (d) The year in which each facility will be available for

4657 use by the unit owners or, in the alternative, the maximum

4658 number of unit owners in the project at the time each of all of

4659 the facilities is committed to be completed.

4660       (e) A general description of the items of personal

4661 property, and the approximate number of each item of personal

4662 property, that the developer is committing to furnish for each

4663 room or other facility or, in the alternative, a representation

4664 as to the minimum amount of expenditure that will be made to

4665 purchase the personal property for the facility.

4666       (f) If there are leases, a description thereof, including

4667 the length of the term, the rent payable, and a description of

4668 any option to purchase.

4669

4670 Descriptions shall include location, areas, capacities, numbers,

4671 volumes, or sizes and may be stated as approximations or

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4672 minimums.

4673 (8) Recreation lease or associated club membership:

4674 (a) If any recreational facilities or other facilities

4675 offered by the developer and available to, or to be used by,

4676 unit owners are to be leased or have club membership associated,

4677 the following statement in conspicuous type shall be included:

4678 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS

4679 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS

4680 CONDOMINIUM. There shall be a reference to the location in the

4681 disclosure materials where the recreation lease or club

4682 membership is described in detail.

4683 (b) If it is mandatory that unit owners pay a fee, rent,

4684 dues, or other charges under a recreational facilities lease or

4685 club membership for the use of facilities, there shall be in

4686 conspicuous type the applicable statement:

4687 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS

4688 MANDATORY FOR UNIT OWNERS; or

4689 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,

4690 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

4691 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE

4692 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,

4693 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES

4694 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

4695 4. A similar statement of the nature of the organization

4696 or the manner in which the use rights are created, and that unit

4697 owners are required to pay.

4698

4699 Immediately following the applicable statement, the location in



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4700 the disclosure materials where the development is described in  
 4701 detail shall be stated.

4702 (c) If the developer, or any other person other than the  
 4703 unit owners and other persons having use rights in the  
 4704 facilities, reserves, or is entitled to receive, any rent, fee,  
 4705 or other payment for the use of the facilities, then there shall  
 4706 be the following statement in conspicuous type: THE UNIT OWNERS  
 4707 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 4708 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
 4709 following this statement, the location in the disclosure  
 4710 materials where the rent or land use fees are described in  
 4711 detail shall be stated.

4712 (d) If, in any recreation format, whether leasehold, club,  
 4713 or other, any person other than the association has the right to  
 4714 a lien on the units to secure the payment of assessments, rent,  
 4715 or other exactions, there shall appear a statement in  
 4716 conspicuous type in substantially the following form:

4717 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 4718 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
 4719 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 4720 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

4721 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 4722 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
 4723 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
 4724 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
 4725 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

4726  
 4727 Immediately following the applicable statement, the location in

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4728 | the disclosure materials where the lien or lien right is  
 4729 | described in detail shall be stated.

4730 |       (9) If the developer or any other person has the right to  
 4731 | increase or add to the recreational facilities at any time after  
 4732 | the establishment of the condominium whose unit owners have use  
 4733 | rights therein, without the consent of the unit owners or  
 4734 | associations being required, there shall appear a statement in  
 4735 | conspicuous type in substantially the following form:

4736 | RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
 4737 | OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
 4738 | statement, the location in the disclosure materials where such  
 4739 | reserved rights are described shall be stated.

4740 |       (10) A statement of whether the developer's plan includes  
 4741 | a program of leasing units rather than selling them, or leasing  
 4742 | units and selling them subject to such leases. If so, there  
 4743 | shall be a description of the plan, including the number and  
 4744 | identification of the units and the provisions and term of the  
 4745 | proposed leases, and a statement in boldfaced type that: THE  
 4746 | UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

4747 |       (11) The arrangements for management of the association  
 4748 | and maintenance and operation of the condominium property and of  
 4749 | other property that will serve the unit owners of the  
 4750 | condominium property, and a description of the management  
 4751 | contract and all other contracts for these purposes having a  
 4752 | term in excess of 1 year, including the following:

- 4753 |       (a) The names of contracting parties.
- 4754 |       (b) The term of the contract.
- 4755 |       (c) The nature of the services included.

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4756 (d) The compensation, stated on a monthly and annual  
 4757 basis, and provisions for increases in the compensation.

4758 (e) A reference to the volumes and pages of the  
 4759 condominium documents and of the exhibits containing copies of  
 4760 such contracts.

4761  
 4762 Copies of all described contracts shall be attached as exhibits.  
 4763 If there is a contract for the management of the condominium  
 4764 property, then a statement in conspicuous type in substantially  
 4765 the following form shall appear, identifying the proposed or  
 4766 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
 4767 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE  
 4768 CONTRACT MANAGER). Immediately following this statement, the  
 4769 location in the disclosure materials of the contract for  
 4770 management of the condominium property shall be stated.

4771 (12) If the developer or any other person or persons other  
 4772 than the unit owners has the right to retain control of the  
 4773 board of administration of the association for a period of time  
 4774 which can exceed 1 year after the closing of the sale of a  
 4775 majority of the units in that condominium to persons other than  
 4776 successors or alternate developers, then a statement in  
 4777 conspicuous type in substantially the following form shall be  
 4778 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
 4779 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
 4780 HAVE BEEN SOLD. Immediately following this statement, the  
 4781 location in the disclosure materials where this right to control  
 4782 is described in detail shall be stated.

4783 (13) If there are any restrictions upon the sale,

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4784 transfer, conveyance, or leasing of a unit, then a statement in  
 4785 conspicuous type in substantially the following form shall be  
 4786 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
 4787 CONTROLLED. Immediately following this statement, the location  
 4788 in the disclosure materials where the restriction, limitation,  
 4789 or control on the sale, lease, or transfer of units is described  
 4790 in detail shall be stated.

4791 (14) If the condominium is part of a phase project, the  
 4792 following information shall be stated:

4793 (a) A statement in conspicuous type in substantially the  
 4794 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
 4795 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
 4796 this statement, the location in the disclosure materials where  
 4797 the phasing is described shall be stated.

4798 (b) A summary of the provisions of the declaration which  
 4799 provide for the phasing.

4800 (c) A statement as to whether or not residential buildings  
 4801 and units which are added to the condominium may be  
 4802 substantially different from the residential buildings and units  
 4803 originally in the condominium. If the added residential  
 4804 buildings and units may be substantially different, there shall  
 4805 be a general description of the extent to which such added  
 4806 residential buildings and units may differ, and a statement in  
 4807 conspicuous type in substantially the following form shall be  
 4808 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM  
 4809 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
 4810 UNITS IN THE CONDOMINIUM. Immediately following this statement,  
 4811 the location in the disclosure materials where the extent to

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4812 which added residential buildings and units may substantially  
 4813 differ is described shall be stated.

4814 (d) A statement of the maximum number of buildings  
 4815 containing units, the maximum and minimum numbers of units in  
 4816 each building, the maximum number of units, and the minimum and  
 4817 maximum square footage of the units that may be contained within  
 4818 each parcel of land which may be added to the condominium.

4819 (15) If a condominium created on or after July 1, 2000, is  
 4820 or may become part of a multicondominium, the following  
 4821 information must be provided:

4822 (a) A statement in conspicuous type in substantially the  
 4823 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
 4824 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
 4825 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following  
 4826 this statement, the location in the prospectus or offering  
 4827 circular and its exhibits where the multicondominium aspects of  
 4828 the offering are described must be stated.

4829 (b) A summary of the provisions in the declaration,  
 4830 articles of incorporation, and bylaws which establish and  
 4831 provide for the operation of the multicondominium, including a  
 4832 statement as to whether unit owners in the condominium will have  
 4833 the right to use recreational or other facilities located or  
 4834 planned to be located in other condominiums operated by the same  
 4835 association, and the manner of sharing the common expenses  
 4836 related to such facilities.

4837 (c) A statement of the minimum and maximum number of  
 4838 condominiums, and the minimum and maximum number of units in  
 4839 each of those condominiums, which will or may be operated by the

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4840 association, and the latest date by which the exact number will  
 4841 be finally determined.

4842 (d) A statement as to whether any of the condominiums in  
 4843 the multicondominium may include units intended to be used for  
 4844 nonresidential purposes and the purpose or purposes permitted  
 4845 for such use.

4846 (e) A general description of the location and approximate  
 4847 acreage of any land on which any additional condominiums to be  
 4848 operated by the association may be located.

4849 (16) If the condominium is created by conversion of  
 4850 existing improvements, the following information shall be  
 4851 stated:

4852 (a) The information required by s. 718.616.

4853 (b) A caveat that there are no express warranties unless  
 4854 they are stated in writing by the developer.

4855 (17) A summary of the restrictions, if any, to be imposed  
 4856 on units concerning the use of any of the condominium property,  
 4857 including statements as to whether there are restrictions upon  
 4858 children and pets, and reference to the volumes and pages of the  
 4859 condominium documents where such restrictions are found, or if  
 4860 such restrictions are contained elsewhere, then a copy of the  
 4861 documents containing the restrictions shall be attached as an  
 4862 exhibit.

4863 (18) If there is any land that is offered by the developer  
 4864 for use by the unit owners and that is neither owned by them nor  
 4865 leased to them, the association, or any entity controlled by  
 4866 unit owners and other persons having the use rights to such  
 4867 land, a statement shall be made as to how such land will serve

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4868 the condominium. If any part of such land will serve the  
 4869 condominium, the statement shall describe the land and the  
 4870 nature and term of service, and the declaration or other  
 4871 instrument creating such servitude shall be included as an  
 4872 exhibit.

4873 (19) The manner in which utility and other services,  
 4874 including, but not limited to, sewage and waste disposal, water  
 4875 supply, and storm drainage, will be provided and the person or  
 4876 entity furnishing them.

4877 (20) An explanation of the manner in which the  
 4878 apportionment of common expenses and ownership of the common  
 4879 elements has been determined.

4880 (21) An estimated operating budget for the condominium and  
 4881 the association, and a schedule of the unit owner's expenses  
 4882 shall be attached as an exhibit and shall contain the following  
 4883 information:

4884 (a) The estimated monthly and annual expenses of the  
 4885 condominium and the association that are collected from unit  
 4886 owners by assessments.

4887 (b) The estimated monthly and annual expenses of each unit  
 4888 owner for a unit, other than common expenses paid by all unit  
 4889 owners, payable by the unit owner to persons or entities other  
 4890 than the association, as well as to the association, including  
 4891 fees assessed pursuant to s. 718.113(1) for maintenance of  
 4892 limited common elements where such costs are shared only by  
 4893 those entitled to use the limited common element, and the total  
 4894 estimated monthly and annual expense. There may be excluded from  
 4895 this estimate expenses which are not provided for or

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4896 contemplated by the condominium documents, including, but not  
 4897 limited to, the costs of private telephone; maintenance of the  
 4898 interior of condominium units, which is not the obligation of  
 4899 the association; maid or janitorial services privately  
 4900 contracted for by the unit owners; utility bills billed directly  
 4901 to each unit owner for utility services to his or her unit;  
 4902 insurance premiums other than those incurred for policies  
 4903 obtained by the condominium; and similar personal expenses of  
 4904 the unit owner. A unit owner's estimated payments for  
 4905 assessments shall also be stated in the estimated amounts for  
 4906 the times when they will be due.

4907 (c) The estimated items of expenses of the condominium and  
 4908 the association, except as excluded under paragraph (b),  
 4909 including, but not limited to, the following items, which shall  
 4910 be stated as an association expense collectible by assessments  
 4911 or as unit owners' expenses payable to persons other than the  
 4912 association:

- 4913 1. Expenses for the association and condominium:
- 4914 a. Administration of the association.
- 4915 b. Management fees.
- 4916 c. Maintenance.
- 4917 d. Rent for recreational and other commonly used
- 4918 facilities.
- 4919 e. Taxes upon association property.
- 4920 f. Taxes upon leased areas.
- 4921 g. Insurance.
- 4922 h. Security provisions.
- 4923 i. Other expenses.



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4924 j. Operating capital.

4925 k. Reserves.

4926 1. Fees payable to the division.

4927 2. Expenses for a unit owner:

4928 a. Rent for the unit, if subject to a lease.

4929 b. Rent payable by the unit owner directly to the lessor

4930 or agent under any recreational lease or lease for the use of

4931 commonly used facilities, which use and payment is a mandatory

4932 condition of ownership and is not included in the common expense

4933 or assessments for common maintenance paid by the unit owners to

4934 the association.

4935 (d) The following statement in conspicuous type: THE

4936 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN

4937 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE

4938 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON

4939 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.

4940 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH

4941 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN

4942 THE OFFERING.

4943 (e) Each budget for an association prepared by a developer

4944 consistent with this subsection shall be prepared in good faith

4945 and shall reflect accurate estimated amounts for the required

4946 items in paragraph (c) ~~at the time of the filing of the offering~~

4947 ~~circular with the division~~, and subsequent increased amounts of

4948 any item included in the association's estimated budget that are

4949 beyond the control of the developer shall not be considered an

4950 amendment that would give rise to rescission rights set forth in

4951 s. 718.503(1) (a) or (b), nor shall such increases modify, void,

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4952 or otherwise affect any guarantee of the developer contained in  
 4953 the offering circular or any purchase contract. It is the intent  
 4954 of this paragraph to clarify existing law.

4955 (f) The estimated amounts shall be stated for a period of  
 4956 at least 12 months and may distinguish between the period prior  
 4957 to the time unit owners other than the developer elect a  
 4958 majority of the board of administration and the period after  
 4959 that date.

4960 (22) A schedule of estimated closing expenses to be paid  
 4961 by a buyer or lessee of a unit and a statement of whether title  
 4962 opinion or title insurance policy is available to the buyer and,  
 4963 if so, at whose expense.

4964 (23) The identity of the developer and the chief operating  
 4965 officer or principal directing the creation and sale of the  
 4966 condominium and a statement of its and his or her experience in  
 4967 this field.

4968 (24) Copies of the following, to the extent they are  
 4969 applicable, shall be included as exhibits:

4970 (a) The declaration of condominium, or the proposed  
 4971 declaration if the declaration has not been recorded.

4972 (b) The articles of incorporation creating the  
 4973 association.

4974 (c) The bylaws of the association.

4975 (d) The ground lease or other underlying lease of the  
 4976 condominium.

4977 (e) The management agreement and all maintenance and other  
 4978 contracts for management of the association and operation of the  
 4979 condominium and facilities used by the unit owners having a

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4980 service term in excess of 1 year.

4981 (f) The estimated operating budget for the condominium and  
 4982 the required schedule of unit owners' expenses.

4983 (g) A copy of the floor plan of the unit and the plot plan  
 4984 showing the location of the residential buildings and the  
 4985 recreation and other common areas.

4986 (h) The lease of recreational and other facilities that  
 4987 will be used only by unit owners of the subject condominium.

4988 (i) The lease of facilities used by owners and others.

4989 (j) The form of unit lease, if the offer is of a  
 4990 leasehold.

4991 (k) A declaration of servitude of properties serving the  
 4992 condominium but not owned by unit owners or leased to them or  
 4993 the association.

4994 (l) The statement of condition of the existing building or  
 4995 buildings, if the offering is of units in an operation being  
 4996 converted to condominium ownership.

4997 (m) The statement of inspection for termite damage and  
 4998 treatment of the existing improvements, if the condominium is a  
 4999 conversion.

5000 (n) The form of agreement for sale or lease of units.

5001 (o) A copy of the agreement for escrow of payments made to  
 5002 the developer prior to closing.

5003 (p) A copy of the documents containing any restrictions on  
 5004 use of the property required by subsection (17).

5005 (25) Any prospectus or offering circular complying, prior  
 5006 to the effective date of this act, with the provisions of former  
 5007 ss. 711.69 and 711.802 may continue to be used without amendment

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5008 or may be amended to comply with this chapter.

5009 (26) A brief narrative description of the location and  
 5010 effect of all existing and intended easements located or to be  
 5011 located on the condominium property other than those described  
 5012 in the declaration.

5013 (27) If the developer is required by state or local  
 5014 authorities to obtain acceptance or approval of any dock or  
 5015 marina facilities intended to serve the condominium, ~~a copy of~~  
 5016 ~~any such acceptance or approval acquired by the time of filing~~  
 5017 ~~with the division under s. 718.502(1) or a statement that such~~  
 5018 acceptance or approval has not been acquired or received.

5019 (28) Evidence demonstrating that the developer has an  
 5020 ownership, leasehold, or contractual interest in the land upon  
 5021 which the condominium is to be developed.

5022 Section 173. Section 718.509, Florida Statutes, is  
 5023 repealed.

5024 Section 174. Subsections (4) and (5) of section 719.608,  
 5025 Florida Statutes, are amended to read:

5026 719.608 Notice of intended conversion; time of delivery;  
 5027 content.—

5028 ~~(4) Upon the request of a developer and payment of a fee~~  
 5029 ~~prescribed by the rules of the division not to exceed \$50, the~~  
 5030 ~~division may verify to a developer that a notice complies with~~  
 5031 ~~this section.~~

5032 ~~(5) Prior to delivering a notice of intended conversion to~~  
 5033 ~~tenants of existing improvements being converted to a~~  
 5034 ~~residential cooperative, each developer shall file with the~~  
 5035 ~~division a copy of the notice of intended conversion. Upon~~

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5036 ~~filing, each developer shall pay to the division a filing fee of~~  
 5037 ~~\$100.~~

5038 Section 175. Section 718.621, Florida Statutes, is  
 5039 repealed.

5040 Section 176. Subsections (18) through (28) of section  
 5041 719.103, Florida Statutes, are renumbered as subsections (17)  
 5042 through (27), respectively, and subsection (17) is amended to  
 5043 read:

5044 719.103 Definitions.—As used in this chapter:

5045 ~~(17) "Division" means the Division of Florida~~  
 5046 ~~Condominiums, Timeshares, and Mobile Homes of the Department of~~  
 5047 ~~Business and Professional Regulation.~~

5048 Section 177. Subsection (1) of section 719.1035, Florida  
 5049 Statutes, is amended to read:

5050 719.1035 Creation of cooperatives.—

5051 (1) The date when cooperative existence shall commence is  
 5052 upon commencement of corporate existence of the cooperative  
 5053 association as provided in s. 607.0203. The cooperative  
 5054 documents must be recorded in the county in which the  
 5055 cooperative is located before property may be conveyed or  
 5056 transferred to the cooperative. All persons who have any record  
 5057 interest in any mortgage encumbering the interest in the land  
 5058 being submitted to cooperative ownership must either join in the  
 5059 execution of the cooperative documents or execute, with the  
 5060 requirements for deed, and record, a consent to the cooperative  
 5061 documents or an agreement subordinating their mortgage interest  
 5062 to the cooperative documents. ~~Upon creation of a cooperative,~~  
 5063 ~~the developer or association shall file the recording~~

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5064 ~~information with the division within 30 working days on a form~~  
 5065 ~~prescribed by the division.~~

5066 Section 178. Subsection (4), paragraph (a) of subsection  
 5067 (8), and subsection (11) of section 719.104, Florida Statutes,  
 5068 are amended to read:

5069 719.104 Cooperatives; access to units; records; financial  
 5070 reports; assessments; purchase of leases.—

5071 (4) FINANCIAL REPORT.—

5072 ~~(a)~~ Within 60 days following the end of the fiscal or  
 5073 calendar year or annually on such date as is otherwise provided  
 5074 in the bylaws of the association, the board of administration of  
 5075 the association shall mail or furnish by personal delivery to  
 5076 each unit owner a complete financial report of actual receipts  
 5077 and expenditures for the previous 12 months, or a complete set  
 5078 of financial statements for the preceding fiscal year prepared  
 5079 in accordance with generally accepted accounting procedures. The  
 5080 report shall show the amounts of receipts by accounts and  
 5081 receipt classifications and shall show the amounts of expenses  
 5082 by accounts and expense classifications including, if  
 5083 applicable, but not limited to, the following:

- 5084 1. Costs for security;
- 5085 2. Professional and management fees and expenses;
- 5086 3. Taxes;
- 5087 4. Costs for recreation facilities;
- 5088 5. Expenses for refuse collection and utility services;
- 5089 6. Expenses for lawn care;
- 5090 7. Costs for building maintenance and repair;
- 5091 8. Insurance costs;

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5092 9. Administrative and salary expenses; and  
 5093 10. Reserves for capital expenditures, deferred  
 5094 maintenance, and any other category for which the association  
 5095 maintains a reserve account or accounts.

~~(b) The division shall adopt rules that may require that  
 5096 the association deliver to the unit owners, in lieu of the  
 5097 financial report required by this section, a complete set of  
 5098 financial statements for the preceding fiscal year. The  
 5099 financial statements shall be delivered within 90 days following  
 5100 the end of the previous fiscal year or annually on such other  
 5101 date as provided in the bylaws. The rules of the division may  
 5102 require that the financial statements be compiled, reviewed, or  
 5103 audited, and the rules shall take into consideration the  
 5104 criteria set forth in s. 719.501(1)(j). The requirement to have  
 5105 the financial statements compiled, reviewed, or audited does not  
 5106 apply to associations if a majority of the voting interests of  
 5107 the association present at a duly called meeting of the  
 5108 association have determined for a fiscal year to waive this  
 5109 requirement. In an association in which turnover of control by  
 5110 the developer has not occurred, the developer may vote to waive  
 5111 the audit requirement for the first 2 years of the operation of  
 5112 the association, after which time waiver of an applicable audit  
 5113 requirement shall be by a majority of voting interests other  
 5114 than the developer. The meeting shall be held prior to the end  
 5115 of the fiscal year, and the waiver shall be effective for only  
 5116 one fiscal year. This subsection does not apply to a cooperative  
 5117 that consists of 50 or fewer units.~~

5118 (8) CORPORATE ENTITY.—  
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5120 (a) The officers and directors of the association have a  
 5121 fiduciary relationship to the unit owners. An officer, director,  
 5122 or manager may not solicit, offer to accept, or accept any thing  
 5123 or service of value for which consideration has not been  
 5124 provided for his or her own benefit or that of his or her  
 5125 immediate family, from any person providing or proposing to  
 5126 provide goods or services to the association. ~~Any such officer,~~  
 5127 ~~director, or manager who knowingly solicits, offers to accept,~~  
 5128 ~~or accepts any thing or service of value is subject to a civil~~  
 5129 ~~penalty pursuant to s. 719.501(1)(d).~~ However, this paragraph  
 5130 does not prohibit an officer, director, or manager from  
 5131 accepting services or items received in connection with trade  
 5132 fairs or education programs.

5133 ~~(11) NOTIFICATION OF DIVISION. When the board of directors~~  
 5134 ~~intends to dissolve or merge the cooperative association, the~~  
 5135 ~~board shall so notify the division before taking any action to~~  
 5136 ~~dissolve or merge the cooperative association.~~

5137 Section 179. Paragraph (c) of subsection (5) and paragraph  
 5138 (b) of subsection (6) of section 719.1055, Florida Statutes, are  
 5139 amended to read:

5140 719.1055 Amendment of cooperative documents; alteration  
 5141 and acquisition of property.—

5142 (5) The bylaws must include a provision whereby a  
 5143 certificate of compliance from a licensed electrical contractor  
 5144 or electrician may be accepted by the association's board as  
 5145 evidence of compliance of the cooperative units with the  
 5146 applicable fire and life safety code.

5147 (c) As part of the information collected annually from



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5148 cooperatives, ~~the division shall require~~ associations must ~~to~~  
 5149 report the membership vote and recording of a certificate under  
 5150 this subsection and, if retrofitting has been undertaken, the  
 5151 per-unit cost of such work. ~~The division shall annually report~~  
 5152 to the Division of State Fire Marshal of the Department of  
 5153 Financial Services ~~the number of cooperatives that have elected~~  
 5154 ~~to forego retrofitting.~~

5155 (6) Notwithstanding the provisions of chapter 633 or of  
 5156 any other code, statute, ordinance, administrative rule, or  
 5157 regulation, or any interpretation thereof, a cooperative or unit  
 5158 owner is not obligated to retrofit the common elements or units  
 5159 of a residential cooperative that meets the definition of  
 5160 "housing for older persons" in s. 760.29(4)(b)3. to comply with  
 5161 requirements relating to handrails and guardrails in a building  
 5162 that has been certified for occupancy by the applicable  
 5163 governmental entity, if the unit owners have voted to forego  
 5164 such retrofitting by the affirmative vote of two-thirds of all  
 5165 voting interests in the affected cooperative. However, a  
 5166 cooperative may not forego the retrofitting in common areas in a  
 5167 high-rise building. For purposes of this subsection, the term  
 5168 "high-rise building" means a building that is greater than 75  
 5169 feet in height where the building height is measured from the  
 5170 lowest level of fire department access to the floor of the  
 5171 highest occupiable story. For purposes of this subsection, the  
 5172 term "common areas" means stairwells and exposed, outdoor  
 5173 walkways and corridors. In no event shall the local authority  
 5174 having jurisdiction require completion of retrofitting of common  
 5175 areas with handrails and guardrails before the end of 2014.

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5176 (b) As part of the information collected annually from  
 5177 cooperatives, ~~the division shall require~~ associations must ~~to~~  
 5178 report the membership vote and recording of a certificate under  
 5179 this subsection and, if retrofitting has been undertaken, the  
 5180 per-unit cost of such work. ~~The division shall annually report~~  
 5181 to the Division of State Fire Marshal of the Department of  
 5182 Financial Services ~~the number of cooperatives that have elected~~  
 5183 ~~to forego retrofitting.~~

5184 Section 180. Paragraphs (b), (f) and (l) of subsection (1)  
 5185 of section 719.106, Florida Statutes, are amended to read:

5186 719.106 Bylaws; cooperative ownership.—

5187 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
 5188 documents shall provide for the following, and if they do not,  
 5189 they shall be deemed to include the following:

5190 (b) Quorum; voting requirements; proxies.—

5191 1. Unless otherwise provided in the bylaws, the percentage  
 5192 of voting interests required to constitute a quorum at a meeting  
 5193 of the members shall be a majority of voting interests, and  
 5194 decisions shall be made by owners of a majority of the voting  
 5195 interests. Unless otherwise provided in this chapter, or in the  
 5196 articles of incorporation, bylaws, or other cooperative  
 5197 documents, and except as provided in subparagraph (d)1.,  
 5198 decisions shall be made by owners of a majority of the voting  
 5199 interests represented at a meeting at which a quorum is present.

5200 2. Except as specifically otherwise provided herein, after  
 5201 January 1, 1992, unit owners may not vote by general proxy, but  
 5202 may vote by limited proxies substantially conforming to a  
 5203 limited proxy form adopted by the division. Limited proxies and

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5204 general proxies may be used to establish a quorum. Limited  
 5205 proxies shall be used for votes taken to waive or reduce  
 5206 reserves in accordance with subparagraph (j)2., ~~for votes taken~~  
 5207 ~~to waive the financial reporting requirements of s.~~  
 5208 ~~719.104(4)(b)~~, for votes taken to amend the articles of  
 5209 incorporation or bylaws pursuant to this section, and for any  
 5210 other matter for which this chapter requires or permits a vote  
 5211 of the unit owners. Except as provided in paragraph (d), after  
 5212 January 1, 1992, no proxy, limited or general, shall be used in  
 5213 the election of board members. General proxies may be used for  
 5214 other matters for which limited proxies are not required, and  
 5215 may also be used in voting for nonsubstantive changes to items  
 5216 for which a limited proxy is required and given. Notwithstanding  
 5217 the provisions of this section, unit owners may vote in person  
 5218 at unit owner meetings. Nothing contained herein shall limit the  
 5219 use of general proxies or require the use of limited proxies or  
 5220 require the use of limited proxies for any agenda item or  
 5221 election at any meeting of a timeshare cooperative.

5222 3. Any proxy given shall be effective only for the  
 5223 specific meeting for which originally given and any lawfully  
 5224 adjourned meetings thereof. In no event shall any proxy be valid  
 5225 for a period longer than 90 days after the date of the first  
 5226 meeting for which it was given. Every proxy shall be revocable  
 5227 at any time at the pleasure of the unit owner executing it.

5228 4. A member of the board of administration or a committee  
 5229 may submit in writing his or her agreement or disagreement with  
 5230 any action taken at a meeting that the member did not attend.  
 5231 This agreement or disagreement may not be used as a vote for or

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5232 | against the action taken and may not be used for the purposes of  
 5233 | creating a quorum.

5234 |         5. When some or all of the board or committee members meet  
 5235 | by telephone conference, those board or committee members  
 5236 | attending by telephone conference may be counted toward  
 5237 | obtaining a quorum and may vote by telephone. A telephone  
 5238 | speaker shall be utilized so that the conversation of those  
 5239 | board or committee members attending by telephone may be heard  
 5240 | by the board or committee members attending in person, as well  
 5241 | as by unit owners present at a meeting.

5242 |         (f) Recall of board members.—Subject to the provisions of  
 5243 | s. 719.301, any member of the board of administration may be  
 5244 | recalled and removed from office with or without cause by the  
 5245 | vote or agreement in writing by a majority of all the voting  
 5246 | interests. A special meeting of the voting interests to recall  
 5247 | any member of the board of administration may be called by 10  
 5248 | percent of the unit owners giving notice of the meeting as  
 5249 | required for a meeting of unit owners, and the notice shall  
 5250 | state the purpose of the meeting. Electronic transmission may  
 5251 | not be used as a method of giving notice of a meeting called in  
 5252 | whole or in part for this purpose.

5253 |         1. If the recall is approved by a majority of all voting  
 5254 | interests by a vote at a meeting, the recall shall be effective  
 5255 | as provided herein. The board shall duly notice and hold a board  
 5256 | meeting within 5 full business days of the adjournment of the  
 5257 | unit owner meeting to recall one or more board members. At the  
 5258 | meeting, the board shall ~~either~~ certify the recall, in which  
 5259 | case such member or members shall be recalled effective

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5260 immediately and shall turn over to the board within 5 full  
 5261 business days any and all records and property of the  
 5262 association in their possession, ~~or shall proceed as set forth~~  
 5263 ~~in subparagraph 3.~~

5264 2. If the proposed recall is by an agreement in writing by  
 5265 a majority of all voting interests, the agreement in writing or  
 5266 a copy thereof shall be served on the association by certified  
 5267 mail or by personal service in the manner authorized by chapter  
 5268 48 and the Florida Rules of Civil Procedure. The board of  
 5269 administration shall duly notice and hold a meeting of the board  
 5270 within 5 full business days after receipt of the agreement in  
 5271 writing. At the meeting, the board shall ~~either~~ certify the  
 5272 written agreement to recall members of the board, in which case  
 5273 such members shall be recalled effective immediately and shall  
 5274 turn over to the board, within 5 full business days, any and all  
 5275 records and property of the association in their possession, ~~or~~  
 5276 ~~proceed as described in subparagraph 3.~~

5277 ~~3. If the board determines not to certify the written~~  
 5278 ~~agreement to recall members of the board, or does not certify~~  
 5279 ~~the recall by a vote at a meeting, the board shall, within 5~~  
 5280 ~~full business days after the board meeting, file with the~~  
 5281 ~~division a petition for binding arbitration pursuant to the~~  
 5282 ~~procedures of s. 719.1255. For purposes of this paragraph, the~~  
 5283 ~~unit owners who voted at the meeting or who executed the~~  
 5284 ~~agreement in writing shall constitute one party under the~~  
 5285 ~~petition for arbitration. If the arbitrator certifies the recall~~  
 5286 ~~as to any member of the board, the recall shall be effective~~  
 5287 ~~upon mailing of the final order of arbitration to the~~

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5288 ~~association. If the association fails to comply with the order~~  
 5289 ~~of the arbitrator, the division may take action pursuant to s.~~  
 5290 ~~719.501. Any member so recalled shall deliver to the board any~~  
 5291 ~~and all records and property of the association in the member's~~  
 5292 ~~possession within 5 full business days of the effective date of~~  
 5293 ~~the recall.~~

5294 3.4. If the board fails to duly notice and hold a board  
 5295 meeting within 5 full business days of service of an agreement  
 5296 in writing or within 5 full business days of the adjournment of  
 5297 the unit owner recall meeting, the recall shall be deemed  
 5298 effective and the board members so recalled shall immediately  
 5299 turn over to the board any and all records and property of the  
 5300 association.

5301 4.5. If a vacancy occurs on the board as a result of a  
 5302 recall and less than a majority of the board members are  
 5303 removed, the vacancy may be filled by the affirmative vote of a  
 5304 majority of the remaining directors, notwithstanding any  
 5305 provision to the contrary contained in this chapter. If  
 5306 vacancies occur on the board as a result of a recall and a  
 5307 majority or more of the board members are removed, the vacancies  
 5308 shall be filled in accordance with procedural rules to be  
 5309 adopted by the division, which rules need not be consistent with  
 5310 this chapter. The rules must provide procedures governing the  
 5311 conduct of the recall election as well as the operation of the  
 5312 association during the period after a recall but prior to the  
 5313 recall election.

5314 ~~(1) Arbitration. There shall be a provision for mandatory~~  
 5315 ~~nonbinding arbitration of internal disputes arising from the~~

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5316 ~~operation of the cooperative in accordance with s. 719.1255.~~  
 5317 Section 181. Section 719.1255, Florida Statutes, is  
 5318 repealed.  
 5319 Section 182. Subsection (1) of section 719.202, Florida  
 5320 Statutes, is amended to read:  
 5321 719.202 Sales or reservation deposits prior to closing.-  
 5322 (1) If a developer contracts to sell a cooperative parcel  
 5323 and the construction, furnishing, and landscaping of the  
 5324 property submitted or proposed to be submitted to cooperative  
 5325 ownership has not been substantially completed in accordance  
 5326 with the plans and specifications and representations made by  
 5327 the developer in the disclosures required by this chapter, the  
 5328 developer shall pay into an escrow account all payments up to 10  
 5329 percent of the sale price received by the developer from the  
 5330 buyer towards the sale price. The escrow agent shall give to the  
 5331 purchaser a receipt for the deposit, upon request. ~~In lieu of~~  
 5332 ~~the foregoing, the division director shall have the discretion~~  
 5333 ~~to accept other assurances, including, but not limited to, a~~  
 5334 ~~surety bond or an irrevocable letter of credit in an amount~~  
 5335 ~~equal to the escrow requirements of this section.~~ Default  
 5336 determinations and refund of deposits shall be governed by the  
 5337 escrow release provision of this subsection. Funds shall be  
 5338 released from the escrow as follows:  
 5339 (a) If a buyer properly terminates the contract pursuant  
 5340 to its terms or pursuant to this chapter, the funds shall be  
 5341 paid to the buyer together with any interest earned.  
 5342 (b) If the buyer defaults in the performance of his or her  
 5343 obligations under the contract of purchase and sale, the funds

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5344 shall be paid to the developer together with any interest  
5345 earned.

5346 (c) If the contract does not provide for the payment of  
5347 any interest earned on the escrowed funds, interest shall be  
5348 paid to the developer at the closing of the transaction.

5349 (d) If the funds of a buyer have not been previously  
5350 disbursed in accordance with the provisions of this subsection,  
5351 they may be disbursed to the developer by the escrow agent at  
5352 the closing of the transaction, unless prior to the disbursement  
5353 the escrow agent receives from the buyer written notice of a  
5354 dispute between the buyer and developer.

5355 Section 183. Subsection (2) of section 719.301, Florida  
5356 Statutes, is amended to read:

5357 719.301 Transfer of association control.—

5358 (2) Within 75 days after the unit owners other than the  
5359 developer are entitled to elect a member or members of the board  
5360 of administration of an association, the association shall call,  
5361 and give not less than 60 days' notice of, an election for the  
5362 members of the board of administration. The election shall  
5363 proceed as provided in s. 719.106(1)(d). The notice may be given  
5364 by any unit owner if the association fails to do so. ~~Upon~~  
5365 ~~election of the first unit owner other than the developer to the~~  
5366 ~~board of administration, the developer shall forward to the~~  
5367 ~~division the name and mailing address of the unit owner board~~  
5368 ~~member.~~

5369 Section 184. Section 719.501, Florida Statutes, is  
5370 repealed.



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5371           Section 185. Section 719.502, Florida Statutes, is  
 5372 repealed.  
 5373           Section 186. Paragraph (b) of subsection (1) of section  
 5374 719.503, Florida Statutes, is amended to read:  
 5375           719.503 Disclosure prior to sale.—  
 5376           (1) DEVELOPER DISCLOSURE.—  
 5377           (b) Copies of documents to be furnished to prospective  
 5378 buyer or lessee.—Until such time as the developer has furnished  
 5379 the documents listed below to a person who has entered into a  
 5380 contract to purchase a unit or lease it for more than 5 years,  
 5381 the contract may be voided by that person, entitling the person  
 5382 to a refund of any deposit together with interest thereon as  
 5383 provided in s. 719.202. The contract may be terminated by  
 5384 written notice from the proposed buyer or lessee delivered to  
 5385 the developer within 15 days after the buyer or lessee receives  
 5386 all of the documents required by this section. The developer  
 5387 shall not close for 15 days following the execution of the  
 5388 agreement and delivery of the documents to the buyer as  
 5389 evidenced by a receipt for documents signed by the buyer unless  
 5390 the buyer is informed in the 15-day voidability period and  
 5391 agrees to close prior to the expiration of the 15 days. The  
 5392 developer shall retain in his or her records a separate signed  
 5393 agreement as proof of the buyer's agreement to close prior to  
 5394 the expiration of said voidability period. Said proof shall be  
 5395 retained for a period of 5 years after the date of the closing  
 5396 transaction. The documents to be delivered to the prospective  
 5397 buyer are the prospectus or disclosure statement with all  
 5398 exhibits, if the development is subject to the provisions of s.

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5399 719.504, or, if not, then copies of the following which are  
 5400 applicable:  
 5401 1. The question and answer sheet described in s. 719.504,  
 5402 and cooperative documents, or the proposed cooperative documents  
 5403 if the documents have not been recorded, which shall include the  
 5404 certificate of a surveyor approximately representing the  
 5405 locations required by s. 719.104.  
 5406 2. The documents creating the association.  
 5407 3. The bylaws.  
 5408 4. The ground lease or other underlying lease of the  
 5409 cooperative.  
 5410 5. The management contract, maintenance contract, and  
 5411 other contracts for management of the association and operation  
 5412 of the cooperative and facilities used by the unit owners having  
 5413 a service term in excess of 1 year, and any management contracts  
 5414 that are renewable.  
 5415 6. The estimated operating budget for the cooperative and  
 5416 a schedule of expenses for each type of unit, including fees  
 5417 assessed to a shareholder who has exclusive use of limited  
 5418 common areas, where such costs are shared only by those entitled  
 5419 to use such limited common areas.  
 5420 7. The lease of recreational and other facilities that  
 5421 will be used only by unit owners of the subject cooperative.  
 5422 8. The lease of recreational and other common areas that  
 5423 will be used by unit owners in common with unit owners of other  
 5424 cooperatives.  
 5425 9. The form of unit lease if the offer is of a leasehold.  
 5426 10. Any declaration of servitude of properties serving the

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5427 cooperative but not owned by unit owners or leased to them or  
 5428 the association.

5429 11. If the development is to be built in phases or if the  
 5430 association is to manage more than one cooperative, a  
 5431 description of the plan of phase development or the arrangements  
 5432 for the association to manage two or more cooperatives.

5433 12. If the cooperative is a conversion of existing  
 5434 improvements, the statements and disclosure required by s.  
 5435 719.616.

5436 13. The form of agreement for sale or lease of units.

5437 14. A copy of the floor plan of the unit and the plot plan  
 5438 showing the location of the residential buildings and the  
 5439 recreation and other common areas.

5440 15. A copy of all covenants and restrictions which will  
 5441 affect the use of the property and which are not contained in  
 5442 the foregoing.

5443 16. If the developer is required by state or local  
 5444 authorities to obtain acceptance or approval of any dock or  
 5445 marina facilities intended to serve the cooperative, ~~a copy of~~  
 5446 ~~any such acceptance or approval acquired by the time of filing~~  
 5447 ~~with the division pursuant to s. 719.502(1) or~~ a statement that  
 5448 such acceptance or approval has not been acquired or received.

5449 17. Evidence demonstrating that the developer has an  
 5450 ownership, leasehold, or contractual interest in the land upon  
 5451 which the cooperative is to be developed.

5452 Section 187. Section 719.504, Florida Statutes, is amended  
 5453 to read:

5454 719.504 Prospectus or offering circular.—Every developer

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5455 of a residential cooperative which contains more than 20  
 5456 residential units, or which is part of a group of residential  
 5457 cooperatives which will be served by property to be used in  
 5458 common by unit owners of more than 20 residential units, shall  
 5459 prepare a prospectus or offering circular ~~and file it with the~~  
 5460 ~~Division of Florida Condominiums, Timeshares, and Mobile Homes~~  
 5461 prior to entering into an enforceable contract of purchase and  
 5462 sale of any unit or lease of a unit for more than 5 years and  
 5463 shall furnish a copy of the prospectus or offering circular to  
 5464 each buyer. In addition to the prospectus or offering circular,  
 5465 each buyer shall be furnished a separate page entitled  
 5466 "Frequently Asked Questions and Answers," which must be in  
 5467 accordance with a format approved by the division. This page  
 5468 must, in readable language: inform prospective purchasers  
 5469 regarding their voting rights and unit use restrictions,  
 5470 including restrictions on the leasing of a unit; indicate  
 5471 whether and in what amount the unit owners or the association is  
 5472 obligated to pay rent or land use fees for recreational or other  
 5473 commonly used facilities; contain a statement identifying that  
 5474 amount of assessment which, pursuant to the budget, would be  
 5475 levied upon each unit type, exclusive of any special  
 5476 assessments, and which identifies the basis upon which  
 5477 assessments are levied, whether monthly, quarterly, or  
 5478 otherwise; state and identify any court cases in which the  
 5479 association is currently a party of record in which the  
 5480 association may face liability in excess of \$100,000; and state  
 5481 whether membership in a recreational facilities association is  
 5482 mandatory and, if so, identify the fees currently charged per

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5483 | unit type. The division shall by rule require such other  
 5484 | disclosure as in its judgment will assist prospective  
 5485 | purchasers. The prospectus or offering circular may include more  
 5486 | than one cooperative, although not all such units are being  
 5487 | offered for sale as of the date of the prospectus or offering  
 5488 | circular. The prospectus or offering circular must contain the  
 5489 | following information:

5490 |       (1) The front cover or the first page must contain only:

5491 |       (a) The name of the cooperative.

5492 |       (b) The following statements in conspicuous type:

5493 |       1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
 5494 | MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

5495 |       2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
 5496 | NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
 5497 | ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
 5498 | MATERIALS.

5499 |       3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
 5500 | STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
 5501 | PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
 5502 | REPRESENTATIONS.

5503 |       (2) Summary: The next page must contain all statements  
 5504 | required to be in conspicuous type in the prospectus or offering  
 5505 | circular.

5506 |       (3) A separate index of the contents and exhibits of the  
 5507 | prospectus.

5508 |       (4) Beginning on the first page of the text (not including  
 5509 | the summary and index), a description of the cooperative,  
 5510 | including, but not limited to, the following information:

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5511           (a) Its name and location.

5512           (b) A description of the cooperative property, including,

5513 without limitation:

5514           1. The number of buildings, the number of units in each

5515 building, the number of bathrooms and bedrooms in each unit, and

5516 the total number of units, if the cooperative is not a phase

5517 cooperative; or, if the cooperative is a phase cooperative, the

5518 maximum number of buildings that may be contained within the

5519 cooperative, the minimum and maximum number of units in each

5520 building, the minimum and maximum number of bathrooms and

5521 bedrooms that may be contained in each unit, and the maximum

5522 number of units that may be contained within the cooperative.

5523           2. The page in the cooperative documents where a copy of

5524 the survey and plot plan of the cooperative is located.

5525           3. The estimated latest date of completion of

5526 constructing, finishing, and equipping. In lieu of a date, a

5527 statement that the estimated date of completion of the

5528 cooperative is in the purchase agreement and a reference to the

5529 article or paragraph containing that information.

5530           (c) The maximum number of units that will use facilities

5531 in common with the cooperative. If the maximum number of units

5532 will vary, a description of the basis for variation and the

5533 minimum amount of dollars per unit to be spent for additional

5534 recreational facilities or enlargement of such facilities. If

5535 the addition or enlargement of facilities will result in a

5536 material increase of a unit owner's maintenance expense or

5537 rental expense, if any, the maximum increase and limitations

5538 thereon shall be stated.

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5539 (5) (a) A statement in conspicuous type describing whether  
 5540 the cooperative is created and being sold as fee simple  
 5541 interests or as leasehold interests. If the cooperative is  
 5542 created or being sold on a leasehold, the location of the lease  
 5543 in the disclosure materials shall be stated.

5544 (b) If timeshare estates are or may be created with  
 5545 respect to any unit in the cooperative, a statement in  
 5546 conspicuous type stating that timeshare estates are created and  
 5547 being sold in such specified units in the cooperative.

5548 (6) A description of the recreational and other common  
 5549 areas that will be used only by unit owners of the cooperative,  
 5550 including, but not limited to, the following:

5551 (a) Each room and its intended purposes, location,  
 5552 approximate floor area, and capacity in numbers of people.

5553 (b) Each swimming pool, as to its general location,  
 5554 approximate size and depths, approximate deck size and capacity,  
 5555 and whether heated.

5556 (c) Additional facilities, as to the number of each  
 5557 facility, its approximate location, approximate size, and  
 5558 approximate capacity.

5559 (d) A general description of the items of personal  
 5560 property and the approximate number of each item of personal  
 5561 property that the developer is committing to furnish for each  
 5562 room or other facility or, in the alternative, a representation  
 5563 as to the minimum amount of expenditure that will be made to  
 5564 purchase the personal property for the facility.

5565 (e) The estimated date when each room or other facility  
 5566 will be available for use by the unit owners.

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5567 (f)1. An identification of each room or other facility to  
 5568 be used by unit owners that will not be owned by the unit owners  
 5569 or the association;

5570 2. A reference to the location in the disclosure materials  
 5571 of the lease or other agreements providing for the use of those  
 5572 facilities; and

5573 3. A description of the terms of the lease or other  
 5574 agreements, including the length of the term; the rent payable,  
 5575 directly or indirectly, by each unit owner, and the total rent  
 5576 payable to the lessor, stated in monthly and annual amounts for  
 5577 the entire term of the lease; and a description of any option to  
 5578 purchase the property leased under any such lease, including the  
 5579 time the option may be exercised, the purchase price or how it  
 5580 is to be determined, the manner of payment, and whether the  
 5581 option may be exercised for a unit owner's share or only as to  
 5582 the entire leased property.

5583 (g) A statement as to whether the developer may provide  
 5584 additional facilities not described above, their general  
 5585 locations and types, improvements or changes that may be made,  
 5586 the approximate dollar amount to be expended, and the maximum  
 5587 additional common expense or cost to the individual unit owners  
 5588 that may be charged during the first annual period of operation  
 5589 of the modified or added facilities.

5590  
 5591 Descriptions as to locations, areas, capacities, numbers,  
 5592 volumes, or sizes may be stated as approximations or minimums.

5593 (7) A description of the recreational and other facilities  
 5594 that will be used in common with other cooperatives, community



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5595 associations, or planned developments which require the payment  
 5596 of the maintenance and expenses of such facilities, directly or  
 5597 indirectly, by the unit owners. The description shall include,  
 5598 but not be limited to, the following:

5599 (a) Each building and facility committed to be built.

5600 (b) Facilities not committed to be built except under  
 5601 certain conditions, and a statement of those conditions or  
 5602 contingencies.

5603 (c) As to each facility committed to be built, or which  
 5604 will be committed to be built upon the happening of one of the  
 5605 conditions in paragraph (b), a statement of whether it will be  
 5606 owned by the unit owners having the use thereof or by an  
 5607 association or other entity which will be controlled by them, or  
 5608 others, and the location in the exhibits of the lease or other  
 5609 document providing for use of those facilities.

5610 (d) The year in which each facility will be available for  
 5611 use by the unit owners or, in the alternative, the maximum  
 5612 number of unit owners in the project at the time each of all of  
 5613 the facilities is committed to be completed.

5614 (e) A general description of the items of personal  
 5615 property, and the approximate number of each item of personal  
 5616 property, that the developer is committing to furnish for each  
 5617 room or other facility or, in the alternative, a representation  
 5618 as to the minimum amount of expenditure that will be made to  
 5619 purchase the personal property for the facility.

5620 (f) If there are leases, a description thereof, including  
 5621 the length of the term, the rent payable, and a description of  
 5622 any option to purchase.

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5623  
 5624 Descriptions shall include location, areas, capacities, numbers,  
 5625 volumes, or sizes and may be stated as approximations or  
 5626 minimums.

5627 (8) Recreation lease or associated club membership:

5628 (a) If any recreational facilities or other common areas  
 5629 offered by the developer and available to, or to be used by,  
 5630 unit owners are to be leased or have club membership associated,  
 5631 the following statement in conspicuous type shall be included:  
 5632 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
 5633 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
 5634 COOPERATIVE. There shall be a reference to the location in the  
 5635 disclosure materials where the recreation lease or club  
 5636 membership is described in detail.

5637 (b) If it is mandatory that unit owners pay a fee, rent,  
 5638 dues, or other charges under a recreational facilities lease or  
 5639 club membership for the use of facilities, there shall be in  
 5640 conspicuous type the applicable statement:

5641 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
 5642 MANDATORY FOR UNIT OWNERS; or

5643 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
 5644 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

5645 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
 5646 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
 5647 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
 5648 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

5649 4. A similar statement of the nature of the organization  
 5650 or manner in which the use rights are created, and that unit

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5651 owners are required to pay.

5652

5653 Immediately following the applicable statement, the location in  
 5654 the disclosure materials where the development is described in  
 5655 detail shall be stated.

5656 (c) If the developer, or any other person other than the  
 5657 unit owners and other persons having use rights in the  
 5658 facilities, reserves, or is entitled to receive, any rent, fee,  
 5659 or other payment for the use of the facilities, then there shall  
 5660 be the following statement in conspicuous type: THE UNIT OWNERS  
 5661 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
 5662 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this  
 5663 statement, the location in the disclosure materials where the  
 5664 rent or land use fees are described in detail shall be stated.

5665 (d) If, in any recreation format, whether leasehold, club,  
 5666 or other, any person other than the association has the right to  
 5667 a lien on the units to secure the payment of assessments, rent,  
 5668 or other exactions, there shall appear a statement in  
 5669 conspicuous type in substantially the following form:

5670 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 5671 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
 5672 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 5673 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

5674 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
 5675 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
 5676 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
 5677 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
 5678 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

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5679  
 5680 Immediately following the applicable statement, the location in  
 5681 the disclosure materials where the lien or lien right is  
 5682 described in detail shall be stated.

5683 (9) If the developer or any other person has the right to  
 5684 increase or add to the recreational facilities at any time after  
 5685 the establishment of the cooperative whose unit owners have use  
 5686 rights therein, without the consent of the unit owners or  
 5687 associations being required, there shall appear a statement in  
 5688 conspicuous type in substantially the following form:

5689 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
 5690 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
 5691 statement, the location in the disclosure materials where such  
 5692 reserved rights are described shall be stated.

5693 (10) A statement of whether the developer's plan includes  
 5694 a program of leasing units rather than selling them, or leasing  
 5695 units and selling them subject to such leases. If so, there  
 5696 shall be a description of the plan, including the number and  
 5697 identification of the units and the provisions and term of the  
 5698 proposed leases, and a statement in boldfaced type that: THE  
 5699 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

5700 (11) The arrangements for management of the association  
 5701 and maintenance and operation of the cooperative property and of  
 5702 other property that will serve the unit owners of the  
 5703 cooperative property, and a description of the management  
 5704 contract and all other contracts for these purposes having a  
 5705 term in excess of 1 year, including the following:

5706 (a) The names of contracting parties.

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5707 (b) The term of the contract.

5708 (c) The nature of the services included.

5709 (d) The compensation, stated on a monthly and annual  
 5710 basis, and provisions for increases in the compensation.

5711 (e) A reference to the volumes and pages of the  
 5712 cooperative documents and of the exhibits containing copies of  
 5713 such contracts.

5714

5715 Copies of all described contracts shall be attached as exhibits.  
 5716 If there is a contract for the management of the cooperative  
 5717 property, then a statement in conspicuous type in substantially  
 5718 the following form shall appear, identifying the proposed or  
 5719 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
 5720 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE  
 5721 CONTRACT MANAGER). Immediately following this statement, the  
 5722 location in the disclosure materials of the contract for  
 5723 management of the cooperative property shall be stated.

5724 (12) If the developer or any other person or persons other  
 5725 than the unit owners has the right to retain control of the  
 5726 board of administration of the association for a period of time  
 5727 which can exceed 1 year after the closing of the sale of a  
 5728 majority of the units in that cooperative to persons other than  
 5729 successors or alternate developers, then a statement in  
 5730 conspicuous type in substantially the following form shall be  
 5731 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
 5732 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
 5733 HAVE BEEN SOLD. Immediately following this statement, the  
 5734 location in the disclosure materials where this right to control

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5735 is described in detail shall be stated.

5736 (13) If there are any restrictions upon the sale,  
 5737 transfer, conveyance, or leasing of a unit, then a statement in  
 5738 conspicuous type in substantially the following form shall be  
 5739 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
 5740 CONTROLLED. Immediately following this statement, the location  
 5741 in the disclosure materials where the restriction, limitation,  
 5742 or control on the sale, lease, or transfer of units is described  
 5743 in detail shall be stated.

5744 (14) If the cooperative is part of a phase project, the  
 5745 following shall be stated:

5746 (a) A statement in conspicuous type in substantially the  
 5747 following form shall be included: THIS IS A PHASE COOPERATIVE.  
 5748 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
 5749 Immediately following this statement, the location in the  
 5750 disclosure materials where the phasing is described shall be  
 5751 stated.

5752 (b) A summary of the provisions of the declaration  
 5753 providing for the phasing.

5754 (c) A statement as to whether or not residential buildings  
 5755 and units which are added to the cooperative may be  
 5756 substantially different from the residential buildings and units  
 5757 originally in the cooperative, and, if the added residential  
 5758 buildings and units may be substantially different, there shall  
 5759 be a general description of the extent to which such added  
 5760 residential buildings and units may differ, and a statement in  
 5761 conspicuous type in substantially the following form shall be  
 5762 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE

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5763 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
 5764 UNITS IN THE COOPERATIVE. Immediately following this statement,  
 5765 the location in the disclosure materials where the extent to  
 5766 which added residential buildings and units may substantially  
 5767 differ is described shall be stated.

5768 (d) A statement of the maximum number of buildings  
 5769 containing units, the maximum and minimum number of units in  
 5770 each building, the maximum number of units, and the minimum and  
 5771 maximum square footage of the units that may be contained within  
 5772 each parcel of land which may be added to the cooperative.

5773 (15) If the cooperative is created by conversion of  
 5774 existing improvements, the following information shall be  
 5775 stated:

5776 (a) The information required by s. 719.616.

5777 (b) A caveat that there are no express warranties unless  
 5778 they are stated in writing by the developer.

5779 (16) A summary of the restrictions, if any, to be imposed  
 5780 on units concerning the use of any of the cooperative property,  
 5781 including statements as to whether there are restrictions upon  
 5782 children and pets, and reference to the volumes and pages of the  
 5783 cooperative documents where such restrictions are found, or if  
 5784 such restrictions are contained elsewhere, then a copy of the  
 5785 documents containing the restrictions shall be attached as an  
 5786 exhibit.

5787 (17) If there is any land that is offered by the developer  
 5788 for use by the unit owners and that is neither owned by them nor  
 5789 leased to them, the association, or any entity controlled by  
 5790 unit owners and other persons having the use rights to such

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5791 land, a statement shall be made as to how such land will serve  
 5792 the cooperative. If any part of such land will serve the  
 5793 cooperative, the statement shall describe the land and the  
 5794 nature and term of service, and the cooperative documents or  
 5795 other instrument creating such servitude shall be included as an  
 5796 exhibit.

5797 (18) The manner in which utility and other services,  
 5798 including, but not limited to, sewage and waste disposal, water  
 5799 supply, and storm drainage, will be provided and the person or  
 5800 entity furnishing them.

5801 (19) An explanation of the manner in which the  
 5802 apportionment of common expenses and ownership of the common  
 5803 areas have been determined.

5804 (20) An estimated operating budget for the cooperative and  
 5805 the association, and a schedule of the unit owner's expenses  
 5806 shall be attached as an exhibit and shall contain the following  
 5807 information:

5808 (a) The estimated monthly and annual expenses of the  
 5809 cooperative and the association that are collected from unit  
 5810 owners by assessments.

5811 (b) The estimated monthly and annual expenses of each unit  
 5812 owner for a unit, other than assessments payable to the  
 5813 association, payable by the unit owner to persons or entities  
 5814 other than the association, and the total estimated monthly and  
 5815 annual expense. There may be excluded from this estimate  
 5816 expenses that are personal to unit owners, which are not  
 5817 uniformly incurred by all unit owners, or which are not provided  
 5818 for or contemplated by the cooperative documents, including, but



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5819 not limited to, the costs of private telephone; maintenance of  
 5820 the interior of cooperative units, which is not the obligation  
 5821 of the association; maid or janitorial services privately  
 5822 contracted for by the unit owners; utility bills billed directly  
 5823 to each unit owner for utility services to his or her unit;  
 5824 insurance premiums other than those incurred for policies  
 5825 obtained by the cooperative; and similar personal expenses of  
 5826 the unit owner. A unit owner's estimated payments for  
 5827 assessments shall also be stated in the estimated amounts for  
 5828 the times when they will be due.

5829 (c) The estimated items of expenses of the cooperative and  
 5830 the association, except as excluded under paragraph (b),  
 5831 including, but not limited to, the following items, which shall  
 5832 be stated as an association expense collectible by assessments  
 5833 or as unit owners' expenses payable to persons other than the  
 5834 association:

- 5835 1. Expenses for the association and cooperative:
- 5836 a. Administration of the association.
- 5837 b. Management fees.
- 5838 c. Maintenance.
- 5839 d. Rent for recreational and other commonly used areas.
- 5840 e. Taxes upon association property.
- 5841 f. Taxes upon leased areas.
- 5842 g. Insurance.
- 5843 h. Security provisions.
- 5844 i. Other expenses.
- 5845 j. Operating capital.
- 5846 k. Reserves.

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5847 1. Fee payable to the division.  
 5848 2. Expenses for a unit owner:  
 5849 a. Rent for the unit, if subject to a lease.  
 5850 b. Rent payable by the unit owner directly to the lessor  
 5851 or agent under any recreational lease or lease for the use of  
 5852 commonly used areas, which use and payment are a mandatory  
 5853 condition of ownership and are not included in the common  
 5854 expense or assessments for common maintenance paid by the unit  
 5855 owners to the association.  
 5856 (d) The following statement in conspicuous type: THE  
 5857 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
 5858 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE  
 5859 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
 5860 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
 5861 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
 5862 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
 5863 THE OFFERING.  
 5864 (e) Each budget for an association prepared by a developer  
 5865 consistent with this subsection shall be prepared in good faith  
 5866 and shall reflect accurate estimated amounts for the required  
 5867 items in paragraph (c) ~~at the time of the filing of the offering~~  
 5868 ~~circular with the division,~~ and subsequent increased amounts of  
 5869 any item included in the association's estimated budget that are  
 5870 beyond the control of the developer shall not be considered an  
 5871 amendment that would give rise to rescission rights set forth in  
 5872 s. 719.503(1) (a) or (b), nor shall such increases modify, void,  
 5873 or otherwise affect any guarantee of the developer contained in  
 5874 the offering circular or any purchase contract. It is the intent

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5875 of this paragraph to clarify existing law.  
 5876 (f) The estimated amounts shall be stated for a period of  
 5877 at least 12 months and may distinguish between the period prior  
 5878 to the time unit owners other than the developer elect a  
 5879 majority of the board of administration and the period after  
 5880 that date.  
 5881 (21) A schedule of estimated closing expenses to be paid  
 5882 by a buyer or lessee of a unit and a statement of whether title  
 5883 opinion or title insurance policy is available to the buyer and,  
 5884 if so, at whose expense.  
 5885 (22) The identity of the developer and the chief operating  
 5886 officer or principal directing the creation and sale of the  
 5887 cooperative and a statement of its and his or her experience in  
 5888 this field.  
 5889 (23) Copies of the following, to the extent they are  
 5890 applicable, shall be included as exhibits:  
 5891 (a) The cooperative documents, or the proposed cooperative  
 5892 documents if the documents have not been recorded.  
 5893 (b) The articles of incorporation creating the  
 5894 association.  
 5895 (c) The bylaws of the association.  
 5896 (d) The ground lease or other underlying lease of the  
 5897 cooperative.  
 5898 (e) The management agreement and all maintenance and other  
 5899 contracts for management of the association and operation of the  
 5900 cooperative and facilities used by the unit owners having a  
 5901 service term in excess of 1 year.  
 5902 (f) The estimated operating budget for the cooperative and

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5903 the required schedule of unit owners' expenses.

5904 (g) A copy of the floor plan of the unit and the plot plan

5905 showing the location of the residential buildings and the

5906 recreation and other common areas.

5907 (h) The lease of recreational and other facilities that

5908 will be used only by unit owners of the subject cooperative.

5909 (i) The lease of facilities used by owners and others.

5910 (j) The form of unit lease, if the offer is of a

5911 leasehold.

5912 (k) A declaration of servitude of properties serving the

5913 cooperative but not owned by unit owners or leased to them or

5914 the association.

5915 (l) The statement of condition of the existing building or

5916 buildings, if the offering is of units in an operation being

5917 converted to cooperative ownership.

5918 (m) The statement of inspection for termite damage and

5919 treatment of the existing improvements, if the cooperative is a

5920 conversion.

5921 (n) The form of agreement for sale or lease of units.

5922 (o) A copy of the agreement for escrow of payments made to

5923 the developer prior to closing.

5924 (p) A copy of the documents containing any restrictions on

5925 use of the property required by subsection (16).

5926 (24) Any prospectus or offering circular complying with

5927 the provisions of former ss. 711.69 and 711.802 may continue to

5928 be used without amendment, or may be amended to comply with this

5929 chapter.

5930 (25) A brief narrative description of the location and

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5931 effect of all existing and intended easements located or to be  
 5932 located on the cooperative property other than those in the  
 5933 declaration.

5934 (26) If the developer is required by state or local  
 5935 authorities to obtain acceptance or approval of any dock or  
 5936 marina facility intended to serve the cooperative, ~~a copy of~~  
 5937 ~~such acceptance or approval acquired by the time of filing with~~  
 5938 ~~the division pursuant to s. 719.502 or~~ a statement that such  
 5939 acceptance has not been acquired or received.

5940 (27) Evidence demonstrating that the developer has an  
 5941 ownership, leasehold, or contractual interest in the land upon  
 5942 which the cooperative is to be developed.

5943 Section 188. Section 719.508, Florida Statutes, is  
 5944 repealed.

5945 Section 189. Subsections (4) and (5) of section 719.608,  
 5946 Florida Statutes, are amended to read:

5947 719.608 Notice of intended conversion; time of delivery;  
 5948 content.—

5949 ~~(4) Upon the request of a developer and payment of a fee~~  
 5950 ~~prescribed by the rules of the division not to exceed \$50, the~~  
 5951 ~~division may verify to a developer that a notice complies with~~  
 5952 ~~this section.~~

5953 ~~(5) Prior to delivering a notice of intended conversion to~~  
 5954 ~~tenants of existing improvements being converted to a~~  
 5955 ~~residential cooperative, each developer shall file with the~~  
 5956 ~~division a copy of the notice of intended conversion. Upon~~  
 5957 ~~filing, each developer shall pay to the division a filing fee of~~  
 5958 ~~\$100.~~

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5959 Section 190. Section 719.621, Florida Statutes, is  
 5960 repealed.

5961 Section 191. Paragraph (d) of subsection (10) of section  
 5962 720.303, Florida Statutes, is amended to read:

5963 720.303 Association powers and duties; meetings of board;  
 5964 official records; budgets; financial reporting; association  
 5965 funds; recalls.—

5966 (10) RECALL OF DIRECTORS.—

5967 (d) If the board determines not to certify the written  
 5968 agreement or written ballots to recall a director or directors  
 5969 of the board or does not certify the recall by a vote at a  
 5970 meeting, the board shall, within 5 full business days after the  
 5971 meeting, file with the department a petition for binding  
 5972 arbitration ~~pursuant to the applicable procedures in ss.~~  
 5973 ~~718.112(2) (j) and 718.1255 and the rules adopted thereunder.~~ For  
 5974 the purposes of this section, the members who voted at the  
 5975 meeting or who executed the agreement in writing shall  
 5976 constitute one party under the petition for arbitration. If the  
 5977 arbitrator certifies the recall as to any director or directors  
 5978 of the board, the recall will be effective upon mailing of the  
 5979 final order of arbitration to the association. The director or  
 5980 directors so recalled shall deliver to the board any and all  
 5981 records of the association in their possession within 5 full  
 5982 business days after the effective date of the recall.

5983 Section 192. Subsection (9) of section 720.306, Florida  
 5984 Statutes, is amended to read:

5985 720.306 Meetings of members; voting and election  
 5986 procedures; amendments.—

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5987           (9) ELECTIONS AND BOARD VACANCIES.—Elections of directors  
 5988 must be conducted in accordance with the procedures set forth in  
 5989 the governing documents of the association. All members of the  
 5990 association are eligible to serve on the board of directors, and  
 5991 a member may nominate himself or herself as a candidate for the  
 5992 board at a meeting where the election is to be held or, if the  
 5993 election process allows voting by absentee ballot, in advance of  
 5994 the balloting. Except as otherwise provided in the governing  
 5995 documents, boards of directors must be elected by a plurality of  
 5996 the votes cast by eligible voters. ~~Any election dispute between~~  
 5997 ~~a member and an association must be submitted to mandatory~~  
 5998 ~~binding arbitration with the division. Such proceedings must be~~  
 5999 ~~conducted in the manner provided by s. 718.1255 and the~~  
 6000 ~~procedural rules adopted by the division.~~ Unless otherwise  
 6001 provided in the bylaws, any vacancy occurring on the board  
 6002 before the expiration of a term may be filled by an affirmative  
 6003 vote of the majority of the remaining directors, even if the  
 6004 remaining directors constitute less than a quorum, or by the  
 6005 sole remaining director. In the alternative, a board may hold an  
 6006 election to fill the vacancy, in which case the election  
 6007 procedures must conform to the requirements of the governing  
 6008 documents. Unless otherwise provided in the bylaws, a board  
 6009 member appointed or elected under this section is appointed for  
 6010 the unexpired term of the seat being filled. Filling vacancies  
 6011 created by recall is governed by s. 720.303(10) and rules  
 6012 adopted by the division.

6013           Section 193. Subsection (1) and paragraph (c) of  
 6014 subsection (2) of section 720.311, Florida Statutes, are amended

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6015 to read:  
 6016 720.311 Dispute resolution.—  
 6017 (1) The Legislature finds that alternative dispute  
 6018 resolution has made progress in reducing court dockets and  
 6019 trials and in offering a more efficient, cost-effective option  
 6020 to litigation. The filing of any petition for arbitration or the  
 6021 serving of a demand for presuit mediation as provided for in  
 6022 this section shall toll the applicable statute of limitations.  
 6023 Any recall dispute filed with the department pursuant to s.  
 6024 720.303(10) shall be conducted by the department ~~in accordance~~  
 6025 ~~with the provisions of ss. 718.112(2)(j) and 718.1255 and the~~  
 6026 ~~rules adopted by the division.~~ In addition, the department shall  
 6027 conduct mandatory binding arbitration of election disputes  
 6028 between a member and an association ~~pursuant to s. 718.1255 and~~  
 6029 ~~rules adopted by the division.~~ Neither election disputes nor  
 6030 recall disputes are eligible for presuit mediation; these  
 6031 disputes shall be arbitrated by the department. At the  
 6032 conclusion of the proceeding, the department shall charge the  
 6033 parties a fee in an amount adequate to cover all costs and  
 6034 expenses incurred by the department in conducting the  
 6035 proceeding. Initially, the petitioner shall remit a filing fee  
 6036 of at least \$200 to the department. The fees paid to the  
 6037 department shall become a recoverable cost in the arbitration  
 6038 proceeding, and the prevailing party in an arbitration  
 6039 proceeding shall recover its reasonable costs and attorney's  
 6040 fees in an amount found reasonable by the arbitrator. The  
 6041 department shall adopt rules to effectuate the purposes of this  
 6042 section.



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6043 (2)  
 6044 (c) If presuit mediation as described in paragraph (a) is  
 6045 not successful in resolving all issues between the parties, the  
 6046 parties may file the unresolved dispute in a court of competent  
 6047 jurisdiction or elect to enter into binding or nonbinding  
 6048 arbitration pursuant to ~~the procedures set forth in s. 718.1255~~  
 6049 ~~and~~ rules adopted by the division, with the arbitration  
 6050 proceeding to be conducted by a department arbitrator or by a  
 6051 private arbitrator certified by the department. If all parties  
 6052 do not agree to arbitration proceedings following an  
 6053 unsuccessful presuit mediation, any party may file the dispute  
 6054 in court. A final order resulting from nonbinding arbitration is  
 6055 final and enforceable in the courts if a complaint for trial de  
 6056 novo is not filed in a court of competent jurisdiction within 30  
 6057 days after entry of the order. As to any issue or dispute that  
 6058 is not resolved at presuit mediation, and as to any issue that  
 6059 is settled at presuit mediation but is thereafter subject to an  
 6060 action seeking enforcement of the mediation settlement, the  
 6061 prevailing party in any subsequent arbitration or litigation  
 6062 proceeding shall be entitled to seek recovery of all costs and  
 6063 attorney's fees incurred in the presuit mediation process.

6064 Section 194. Paragraphs (b) and (c) of subsection (1),  
 6065 subsections (2) and (3), and paragraphs (a) and (b) of  
 6066 subsection (11) of section 721.03, Florida Statutes, are amended  
 6067 to read:

6068 721.03 Scope of chapter.—

6069 (1) This chapter applies to all timeshare plans consisting  
 6070 of more than seven timeshare periods over a period of at least 3

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6071 | years in which the accommodations and facilities, if any, are  
 6072 | located within this state or offered within this state; provided  
 6073 | that:

6074 |       (b) With respect to a timeshare plan containing  
 6075 | accommodations or facilities located in this state which is  
 6076 | offered for sale outside the jurisdictional limits of the United  
 6077 | States, such offer or sale shall be exempt from the requirements  
 6078 | of this chapter, provided that the developer shall either file  
 6079 | the timeshare plan with the division for approval pursuant to  
 6080 | this chapter, or pay an exemption registration fee of \$100 and  
 6081 | file the following minimum information pertaining to the  
 6082 | timeshare plan with the division for approval:

- 6083 |       1. The name and address of the timeshare plan.
- 6084 |       2. The name and address of the developer and seller, if  
 6085 | any.
- 6086 |       3. The location and a brief description of the  
 6087 | accommodations and facilities, if any, that are located in this  
 6088 | state.
- 6089 |       4. The number of timeshare interests and timeshare periods  
 6090 | to be offered.
- 6091 |       5. The term of the timeshare plan.
- 6092 |       6. A copy of the timeshare instrument relating to the  
 6093 | management and operation of accommodations and facilities, if  
 6094 | any, that are located in this state.
- 6095 |       7. A copy of the budget required by ~~s. 721.07(5)(t)~~ or s.  
 6096 | 721.55(4)(h) ~~5.~~, as applicable.
- 6097 |       8. A copy of the management agreement and any other  
 6098 | contracts regarding management or operation of the

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6099 accommodations and facilities, if any, that are located in this  
 6100 state, and which have terms in excess of 1 year.

6101 9. A copy of the provision of the purchase contract to be  
 6102 utilized in offering the timeshare plan containing the following  
 6103 disclosure in conspicuous type immediately above the space  
 6104 provided for the purchaser's signature:

6105 The offering of this timeshare plan outside the jurisdictional  
 6106 limits of the United States of America is exempt from regulation  
 6107 under Florida law, and any such purchase is not protected by the  
 6108 State of Florida. However, the management and operation of any  
 6109 accommodations or facilities located in Florida is subject to  
 6110 Florida law and may give rise to enforcement action regardless  
 6111 of the location of any offer.

6112 (c) All timeshare accommodations or facilities which are  
 6113 located outside the state but offered for sale in this state  
 6114 shall be governed by the following:

6115 1. The offering for sale in this state of timeshare  
 6116 accommodations and facilities located outside the state is  
 6117 subject only to the provisions of ss. 721.01-721.12, 721.18,  
 6118 721.20, 721.21, ~~721.26, 721.28,~~ and part II.

6119 ~~2. The division shall not require a developer of timeshare~~  
 6120 ~~accommodations or facilities located outside of this state to~~  
 6121 ~~make changes in any timeshare instrument to conform to the~~  
 6122 ~~provisions of s. 721.07 or s. 721.55. The division shall have~~  
 6123 ~~the power to require disclosure of those provisions of the~~  
 6124 ~~timeshare instrument that do not conform to s. 721.07 or s.~~  
 6125 ~~721.55 as the director determines is necessary to fairly,~~  
 6126 ~~meaningfully, and effectively disclose all aspects of the~~

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6127 ~~timeshare plan.~~

6128       ~~3. Except as provided in this subparagraph, the division~~

6129 ~~shall have no authority to determine whether any person has~~

6130 ~~complied with another state's laws or to disapprove any filing~~

6131 ~~out-of-state, timeshare instrument, or component site document,~~

6132 ~~based solely upon the lack or degree of timeshare regulation in~~

6133 ~~another state. The division may require a developer to obtain~~

6134 ~~and provide to the division existing documentation relating to~~

6135 ~~an out-of-state filing, timeshare instrument, or component site~~

6136 ~~document and prove compliance of same with the laws of that~~

6137 ~~state. In this regard, the division may accept any evidence of~~

6138 ~~the approval or acceptance of any out-of-state filing, timeshare~~

6139 ~~instrument, or component site document by another state in lieu~~

6140 ~~of requiring a developer to file the out-of-state filing,~~

6141 ~~timeshare instrument, or component site document with the~~

6142 ~~division pursuant to this section, or the division may accept an~~

6143 ~~opinion letter from an attorney or law firm opining as to the~~

6144 ~~compliance of such out-of-state filing, timeshare instrument, or~~

6145 ~~component site document with the laws of another state. The~~

6146 ~~division may refuse to approve the inclusion of any out-of-state~~

6147 ~~filing, timeshare instrument, or component site document as part~~

6148 ~~of a public offering statement based upon the inability of the~~

6149 ~~developer to establish the compliance of same with the laws of~~

6150 ~~another state.~~

6151       ~~4. The division is authorized to enter into an agreement~~

6152 ~~with another state for the purpose of facilitating the~~

6153 ~~processing of out-of-state timeshare instruments or other~~

6154 ~~component site documents pursuant to this chapter and for the~~

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6155 ~~purpose of facilitating the referral of consumer complaints to~~  
 6156 ~~the appropriate state.~~

6157 2.5. Notwithstanding any other provision of this  
 6158 paragraph, the offer, in this state, of an additional interest  
 6159 to existing purchasers in the same timeshare plan, the same  
 6160 nonspecific multisite timeshare plan, or the same component site  
 6161 of a multisite timeshare plan with accommodations and facilities  
 6162 located outside of this state shall not be subject to the  
 6163 provisions of this chapter if the offer complies with the  
 6164 provisions of s. 721.11(4).

6165 (2) When a timeshare plan is subject to both the  
 6166 provisions of this chapter and the provisions of chapter 718 or  
 6167 chapter 719, the plan shall meet the requirements of both  
 6168 chapters unless exempted as provided in this section. ~~The~~  
 6169 ~~division shall have the authority to adopt rules differentiating~~  
 6170 ~~between timeshare condominiums and nontimeshare condominiums,~~  
 6171 ~~and between timeshare cooperatives and nontimeshare~~  
 6172 ~~cooperatives, in the interpretation and implementation of~~  
 6173 ~~chapters 718 and 719, respectively.~~ In the event of a conflict  
 6174 between the provisions of this chapter and the provisions of  
 6175 chapter 718 or chapter 719, the provisions of this chapter shall  
 6176 prevail.

6177 (3) A timeshare plan which is subject to the provisions of  
 6178 chapter 718 or chapter 719, if fully in compliance with the  
 6179 provisions of this chapter, is exempt from the following:

6180 (a) Sections 718.202 and 719.202, relating to sales or  
 6181 reservation deposits prior to closing.

6182 ~~(b) Sections 718.502 and 719.502, relating to filing prior~~

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6183 ~~to sale or lease.~~  
 6184        (b)~~(e)~~ Sections 718.503 and 719.503, relating to  
 6185 disclosure prior to sale.  
 6186        (c)~~(d)~~ Sections 718.504 and 719.504, relating to  
 6187 prospectus or offering circular.  
 6188        (d)~~(e)~~ Part VI of chapter 718 and part VI of chapter 719,  
 6189 relating to conversion of existing improvements to the  
 6190 condominium or cooperative form of ownership, respectively,  
 6191 provided that a developer converting existing improvements to a  
 6192 timeshare condominium or timeshare cooperative must comply with  
 6193 ss. 718.606, 718.608, 718.61, and 718.62, or ss. 719.606,  
 6194 719.608, 719.61, and 719.62, if applicable, and, if the existing  
 6195 improvements received a certificate of occupancy more than 18  
 6196 months before such conversion, one of the following:  
 6197        1. The accommodations and facilities shall be renovated  
 6198 and improved to a condition such that the remaining useful life  
 6199 in years of the roof, plumbing, air-conditioning, and any  
 6200 component of the structure which has a useful life less than the  
 6201 useful life of the overall structure is equal to the useful life  
 6202 of accommodations or facilities that would exist if such  
 6203 accommodations and facilities were newly constructed and not  
 6204 previously occupied.  
 6205        2. The developer shall fund reserve accounts for capital  
 6206 expenditures and deferred maintenance for the roof, plumbing,  
 6207 air-conditioning, and any component of the structure the useful  
 6208 life of which is less than the useful life of the overall  
 6209 structure. The reserve accounts shall be funded for each  
 6210 component in an amount equal to the product of the estimated

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6211 current replacement cost of such component as of the date of  
 6212 such conversion (as disclosed and substantiated by a certificate  
 6213 under the seal of an architect or engineer authorized to  
 6214 practice in this state) multiplied by a fraction, the numerator  
 6215 of which shall be the age of the component in years (as  
 6216 disclosed and substantiated by a certificate under the seal of  
 6217 an architect or engineer authorized to practice in this state)  
 6218 and the denominator of which shall be the total useful life of  
 6219 the component in years (as disclosed and substantiated by a  
 6220 certificate under the seal of an architect or engineer  
 6221 authorized to practice in this state). Alternatively, the  
 6222 reserve accounts may be funded for each component in an amount  
 6223 equal to the amount that, except for the application of this  
 6224 subsection, would be required to be maintained pursuant to s.  
 6225 718.618(1) or s. 719.618(1). The developer shall fund the  
 6226 reserve accounts contemplated in this subparagraph out of the  
 6227 proceeds of each sale of a timeshare interest, on a pro rata  
 6228 basis, in an amount not less than a percentage of the total  
 6229 amount to be deposited in the reserve account equal to the  
 6230 percentage of ownership allocable to the timeshare interest  
 6231 sold. When an owners' association makes an expenditure of  
 6232 reserve account funds before the developer has initially sold  
 6233 all timeshare interests, the developer shall make a deposit in  
 6234 the reserve account if the reserve account is insufficient to  
 6235 pay the expenditure. Such deposit shall be at least equal to  
 6236 that portion of the expenditure which would be charged against  
 6237 the reserve account deposit that would have been made for any  
 6238 such timeshare interest had the timeshare interest been

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6239 initially sold. When a developer deposits amounts in excess of  
 6240 the minimum reserve account funding, later deposits may be  
 6241 reduced to the extent of the excess funding.

6242 3. The developer shall provide each purchaser with a  
 6243 warranty of fitness and merchantability pursuant to s.  
 6244 718.618(6) or s. 719.618(6).

6245 (11)(a) A seller may offer timeshare interests in a real  
 6246 property timeshare plan located outside of this state without  
 6247 filing a public offering statement for such out-of-state real  
 6248 property timeshare plan pursuant to ~~s. 721.07~~ or s. 721.55,  
 6249 provided all of the following criteria have been satisfied:

6250 1. The seller shall provide a disclosure statement to each  
 6251 prospective purchaser of such out-of-state timeshare plan. ~~The~~  
 6252 ~~disclosure statement for a single-site timeshare plan shall~~  
 6253 ~~contain information otherwise required under s. 721.07(5)(e)~~  
 6254 ~~(cc) and the exhibits required by s. 721.07(5)(ff) 1., 2., 3.,~~  
 6255 ~~4., 5., 7., 8., and 20.~~ The disclosure statement for a multisite  
 6256 timeshare plan shall contain information otherwise required  
 6257 under s. 721.55(4) ~~and (5)~~ and the exhibits required under s.  
 6258 721.55(6)(7). If a developer has, in good faith, attempted to  
 6259 comply with the requirements of this subsection and if the  
 6260 developer has substantially complied with the disclosure  
 6261 requirements of this subsection, nonmaterial errors or omissions  
 6262 shall not be actionable. With respect to any offer for an out-  
 6263 of-state timeshare plan made pursuant to this subsection, the  
 6264 delivery by the seller to a prospective purchaser of the  
 6265 disclosure statement required by this subparagraph shall be  
 6266 deemed to satisfy any requirement of this chapter regarding a



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6267 public offering statement.

6268         2. The seller shall utilize and furnish to each purchaser  
 6269 of an out-of-state timeshare plan offered under this subsection  
 6270 a fully completed and executed copy of a purchase contract that  
 6271 contains the statement set forth in s. 721.065(2)(c) in  
 6272 conspicuous type located immediately prior to the space in the  
 6273 contract reserved for the purchaser's signature. The purchase  
 6274 contract shall also contain the initial purchase price and any  
 6275 additional charges to which the purchaser may be subject in  
 6276 connection with the purchase of the timeshare plan, such as  
 6277 financing, or that will be collected from the purchaser on or  
 6278 before closing, such as the current year's annual assessment for  
 6279 common expenses.

6280         3. All purchase contracts for out-of-state timeshare plans  
 6281 offered under this subsection must also contain the following  
 6282 statements in conspicuous type:

6283 This timeshare plan has not been reviewed or approved by the  
 6284 State of Florida.

6285 The timeshare interest you are purchasing requires certain  
 6286 procedures to be followed in order for you to use your interest.  
 6287 These procedures may be different from those followed in other  
 6288 timeshare plans. You should read and understand these procedures  
 6289 prior to purchasing.

6290         4.a. An out-of-state timeshare plan may only be offered  
 6291 pursuant to this subsection by the seller on behalf of:

6292             (I) The developer of a timeshare plan that has been  
 6293 approved by the division within the preceding 7 years pursuant  
 6294 to ~~s. 721.07~~ or s. 721.55, or concerning which an amendment by

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6295 the developer has been approved by the division within the  
 6296 preceding 7 years, which timeshare plan has been neither  
 6297 terminated nor withdrawn; or

6298 (II) A developer under common ownership or control with a  
 6299 developer described in sub-sub-subparagraph (I), provided that  
 6300 any common ownership shall constitute at least a 50-percent  
 6301 ownership interest.

6302 b. An out-of-state timeshare plan may only be offered  
 6303 pursuant to this subsection to a person who already owns a  
 6304 timeshare interest in a timeshare plan filed by a developer  
 6305 described in sub-subparagraph a.

6306 5. Any seller of an out-of-state timeshare plan offered  
 6307 pursuant to this subsection shall be required to provide notice  
 6308 of such plan to the division on a form prescribed by the  
 6309 division, along with payment of a one-time fee not to exceed  
 6310 \$1,000 per filing.

6311 (b) Timeshare plans offered pursuant to this subsection  
 6312 shall be exempt from the requirements of ss. 721.06, 721.065,  
 6313 ~~721.07, 721.27, and~~ 721.55, ~~and 721.58~~ in addition to the  
 6314 exemptions otherwise applicable to accommodations and facilities  
 6315 located outside of the state pursuant to subparagraph (1)(c)1.

6316 Section 195. Subsections (12) through (17) of section  
 6317 721.05, Florida Statutes, are renumbered as subsections (11)  
 6318 through (16), respectively, subsections (19) through (44) of  
 6319 that section are renumbered as subsections (17) through (42),  
 6320 respectively, and present subsections (11), (18), (19), (29),  
 6321 and (31) of that section are amended to read:

6322 721.05 Definitions.—As used in this chapter, the term:

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6323 ~~(11) "Division" means the Division of Florida~~  
 6324 ~~Condominiums, Timeshares, and Mobile Homes of the Department of~~  
 6325 ~~Business and Professional Regulation.~~

6326 ~~(18) "Filed public offering statement" means a public~~  
 6327 ~~offering statement that has been filed with the division~~  
 6328 ~~pursuant to s. 721.07(5) or s. 721.55.~~

6329 (17)~~(19)~~ "Incidental benefit" means an accommodation,  
 6330 product, service, discount, or other benefit which is offered to  
 6331 a prospective purchaser of a timeshare plan or to a purchaser of  
 6332 a timeshare plan prior to the expiration of his or her initial  
 6333 10-day voidability period pursuant to s. 721.10; which is not an  
 6334 exchange program as defined in subsection (15)~~(16)~~; and which  
 6335 ~~complies with the provisions of s. 721.075.~~ The term shall not  
 6336 include an offer of the use of the accommodations and facilities  
 6337 of the timeshare plan on a free or discounted one-time basis.

6338 (27)~~(29)~~ "Public offering statement" means the written  
 6339 materials describing a single-site timeshare plan or a multisite  
 6340 timeshare plan, including a text and any exhibits attached  
 6341 thereto as required by ss. ~~721.07~~, ~~721.55~~, and 721.551. The term  
 6342 "public offering statement" shall refer to both a filed public  
 6343 offering statement and a purchaser public offering statement.

6344 (29)~~(31)~~ "Purchaser public offering statement" means that  
 6345 portion of the filed public offering statement which must be  
 6346 delivered to purchasers pursuant to ~~s. 721.07(6)~~ or s. 721.551.

6347 Section 196. Paragraphs (g) and (l) of subsection (1) and  
 6348 subsection (2) of section 721.06, Florida Statutes, are amended  
 6349 to read:

6350 721.06 Contracts for purchase of timeshare interests.—

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6351 (1) Each seller shall utilize and furnish each purchaser a  
 6352 fully completed and executed copy of a contract pertaining to  
 6353 the sale, which contract shall include the following  
 6354 information:

6355 (g) Immediately prior to the space reserved in the  
 6356 contract for the signature of the purchaser, in conspicuous  
 6357 type, substantially the following statements:

6358 1. If the purchaser will receive a personal property  
 6359 timeshare interest: This personal property timeshare plan is  
 6360 governed only by limited sections of the timeshare management  
 6361 provisions of Florida law.

6362 2. If the accommodations or facilities are located on or  
 6363 in a documented vessel or foreign vessel as provided in s.  
 6364 721.08(2)(c)3.e., the disclosure required by s.  
 6365 721.08(2)(c)3.e.(IV).

6366 3. You may cancel this contract without any penalty or  
 6367 obligation within 10 calendar days after the date you sign this  
 6368 contract or the date on which you receive the last of all  
 6369 documents required to be given to you ~~pursuant to section~~  
 6370 ~~721.07(6), Florida Statutes~~, whichever is later. If you decide  
 6371 to cancel this contract, you must notify the seller in writing  
 6372 of your intent to cancel. Your notice of cancellation shall be  
 6373 effective upon the date sent and shall be sent to ...(Name of  
 6374 Seller)... at ...(Address of Seller).... Any attempt to obtain a  
 6375 waiver of your cancellation right is void and of no effect.  
 6376 While you may execute all closing documents in advance, the  
 6377 closing, as evidenced by delivery of the deed or other document,  
 6378 before expiration of your 10-day cancellation period, is

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6379 prohibited.

6380 (1) If the purchaser will receive an interest in a  
 6381 multisite timeshare plan pursuant to part II, a statement shall  
 6382 be provided in conspicuous type in substantially the following  
 6383 form:

6384 The developer is required to provide the managing entity of  
 6385 the multisite timeshare plan with a copy of the approved public  
 6386 offering statement text and exhibits ~~filed with the division~~ and  
 6387 any approved amendments thereto, and any other component site  
 6388 documents as described in ~~section 721.07 or~~ section 721.55,  
 6389 Florida Statutes, ~~that are not required to be filed with the~~  
 6390 ~~division,~~ to be maintained by the managing entity for inspection  
 6391 as part of the books and records of the plan.

6392 (2) (a) An agreement for deed shall be recorded by the  
 6393 developer within 30 days after the day it is executed by the  
 6394 purchaser. The developer shall pay all recording costs  
 6395 associated therewith. ~~A form copy of such instrument must be~~  
 6396 ~~filed with the division for review pursuant to s. 721.07.~~

6397 (b) An agreement for transfer shall be filed with the  
 6398 appropriate official responsible for maintaining such records in  
 6399 the appropriate jurisdiction within 30 days after the day it is  
 6400 executed by the purchaser. The developer shall pay all filing  
 6401 costs associated therewith. ~~A form copy of such instrument must~~  
 6402 ~~be filed with the division for review pursuant to s. 721.07.~~

6403 Section 197. Section 721.07, Florida Statutes, is  
 6404 repealed.

6405 Section 198. Section 721.071, Florida Statutes, is  
 6406 repealed.

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6407 Section 199. Section 721.075, Florida Statutes, is  
 6408 repealed.

6409 Section 200. Subsection (1) and paragraph (c) of  
 6410 subsection (2) of section 721.08, Florida Statutes, are amended  
 6411 to read:

6412 721.08 Escrow accounts; nondisturbance instruments;  
 6413 alternate security arrangements; transfer of legal title.—

6414 (1) ~~Prior to the filing of a public offering statement~~  
 6415 ~~with the division,~~ All developers shall establish an escrow  
 6416 account with an escrow agent for the purpose of protecting the  
 6417 funds or other property of purchasers required to be escrowed by  
 6418 this section. An escrow agent shall maintain the accounts called  
 6419 for in this section only in such a manner as to be under the  
 6420 direct supervision and control of the escrow agent. The escrow  
 6421 agent shall have a fiduciary duty to each purchaser to maintain  
 6422 the escrow accounts in accordance with good accounting practices  
 6423 and to release the purchaser's funds or other property from  
 6424 escrow only in accordance with this chapter. The escrow agent  
 6425 shall retain all affidavits received pursuant to this section  
 6426 for a period of 5 years. Should the escrow agent receive  
 6427 conflicting demands for funds or other property held in escrow,  
 6428 the escrow agent shall immediately notify the division of the  
 6429 dispute and either promptly submit the matter to arbitration or,  
 6430 by interpleader or otherwise, seek an adjudication of the matter  
 6431 by court.

6432 (2) One hundred percent of all funds or other property  
 6433 which is received from or on behalf of purchasers of the  
 6434 timeshare plan or timeshare interest prior to the occurrence of

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6435 events required in this subsection shall be deposited pursuant  
 6436 to an escrow agreement approved by the division. The funds or  
 6437 other property may be released from escrow only as follows:  
 6438 (c) Compliance with conditions.—  
 6439 1. Timeshare licenses.—If the timeshare plan is one in  
 6440 which timeshare licenses are to be sold and no cancellation or  
 6441 default has occurred, the escrow agent may release the escrowed  
 6442 funds or other property to or on the order of the developer upon  
 6443 presentation of:  
 6444 a. An affidavit by the developer that all of the following  
 6445 conditions have been met:  
 6446 (I) Expiration of the cancellation period.  
 6447 (II) Completion of construction.  
 6448 (III) Closing.  
 6449 (IV) Either:  
 6450 (A) Execution, delivery, and recordation by each  
 6451 interestholder of the nondisturbance and notice to creditors  
 6452 instrument, as described in this section; or  
 6453 (B) Transfer by the developer of legal title to the  
 6454 subject accommodations and facilities, or all use rights  
 6455 therein, into a trust satisfying the requirements of  
 6456 subparagraph 4. and the execution, delivery, and recordation by  
 6457 each other interestholder of the nondisturbance and notice to  
 6458 creditors instrument, as described in this section.  
 6459 b. A certified copy of each recorded nondisturbance and  
 6460 notice to creditors instrument.  
 6461 c. One of the following:  
 6462 (I) A copy of a memorandum of agreement, as defined in s.

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6463 | 721.05, together with satisfactory evidence that the original  
 6464 | memorandum of agreement has been irretrievably delivered for  
 6465 | recording to the appropriate official responsible for  
 6466 | maintaining the public records in the county in which the  
 6467 | subject accommodations and facilities are located. The original  
 6468 | memorandum of agreement must be recorded within 180 days after  
 6469 | the date on which the purchaser executed her or his purchase  
 6470 | agreement.

6471 | (II) A notice delivered for recording to the appropriate  
 6472 | official responsible for maintaining the public records in each  
 6473 | county in which the subject accommodations and facilities are  
 6474 | located notifying all persons of the identity of an independent  
 6475 | escrow agent or trustee satisfying the requirements of  
 6476 | subparagraph 4. that shall maintain separate books and records,  
 6477 | in accordance with good accounting practices, for the timeshare  
 6478 | plan in which timeshare licenses are to be sold. The books and  
 6479 | records shall indicate each accommodation and facility that is  
 6480 | subject to such a timeshare plan and each purchaser of a  
 6481 | timeshare license in the timeshare plan.

6482 | 2. Timeshare estates.—If the timeshare plan is one in  
 6483 | which timeshare estates are to be sold and no cancellation or  
 6484 | default has occurred, the escrow agent may release the escrowed  
 6485 | funds or other property to or on the order of the developer upon  
 6486 | presentation of:

6487 | a. An affidavit by the developer that all of the following  
 6488 | conditions have been met:

6489 | (I) Expiration of the cancellation period.

6490 | (II) Completion of construction.



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6491 (III) Closing.

6492 b. If the timeshare estate is sold by agreement for deed,

6493 a certified copy of the recorded nondisturbance and notice to

6494 creditors instrument, as described in this section.

6495 c. Evidence that each accommodation and facility:

6496 (I) Is free and clear of the claims of any

6497 interestholders, other than the claims of interestholders that,

6498 through a recorded instrument, are irrevocably made subject to

6499 the timeshare instrument and the use rights of purchasers made

6500 available through the timeshare instrument;

6501 (II) Is the subject of a recorded nondisturbance and

6502 notice to creditors instrument that complies with subsection (3)

6503 and s. 721.17; or

6504 (III) Has been transferred into a trust satisfying the

6505 requirements of subparagraph 4.

6506 d. Evidence that the timeshare estate:

6507 (I) Is free and clear of the claims of any

6508 interestholders, other than the claims of interestholders that,

6509 through a recorded instrument, are irrevocably made subject to

6510 the timeshare instrument and the use rights of purchasers made

6511 available through the timeshare instrument; or

6512 (II) Is the subject of a recorded nondisturbance and

6513 notice to creditors instrument that complies with subsection (3)

6514 and s. 721.17.

6515 3. Personal property timeshare interests.—If the timeshare

6516 plan is one in which personal property timeshare interests are

6517 to be sold and no cancellation or default has occurred, the

6518 escrow agent may release the escrowed funds or other property to

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6519 or on the order of the developer upon presentation of:  
 6520 a. An affidavit by the developer that all of the following  
 6521 conditions have been met:  
 6522 (I) Expiration of the cancellation period.  
 6523 (II) Completion of construction.  
 6524 (III) Closing.  
 6525 b. If the personal property timeshare interest is sold by  
 6526 agreement for transfer, evidence that the agreement for transfer  
 6527 complies fully with s. 721.06 and this section.  
 6528 c. Evidence that one of the following has occurred:  
 6529 (I) Transfer by the owner of the underlying personal  
 6530 property of legal title to the subject accommodations and  
 6531 facilities or all use rights therein into a trust satisfying the  
 6532 requirements of subparagraph 4.; or  
 6533 (II) Transfer by the owner of the underlying personal  
 6534 property of legal title to the subject accommodations and  
 6535 facilities or all use rights therein into an owners' association  
 6536 satisfying the requirements of subparagraph 5.  
 6537 d. Evidence of compliance with the provisions of  
 6538 subparagraph 6., if required.  
 6539 e. If a personal property timeshare plan is created with  
 6540 respect to accommodations and facilities that are located on or  
 6541 in an oceangoing vessel, including a "documented vessel" or a  
 6542 "foreign vessel," as defined and governed by 46 U.S.C., chapter  
 6543 301:  
 6544 (I) In making the transfer required in sub-subparagraph  
 6545 c., the developer shall use as its transfer instrument a  
 6546 document that establishes and protects the continuance of the

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6547 use rights in the subject accommodations and facilities in a  
 6548 manner that is enforceable by the trust or owners' association.

6549 (II) The transfer instrument shall comply fully with the  
 6550 provisions of this chapter, shall be part of the timeshare  
 6551 instrument, and shall contain specific provisions that:

6552 (A) Prohibit the vessel owner, the developer, any manager  
 6553 or operator of the vessel, the owners' association or the  
 6554 trustee, the managing entity, or any other person from incurring  
 6555 any liens against the vessel except for liens that are required  
 6556 for the operation and upkeep of the vessel, including liens for  
 6557 fuel expenditures, repairs, crews' wages, and salvage, and  
 6558 except as provided in sub-sub-subparagraphs 4.b.(III) and  
 6559 5.b.(III). All expenses, fees, and taxes properly incurred in  
 6560 connection with the creation, satisfaction, and discharge of any  
 6561 such permitted lien, or a prorated portion thereof if less than  
 6562 all of the accommodations on the vessel are subject to the  
 6563 timeshare plan, shall be common expenses of the timeshare plan.

6564 (B) Grant a lien against the vessel in favor of the  
 6565 owners' association or trustee to secure the full and faithful  
 6566 performance of the vessel owner and developer of all of their  
 6567 obligations to the purchasers.

6568 (C) Establish governing law in a jurisdiction that  
 6569 recognizes and will enforce the timeshare instrument and the  
 6570 laws of the jurisdiction of registry of the vessel.

6571 (D) Require that a description of the use rights of  
 6572 purchasers be posted and displayed on the vessel in a manner  
 6573 that will give notice of such rights to any party examining the  
 6574 vessel. This notice must identify the owners' association or

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6575 trustee and include a statement disclosing the limitation on  
 6576 incurring liens against the vessel described in sub-sub-sub-  
 6577 subparagraph (A).

6578 (E) Include the nondisturbance and notice to creditors  
 6579 instrument for the vessel owner and any other interestholders.

6580 (F) The owners' association created under subparagraph 5.  
 6581 or trustee created under subparagraph 4. shall have access to  
 6582 any certificates of classification in accordance with the  
 6583 timeshare instrument.

6584 (III) If the vessel is a foreign vessel, the vessel must  
 6585 be registered in a jurisdiction that permits a filing evidencing  
 6586 the use rights of purchasers in the subject accommodations and  
 6587 facilities, offers protection for such use rights against  
 6588 unfiled and inferior claims, and recognizes the document or  
 6589 instrument creating such use rights as a lien against the  
 6590 vessel.

6591 (IV) ~~In addition to the disclosures required by s.~~  
 6592 ~~721.07(5),~~ The public offering statement and purchase contract  
 6593 must contain a disclosure in conspicuous type in substantially  
 6594 the following form:

6595 The laws of the State of Florida govern the offering of this  
 6596 timeshare plan in this state. There are inherent risks in  
 6597 purchasing a timeshare interest in this timeshare plan because  
 6598 the accommodations and facilities of the timeshare plan are  
 6599 located on a vessel that will sail into international waters and  
 6600 into waters governed by many different jurisdictions. Therefore,  
 6601 the laws of the State of Florida cannot fully protect your  
 6602 purchase of an interest in this timeshare plan. Specifically,

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6603 management and operational issues may need to be addressed in  
 6604 the jurisdiction in which the vessel is registered, which is  
 6605 (insert jurisdiction in which vessel is registered). Concerns of  
 6606 purchasers may be sent to (insert name of applicable regulatory  
 6607 agency and address).

6608 4. Trust.—

6609 a. If the subject accommodations or facilities, or all use  
 6610 rights therein, are to be transferred into a trust in order to  
 6611 comply with this paragraph, such transfer shall take place  
 6612 pursuant to this subparagraph.

6613 b. Prior to the transfer by each interestholder of the  
 6614 subject accommodations and facilities, or all use rights  
 6615 therein, to a trust, any lien or other encumbrance against such  
 6616 accommodations and facilities, or use rights therein, shall be  
 6617 made subject to a nondisturbance and notice to creditors  
 6618 instrument pursuant to subsection (3). No transfer pursuant to  
 6619 this subparagraph shall become effective until the trustee  
 6620 accepts such transfer and the responsibilities set forth herein.  
 6621 A trust established pursuant to this subparagraph shall comply  
 6622 with the following provisions:

6623 (I) The trustee shall be an individual or a business  
 6624 entity authorized and qualified to conduct trust business in  
 6625 this state. Any corporation authorized to do business in this  
 6626 state may act as trustee in connection with a timeshare plan  
 6627 pursuant to this chapter. The trustee must be independent from  
 6628 any developer or managing entity of the timeshare plan or any  
 6629 interestholder of any accommodation or facility of such plan.

6630 (II) The trust shall be irrevocable so long as any

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6631 purchaser has a right to occupy any portion of the timeshare  
 6632 property pursuant to the timeshare plan.

6633 (III) The trustee shall not convey, hypothecate, mortgage,  
 6634 assign, lease, or otherwise transfer or encumber in any fashion  
 6635 any interest in or portion of the timeshare property with  
 6636 respect to which any purchaser has a right of use or occupancy  
 6637 unless the timeshare plan is terminated pursuant to the  
 6638 timeshare instrument, or such conveyance, hypothecation,  
 6639 mortgage, assignment, lease, transfer, or encumbrance is  
 6640 approved by a vote of two-thirds of all voting interests of the  
 6641 timeshare plan and such decision is declared by a court of  
 6642 competent jurisdiction to be in the best interests of the  
 6643 purchasers of the timeshare plan. The trustee shall notify the  
 6644 division in writing within 10 days after receiving notice of the  
 6645 filing of any petition relating to obtaining such a court order.  
 6646 ~~The division shall have standing to advise the court of the~~  
 6647 ~~division's interpretation of the statute as it relates to the~~  
 6648 ~~petition.~~

6649 (IV) All purchasers of the timeshare plan or the owners'  
 6650 association of the timeshare plan shall be the express  
 6651 beneficiaries of the trust. The trustee shall act as a fiduciary  
 6652 to the beneficiaries of the trust. The personal liability of the  
 6653 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,  
 6654 and 736.1015. The agreement establishing the trust shall set  
 6655 forth the duties of the trustee. The trustee shall be required  
 6656 to furnish promptly to the division upon request a copy of the  
 6657 complete list of the names and addresses of the owners in the  
 6658 timeshare plan and a copy of any other books and records of the

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6659 | timeshare plan required to be maintained pursuant to s. 721.13  
 6660 | that are in the possession, custody, or control of the trustee.  
 6661 | All expenses reasonably incurred by the trustee in the  
 6662 | performance of its duties, together with any reasonable  
 6663 | compensation of the trustee, shall be common expenses of the  
 6664 | timeshare plan.

6665 |         (V) The trustee shall not resign upon less than 90 days'  
 6666 | prior written notice to the managing entity and the division. No  
 6667 | resignation shall become effective until a substitute trustee,  
 6668 | approved by the division, is appointed by the managing entity  
 6669 | and accepts the appointment.

6670 |         (VI) The documents establishing the trust arrangement  
 6671 | shall constitute a part of the timeshare instrument.

6672 |         (VII) For trusts holding property in a timeshare plan  
 6673 | located outside this state, the trust and trustee holding such  
 6674 | property shall be deemed in compliance with the requirements of  
 6675 | this subparagraph if such trust and trustee are authorized and  
 6676 | qualified to conduct trust business under the laws of such  
 6677 | jurisdiction and the agreement or law governing such trust  
 6678 | arrangement provides substantially similar protections for the  
 6679 | purchaser as are required in this subparagraph for trusts  
 6680 | holding property in a timeshare plan in this state.

6681 |         (VIII) The trustee shall have appointed a registered agent  
 6682 | in this state for service of process. ~~In the event such a~~  
 6683 | ~~registered agent is not appointed, service of process may be~~  
 6684 | ~~served pursuant to s. 721.265.~~

6685 |         5. Owners' association.—

6686 |         a. If the subject accommodations or facilities, or all use

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6687 | rights therein, are to be transferred into an owners'  
 6688 | association in order to comply with this paragraph, such  
 6689 | transfer shall take place pursuant to this subparagraph.

6690 |       b. Prior to the transfer by each interestholder of the  
 6691 | subject accommodations and facilities, or all use rights  
 6692 | therein, to an owners' association, any lien or other  
 6693 | encumbrance against such accommodations and facilities, or use  
 6694 | rights therein, shall be made subject to a nondisturbance and  
 6695 | notice to creditors instrument pursuant to subsection (3). No  
 6696 | transfer pursuant to this subparagraph shall become effective  
 6697 | until the owners' association accepts such transfer and the  
 6698 | responsibilities set forth herein. An owners' association  
 6699 | established pursuant to this subparagraph shall comply with the  
 6700 | following provisions:

6701 |       (I) The owners' association shall be a business entity  
 6702 | authorized and qualified to conduct business in this state.  
 6703 | Control of the board of directors of the owners' association  
 6704 | must be independent from any developer or managing entity of the  
 6705 | timeshare plan or any interestholder.

6706 |       (II) The bylaws of the owners' association shall provide  
 6707 | that the corporation may not be voluntarily dissolved without  
 6708 | the unanimous vote of all owners of personal property timeshare  
 6709 | interests so long as any purchaser has a right to occupy any  
 6710 | portion of the timeshare property pursuant to the timeshare  
 6711 | plan.

6712 |       (III) The owners' association shall not convey,  
 6713 | hypothecate, mortgage, assign, lease, or otherwise transfer or  
 6714 | encumber in any fashion any interest in or portion of the



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6715 timeshare property with respect to which any purchaser has a  
 6716 right of use or occupancy, unless the timeshare plan is  
 6717 terminated pursuant to the timeshare instrument, or unless such  
 6718 conveyance, hypothecation, mortgage, assignment, lease,  
 6719 transfer, or encumbrance is approved by a vote of two-thirds of  
 6720 all voting interests of the association and such decision is  
 6721 declared by a court of competent jurisdiction to be in the best  
 6722 interests of the purchasers of the timeshare plan. The owners'  
 6723 association shall notify the division in writing within 10 days  
 6724 after receiving notice of the filing of any petition relating to  
 6725 obtaining such a court order. ~~The division shall have standing~~  
 6726 ~~to advise the court of the division's interpretation of the~~  
 6727 ~~statute as it relates to the petition.~~

6728 (IV) All purchasers of the timeshare plan shall be members  
 6729 of the owners' association and shall be entitled to vote on  
 6730 matters requiring a vote of the owners' association as provided  
 6731 in this chapter or the timeshare instrument. The owners'  
 6732 association shall act as a fiduciary to the purchasers of the  
 6733 timeshare plan. The articles of incorporation establishing the  
 6734 owners' association shall set forth the duties of the owners'  
 6735 association. All expenses reasonably incurred by the owners'  
 6736 association in the performance of its duties, together with any  
 6737 reasonable compensation of the officers or directors of the  
 6738 owners' association, shall be common expenses of the timeshare  
 6739 plan.

6740 (V) The documents establishing the owners' association  
 6741 shall constitute a part of the timeshare instrument.

6742 (VI) For owners' associations holding property in a

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6743 | timeshare plan located outside this state, the owners'  
 6744 | association holding such property shall be deemed in compliance  
 6745 | with the requirements of this subparagraph if such owners'  
 6746 | association is authorized and qualified to conduct owners'  
 6747 | association business under the laws of such jurisdiction and the  
 6748 | agreement or law governing such arrangement provides  
 6749 | substantially similar protections for the purchaser as are  
 6750 | required in this subparagraph for owners' associations holding  
 6751 | property in a timeshare plan in this state.

6752 |         (VII) The owners' association shall have appointed a  
 6753 | registered agent in this state for service of process. ~~In the~~  
 6754 | ~~event such a registered agent cannot be located, service of~~  
 6755 | ~~process may be made pursuant to s. 721.265.~~

6756 |         6. Personal property subject to certificate of title.—If  
 6757 | any personal property that is an accommodation or facility of a  
 6758 | timeshare plan is subject to a certificate of title in this  
 6759 | state pursuant to chapter 319 or chapter 328, the following  
 6760 | notation must be made on such certificate of title pursuant to  
 6761 | s. 319.27(1) or s. 328.15(1):

6762 | The further transfer or encumbrance of the property subject to  
 6763 | this certificate of title, or any lien or encumbrance thereon,  
 6764 | is subject to the requirements of section 721.17, Florida  
 6765 | Statutes, and the transferee or lienor agrees to be bound by all  
 6766 | of the obligations set forth therein.

6767 |         7. If the developer has previously provided a certified  
 6768 | copy of any document required by this paragraph, she or he may  
 6769 | for all subsequent disbursements substitute a true and correct  
 6770 | copy of the certified copy, provided no changes to the document

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6771 have been made or are required to be made.

6772 8. In the event that use rights relating to an  
 6773 accommodation or facility are transferred into a trust pursuant  
 6774 to subparagraph 4. or into an owners' association pursuant to  
 6775 subparagraph 5., all other interestholders, including the owner  
 6776 of the underlying fee or underlying personal property, must  
 6777 execute a nondisturbance and notice to creditors instrument  
 6778 pursuant to subsection (3).

6779 Section 201. Paragraphs (d) through (f) of subsection (2)  
 6780 of section 721.09, Florida Statutes, are redesignated as  
 6781 paragraphs (c) through (e), respectively, and paragraphs (a),  
 6782 (c), and (d) of subsection (1) and paragraph (c) of subsection  
 6783 (2) of that section are amended to read:

6784 721.09 Reservation agreements; escrows.—

6785 (1) (a) ~~Prior to filing the filed public offering statement~~  
 6786 ~~with the division,~~ A seller shall not offer a timeshare plan for  
 6787 sale but may accept reservation deposits and advertise the  
 6788 reservation deposit program ~~upon approval by the division of a~~  
 6789 ~~fully executed escrow agreement and reservation agreement~~  
 6790 ~~properly filed with the division.~~

6791 ~~(c) If the timeshare plan subject to the reservation~~  
 6792 ~~agreement has not been filed with the division under s.~~  
 6793 ~~721.07(5) or s. 721.55 within 180 days after the date the~~  
 6794 ~~division approves the reservation agreement filing, the seller~~  
 6795 ~~must immediately cancel all outstanding reservation agreements,~~  
 6796 ~~refund all escrowed funds to prospective purchasers, and~~  
 6797 ~~discontinue accepting reservation deposits or advertising the~~  
 6798 ~~availability of reservation agreements.~~

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6799            (c)~~(d)~~ A seller who has filed a reservation agreement and  
 6800 an escrow agreement under this section may advertise the  
 6801 reservation agreement program if the advertising material meets  
 6802 the following requirements:

6803            1. The seller complies with the provisions of s. 721.11  
 6804 with respect to such advertising material.

6805            2. The advertising material is limited to a general  
 6806 description of the proposed timeshare plan, including, but not  
 6807 limited to, a general description of the type, number, and size  
 6808 of accommodations and facilities and the name of the proposed  
 6809 timeshare plan.

6810            3. The advertising material contains a statement that the  
 6811 advertising material is being distributed in connection with an  
 6812 approved reservation agreement filing only ~~and that the seller~~  
 6813 ~~cannot offer an interest in the timeshare plan for sale until a~~  
 6814 ~~filed public offering statement has been filed with the division~~  
 6815 ~~under this chapter.~~

6816            (2) Each executed reservation agreement shall be signed by  
 6817 the developer and shall contain the following:

6818            ~~(c) A statement of the obligation of the developer to file~~  
 6819 ~~a filed public offering statement with the division prior to~~  
 6820 ~~entering into binding contracts.~~

6821            Section 202. Paragraph (b) of subsection (1) of section  
 6822 721.10, Florida Statutes, is amended to read:

6823            721.10 Cancellation.—

6824            (1) A purchaser has the right to cancel the contract until  
 6825 midnight of the 10th calendar day following whichever of the  
 6826 following days occurs later:

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6827 (b) The day on which the purchaser received the last of  
 6828 all documents required to be provided to him or her, ~~including~~  
 6829 ~~the notice required by s. 721.07(2)(d)2., if applicable.~~

6830  
 6831 This right of cancellation may not be waived by any purchaser or  
 6832 by any other person on behalf of the purchaser. Furthermore, no  
 6833 closing may occur until the cancellation period of the timeshare  
 6834 purchaser has expired. Any attempt to obtain a waiver of the  
 6835 cancellation right of the timeshare purchaser, or to hold a  
 6836 closing prior to the expiration of the cancellation period, is  
 6837 unlawful and such closing is voidable at the option of the  
 6838 purchaser for a period of 1 year after the expiration of the  
 6839 cancellation period. However, nothing in this section precludes  
 6840 the execution of documents in advance of closing for delivery  
 6841 after expiration of the cancellation period.

6842 Section 203. Subsection (1) of section 721.11, Florida  
 6843 Statutes, is amended to read:

6844 721.11 Advertising materials; oral statements.-

6845 ~~(1)(a) A developer may file advertising material with the~~  
 6846 ~~division for review. The division shall review any advertising~~  
 6847 ~~material filed for review by the developer and notify the~~  
 6848 ~~developer of any deficiencies within 10 days after the filing.~~  
 6849 ~~If the developer corrects the deficiencies or if there are no~~  
 6850 ~~deficiencies, the division shall notify the developer of its~~  
 6851 ~~approval of the advertising materials. Notwithstanding anything~~  
 6852 ~~to the contrary contained in this subsection, so long as the~~  
 6853 ~~developer uses advertising materials approved by the division,~~  
 6854 ~~following the developer's request for a review, the developer~~

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6855 ~~shall not be liable for any violation of this section or s.~~  
 6856 ~~721.111 with respect to such advertising materials.~~

6857 ~~(b)~~ All advertising materials must be substantially in  
 6858 compliance with this chapter and in full compliance with the  
 6859 mandatory provisions of this chapter. In the event that any such  
 6860 material is not in substantial compliance with this chapter, the  
 6861 division may file administrative charges and an injunction  
 6862 against the developer ~~and exact such penalties or remedies as~~  
 6863 ~~provided in s. 721.26,~~ or may require the developer to correct  
 6864 any deficiency in the materials by notifying the developer of  
 6865 the deficiency. If the developer fails to correct the deficiency  
 6866 after such notification, the division may file administrative  
 6867 charges against the developer ~~and exact such penalties or~~  
 6868 ~~remedies as provided in s. 721.26.~~

6869 Section 204. Subsections (6) and (7) of section 721.111,  
 6870 Florida Statutes, are renumbered as subsections (4) and (5),  
 6871 respectively, and present subsections (4) and (5) of that  
 6872 section are amended to read:

6873 721.111 Prize and gift promotional offers.-

6874 ~~(4) A separate filing for each prize and gift promotional~~  
 6875 ~~offer to be used in the sale of timeshare interests shall be~~  
 6876 ~~made with the division pursuant to s. 721.11(1). The developer~~  
 6877 ~~shall pay a \$100 filing fee for each prize and gift promotional~~  
 6878 ~~offer. One item of each prize or gift, except cash, must be made~~  
 6879 ~~available for inspection by the division.~~

6880 ~~(5) Each filing of a prize and gift promotional offer with~~  
 6881 ~~the division shall include, when applicable:~~

6882 ~~(a) A copy of all advertising material to be used in~~

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6883 ~~connection with the prize and gift promotional offer.~~  
 6884 ~~(b) The name, address, and telephone number (including~~  
 6885 ~~area code) of the supplier or manufacturer from whom each type~~  
 6886 ~~or variety of prize, gift, or other item is obtained.~~  
 6887 ~~(c) The manufacturer's model number or other description~~  
 6888 ~~of such item.~~  
 6889 ~~(d) The information on which the developer relies in~~  
 6890 ~~determining the verifiable retail value, if the value is in~~  
 6891 ~~excess of \$50.~~  
 6892 ~~(e) The name, address, and telephone number (including~~  
 6893 ~~area code) of the promotional entity responsible for overseeing~~  
 6894 ~~and operating the prize and gift promotional offer.~~  
 6895 ~~(f) The name and address of the registered agent in this~~  
 6896 ~~state of the promotional entity for service of process purposes.~~  
 6897 ~~(g) Full disclosure of all pertinent information~~  
 6898 ~~concerning the use of lodging or vacation certificates,~~  
 6899 ~~including the terms and conditions of the campaign and the fact~~  
 6900 ~~and extent of participation in such campaign by the developer.~~  
 6901 ~~The developer shall provide to the division, upon the request of~~  
 6902 ~~the division, an affidavit, certification, or other reasonable~~  
 6903 ~~evidence that the obligation incurred by a seller or the~~  
 6904 ~~seller's agent in a lodging certificate program can be met.~~  
 6905 Section 205. Section 721.121, Florida Statutes, is  
 6906 repealed.  
 6907 Section 206. Paragraphs (a) and (b) of subsection (2),  
 6908 paragraph (c) of subsection (3), and paragraphs (b) and (c) of  
 6909 subsection (12) of section 721.13, Florida Statutes, are amended  
 6910 to read:

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6911 721.13 Management.—  
 6912 (2) (a) The managing entity shall act in the capacity of a  
 6913 fiduciary to the purchasers of the timeshare plan. ~~No penalty~~  
 6914 ~~imposed by the division pursuant to s. 721.26 against any~~  
 6915 ~~managing entity for breach of fiduciary duty shall be assessed~~  
 6916 ~~as a common expense of any timeshare plan.~~  
 6917 (b) The managing entity shall invest the operating and  
 6918 reserve funds of the timeshare plan in accordance with s.  
 6919 518.11(1); however, the managing entity shall give safety of  
 6920 capital greater weight than production of income. In no event  
 6921 shall the managing entity invest timeshare plan funds with a  
 6922 developer or with any entity that is not independent of any  
 6923 developer or any managing entity within the meaning of s.  
 6924 721.05(20) ~~(22)~~, and in no event shall the managing entity invest  
 6925 timeshare plan funds in notes and mortgages related in any way  
 6926 to the timeshare plan.  
 6927 (3) The duties of the managing entity include, but are not  
 6928 limited to:  
 6929 (c)1. Providing each year to all purchasers an itemized  
 6930 annual budget which shall include all estimated revenues and  
 6931 expenses. ~~The budget shall be in the form required by s.~~  
 6932 ~~721.07(5) (t).~~ The budget shall be the final budget adopted by  
 6933 the managing entity for the current fiscal year. The final  
 6934 adopted budget is not required to be delivered if the managing  
 6935 entity has previously delivered a proposed annual budget for the  
 6936 current fiscal year to purchasers in accordance with chapter 718  
 6937 or chapter 719 and the managing entity includes a description of  
 6938 any changes in the adopted budget with the assessment notice and



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6939 a disclosure regarding the purchasers' right to receive a copy  
 6940 of the adopted budget, if desired. The budget shall contain, as  
 6941 a footnote or otherwise, any related party transaction  
 6942 disclosures or notes which appear in the audited financial  
 6943 statements of the managing entity for the previous budget year  
 6944 as required by paragraph (e). A copy of the final budget shall  
 6945 be filed with the division for review within 30 days after the  
 6946 beginning of each fiscal year, together with a statement of the  
 6947 number of periods of 7-day annual use availability that exist  
 6948 within the timeshare plan, ~~including those periods filed for~~  
 6949 ~~sale by the developer but not yet committed to the timeshare~~  
 6950 ~~plan, for which annual fees are required to be paid to the~~  
 6951 ~~division under s. 721.27.~~

6952 2. Notwithstanding anything contained in chapter 718 or  
 6953 chapter 719 to the contrary, the board of administration of an  
 6954 owners' association which serves as the managing entity may from  
 6955 time to time reallocate reserves for deferred maintenance ~~and~~  
 6956 ~~capital expenditures required by s. 721.07(5)(t)3.a.(XI)~~ from  
 6957 any deferred maintenance or capital expenditure reserve account  
 6958 to any other deferred maintenance or capital expenditure reserve  
 6959 account or accounts in its discretion without the consent of  
 6960 purchasers of the timeshare plan. Funds in any deferred  
 6961 maintenance or capital expenditure reserve account may not be  
 6962 transferred to any operating account without the consent of a  
 6963 majority of the purchasers of the timeshare plan. The managing  
 6964 entity may from time to time transfer excess funds in any  
 6965 operating account to any deferred maintenance or capital  
 6966 expenditure reserve account without the vote or approval of

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6967 purchasers of the timeshare plan. In the event any amount of  
 6968 reserves for accommodations and facilities of a timeshare plan  
 6969 containing timeshare licenses or personal property timeshare  
 6970 interests exists at the end of the term of the timeshare plan,  
 6971 such reserves shall be refunded to purchasers on a pro rata  
 6972 basis.

6973 3. With respect to any timeshare plan that has a managing  
 6974 entity that is an owners' association, reserves may be waived or  
 6975 reduced by a majority vote of those voting interests that are  
 6976 present, in person or by proxy, at a duly called meeting of the  
 6977 owners' association. If a meeting of the purchasers has been  
 6978 called to determine whether to waive or reduce the funding of  
 6979 reserves and no such result is achieved or a quorum is not  
 6980 attained, the reserves as included in the budget shall go into  
 6981 effect.

6982 (12)

6983 (b) A statement in conspicuous type, in substantially the  
 6984 following form, shall appear in the public offering statement ~~as~~  
 6985 ~~provided in s. 721.07:~~

6986 The managing entity shall have the right to forecast anticipated  
 6987 reservation and use of the accommodations of the timeshare plan  
 6988 and is authorized to reasonably reserve, deposit, or rent the  
 6989 accommodations for the purpose of facilitating the use or future  
 6990 use of the accommodations or other benefits made available  
 6991 through the timeshare plan.

6992 (c) The managing entity shall maintain copies of all  
 6993 records, data, and information supporting the processes,  
 6994 analyses, procedures, and methods utilized by the managing

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6995 entity in its determination to reserve accommodations of the  
 6996 timeshare plan pursuant to this subsection for a period of 5  
 6997 years from the date of such determination. ~~In the event of an~~  
 6998 ~~investigation by the division for failure of a managing entity~~  
 6999 ~~to comply with this subsection, the managing entity shall make~~  
 7000 ~~all such records, data, and information available to the~~  
 7001 ~~division for inspection, provided that if the managing entity~~  
 7002 ~~complies with the provisions of s. 721.071, Any such records,~~  
 7003 ~~data, and information provided to the division shall constitute~~  
 7004 ~~a trade secret pursuant to that section.~~

7005 Section 207. Subsections (3) and (5) of section 721.18,  
 7006 Florida Statutes, are renumbered as subsections (2) and (3),  
 7007 respectively, and subsections (2) and (4) of that section are  
 7008 amended to read:

7009 721.18 Exchange programs; filing of information and other  
 7010 materials; filing fees; unlawful acts in connection with an  
 7011 exchange program.—

7012 ~~(2) Each exchange company offering an exchange program to~~  
 7013 ~~purchasers in this state shall file with the division for review~~  
 7014 ~~the information specified in subsection (1), together with any~~  
 7015 ~~membership agreement and application between the purchaser and~~  
 7016 ~~the exchange company, and the audit specified in subsection (1)~~  
 7017 ~~on or before June 1 of each year. However, an exchange company~~  
 7018 ~~shall make its initial filing at least 20 days prior to offering~~  
 7019 ~~an exchange program to any purchaser in this state. Each filing~~  
 7020 ~~shall be accompanied by an annual filing fee of \$500. Within 20~~  
 7021 ~~days after receipt of such filing, the division shall determine~~  
 7022 ~~whether the filing is adequate to meet the requirements of this~~

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7023 ~~section and shall notify the exchange company in writing that~~  
 7024 ~~the division has either approved the filing or found specified~~  
 7025 ~~deficiencies in the filing. If the division fails to respond~~  
 7026 ~~within 20 days, the filing shall be deemed approved. The~~  
 7027 ~~exchange company may correct the deficiencies; and, within 10~~  
 7028 ~~days after receipt of corrections from the exchange company, the~~  
 7029 ~~division shall notify the exchange company in writing that the~~  
 7030 ~~division has either approved the filing or found additional~~  
 7031 ~~specified deficiencies in the filing. If the exchange company~~  
 7032 ~~fails to adequately respond to any deficiency notice within 10~~  
 7033 ~~days, the division may reject the filing. Subsequent to such~~  
 7034 ~~rejection, a new filing fee and a new division initial review~~  
 7035 ~~period pursuant to this subsection shall apply to any refiling~~  
 7036 ~~or further review of the rejected filing.~~

7037 ~~(a) Any material change to an approved exchange company~~  
 7038 ~~filing shall be filed with the division for approval as an~~  
 7039 ~~amendment prior to becoming effective. Each amendment filing~~  
 7040 ~~shall be accompanied by a filing fee of \$100. The exchange~~  
 7041 ~~company may correct the deficiencies; and, within 10 days after~~  
 7042 ~~receipt of corrections from the exchange company, the division~~  
 7043 ~~shall notify the exchange company in writing that the division~~  
 7044 ~~has either approved the filing or found additional specified~~  
 7045 ~~deficiencies in the filing. Each approved amendment to the~~  
 7046 ~~approved exchange company filing, other than an amendment that~~  
 7047 ~~does not materially alter or modify the exchange program in a~~  
 7048 ~~manner that is adverse to a purchaser, as determined by the~~  
 7049 ~~exchange company in its reasonable discretion, shall be~~  
 7050 ~~delivered to each purchaser who has not closed. An approved~~

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7051 ~~exchange program filing is required to be updated with respect~~  
 7052 ~~to added or deleted resorts only once each year, and such annual~~  
 7053 ~~update shall not be deemed to be a material change to the~~  
 7054 ~~filing.~~

7055 ~~(b) If at any time the division determines that any of~~  
 7056 ~~such information supplied by an exchange company fails to meet~~  
 7057 ~~the requirements of this section, the division may undertake~~  
 7058 ~~enforcement action against the exchange company in accordance~~  
 7059 ~~with the provision of s. 721.26.~~

7060 ~~(4) At the request of the exchange company, the division~~  
 7061 ~~shall review any audio, written, or visual publications or~~  
 7062 ~~materials relating to an exchange company or an exchange program~~  
 7063 ~~filed for review by the exchange company and shall notify the~~  
 7064 ~~exchange company of any deficiencies within 10 days after the~~  
 7065 ~~filing. If the exchange company corrects the deficiencies, or if~~  
 7066 ~~there are no deficiencies, the division shall notify the~~  
 7067 ~~exchange company of its approval of the advertising materials.~~  
 7068 ~~If the exchange company fails to adequately respond to any~~  
 7069 ~~deficiency notice within 10 days, the division may reject the~~  
 7070 ~~advertising materials. Subsequent to such rejection, a new~~  
 7071 ~~division initial review period pursuant to this subsection shall~~  
 7072 ~~apply to any refiling or further review.~~

7073 Section 208. Subsection (3) of section 721.20, Florida  
 7074 Statutes, is amended to read:

7075 721.20 Licensing requirements; suspension or revocation of  
 7076 license; exceptions to applicability; collection of advance fees  
 7077 for listings unlawful.—

7078 ~~(3) A solicitor who has violated the provisions of chapter~~

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7079 ~~468, chapter 718, chapter 719, this chapter, or the rules of the~~  
 7080 ~~division governing timesharing shall be subject to the~~  
 7081 ~~provisions of s. 721.26.~~ Any developer or other person who  
 7082 supervises, directs, or engages the services of a solicitor  
 7083 shall be liable for any violation of the provisions of chapter  
 7084 468, chapter 718, chapter 719, this chapter, or the rules of the  
 7085 division governing timesharing committed by such solicitor.

7086 Section 209. Section 721.26, Florida Statutes, is  
 7087 repealed.

7088 Section 210. Section 721.265, Florida Statutes, is  
 7089 repealed.

7090 Section 211. Section 721.27, Florida Statutes, is  
 7091 repealed.

7092 Section 212. Section 721.28, Florida Statutes, is  
 7093 repealed.

7094 Section 213. Section 721.29, Florida Statutes, is  
 7095 repealed.

7096 Section 214. Section 721.301, Florida Statutes, is  
 7097 repealed.

7098 Section 215. Section 721.53, Florida Statutes, is  
 7099 repealed.

7100 Section 216. Section 721.55, Florida Statutes, is amended  
 7101 to read:

7102 721.55 Multisite timeshare plan public offering  
 7103 statement.—Each ~~filed~~ public offering statement for a multisite  
 7104 timeshare plan shall contain the information required by this  
 7105 section and ~~shall comply with the provisions of s. 721.07,~~  
 7106 ~~except as otherwise provided therein. The division is authorized~~

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7107 ~~to provide by rule the method by which a developer must provide~~  
 7108 ~~such information to the division.~~ Each multisite timeshare plan  
 7109 ~~filed~~ public offering statement shall contain the following  
 7110 information and disclosures:  
 7111 (1) A cover page containing:  
 7112 (a) The name of the multisite timeshare plan.  
 7113 (b) The following statement in conspicuous type:  
 7114 This public offering statement contains important matters  
 7115 to be considered in acquiring an interest in a multisite  
 7116 timeshare plan (or multisite vacation ownership plan or  
 7117 multisite vacation plan or vacation club). The statements  
 7118 contained herein are only summary in nature. A prospective  
 7119 purchaser should refer to all references, accompanying exhibits,  
 7120 contract documents, and sales materials. The prospective  
 7121 purchaser should not rely upon oral representations as being  
 7122 correct and should refer to this document and accompanying  
 7123 exhibits for correct representations.  
 7124 (2) A summary containing all statements required to be in  
 7125 conspicuous type in the public offering statement and in all  
 7126 exhibits thereto.  
 7127 (3) A separate index for the contents and exhibits of the  
 7128 public offering statement.  
 7129 (4) A text, which shall include, where applicable, the  
 7130 information and disclosures set forth in paragraphs (a)-(1).  
 7131 (a) A description of the multisite timeshare plan,  
 7132 including its term, legal structure, and form of ownership. For  
 7133 multisite timeshare plans in which the purchaser will receive a  
 7134 timeshare estate pursuant to s. 721.57 and for specific

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7135 multisite timeshare plans, the description must also include the  
 7136 term of each component site within the multisite timeshare plan.

7137 (b) A description of the structure and ownership of the  
 7138 reservation system together with a disclosure of the entity  
 7139 responsible for the operation of the reservation system. The  
 7140 description shall include the financial terms of any lease of  
 7141 the reservation system, if applicable. The developer shall not  
 7142 be required to disclose the financial terms of any such lease if  
 7143 such lease is prepaid in full for the term of the multisite  
 7144 timeshare plan or to any extent that neither purchasers nor the  
 7145 managing entity will be required to make payments for the  
 7146 continued use of the system following default by the developer  
 7147 or termination of the managing entity.

7148 (c)1. A description of the manner in which the reservation  
 7149 system operates. The description shall include a disclosure in  
 7150 compliance with the demand balancing standard set forth in s.  
 7151 721.56~~(6)~~ and shall describe the developer's efforts to comply  
 7152 with same in creating the reservation system. The description  
 7153 shall also include a summary of the rules and regulations  
 7154 governing access to and use of the reservation system.

7155 2. In lieu of describing the rules and regulations of the  
 7156 reservation system in the public offering statement text, the  
 7157 developer may attach the rules and regulations as a separate  
 7158 public offering statement exhibit, together with a cross-  
 7159 reference in the public offering statement text to such exhibit.

7160 (d) The existence of and an explanation regarding any  
 7161 priority reservation features that affect a purchaser's ability  
 7162 to make reservations for the use of a given accommodation or



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7163 facility on a first come, first served basis, including, if  
 7164 applicable, the following statement in conspicuous type:

7165 Component sites contained in the multisite timeshare plan  
 7166 (or multisite vacation ownership plan or multisite vacation plan  
 7167 or vacation club) are subject to priority reservation features  
 7168 which may affect your ability to obtain a reservation.

7169 (e) A summary of the material rules and regulations, if  
 7170 any, other than the reservation system rules and regulations,  
 7171 affecting the purchaser's use of each accommodation and facility  
 7172 at each component site.

7173 (f) If the provisions of s. 721.552 and the timeshare  
 7174 instrument permit additions, substitutions, or deletions of  
 7175 accommodations or facilities, the public offering statement must  
 7176 include substantially the following information:

7177 1. Additions.—

7178 a. A description of the basis upon which new  
 7179 accommodations and facilities may be added to the multisite  
 7180 timeshare plan; by whom additions may be made; and the  
 7181 anticipated effect of the addition of new accommodations and  
 7182 facilities upon the reservation system, its priorities, its  
 7183 rules and regulations, and the availability of existing  
 7184 accommodations and facilities.

7185 b. The developer must disclose the existence of any cap on  
 7186 annual increases in common expenses of the multisite timeshare  
 7187 plan that would apply in the event that additional  
 7188 accommodations and facilities are made a part of the plan.

7189 c. The developer shall also disclose any extent to which  
 7190 the purchasers of the multisite timeshare plan will have the

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7191 right to consent to any proposed additions; if the purchasers do  
 7192 not have the right to consent, the developer must include the  
 7193 following disclosure in conspicuous type:

7194 Accommodations and facilities may be added to this  
 7195 multisite timeshare plan (or multisite vacation ownership plan  
 7196 or multisite vacation plan or vacation club) without the consent  
 7197 of the purchasers. The addition of accommodations and facilities  
 7198 to the plan may result in the addition of new purchasers who  
 7199 will compete with existing purchasers in making reservations for  
 7200 the use of available accommodations and facilities within the  
 7201 plan, and may also result in an increase in the annual  
 7202 assessment against purchasers for common expenses.

7203 2. Substitutions.—

7204 a. A description of the basis upon which new  
 7205 accommodations and facilities may be substituted for existing  
 7206 accommodations and facilities of the multisite timeshare plan;  
 7207 by whom substitutions may be made; the basis upon which the  
 7208 determination may be made to cause such substitutions to occur;  
 7209 and any limitations upon the ability to cause substitutions to  
 7210 occur.

7211 b. The developer shall also disclose any extent to which  
 7212 purchasers will have the right to consent to any proposed  
 7213 substitutions; if the purchasers do not have the right to  
 7214 consent, the developer must include the following disclosure in  
 7215 conspicuous type:

7216 New accommodations and facilities may be substituted for  
 7217 existing accommodations and facilities of this multisite  
 7218 timeshare plan (or multisite vacation ownership plan or

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7219 multisite vacation plan or vacation club) without the consent of  
 7220 the purchasers. The replacement accommodations and facilities  
 7221 may be located at a different place or may be of a different  
 7222 type or quality than the replaced accommodations and facilities.  
 7223 The substitution of accommodations and facilities may also  
 7224 result in an increase in the annual assessment against  
 7225 purchasers for common expenses.

7226 3. Deletions.—A description of any provision of the  
 7227 timeshare instrument governing deletion of accommodations or  
 7228 facilities from the multisite timeshare plan. If the timeshare  
 7229 instrument does not provide for business interruption insurance  
 7230 in the event of a casualty, or if it is unavailable, or if the  
 7231 instrument permits the developer, the managing entity, or the  
 7232 purchasers to elect not to reconstruct after casualty under  
 7233 certain circumstances or to secure replacement accommodations or  
 7234 facilities in lieu of reconstruction, the public offering  
 7235 statement must contain a disclosure that during the  
 7236 reconstruction, replacement, or acquisition period, or as a  
 7237 result of a decision not to reconstruct, purchasers of the plan  
 7238 may temporarily compete for available accommodations on a  
 7239 greater than one-to-one use right to use night requirement  
 7240 ratio.

7241 (g) A description of the developer and the managing entity  
 7242 of the multisite timeshare plan, including:

7243 1. The identity of the developer; the developer's business  
 7244 address; the number of years of experience the developer has in  
 7245 the timeshare, hotel, motel, travel, resort, or leisure  
 7246 industries; and a description of any pending lawsuit or judgment

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7247 against the developer which is material to the plan. If there  
 7248 are no such pending lawsuits or judgments, there shall be a  
 7249 statement to that effect.

7250 2. The identity of the managing entity of the multisite  
 7251 timeshare plan; the managing entity's business address; the  
 7252 number of years of experience the managing entity has in the  
 7253 timeshare, hotel, motel, travel, resort, or leisure industries;  
 7254 and a description of any lawsuit or judgment against the  
 7255 managing entity which is material to the plan. If there are no  
 7256 pending lawsuits or judgments, there shall be a statement to  
 7257 that effect. The description of the managing entity shall also  
 7258 include a description of the relationship among the managing  
 7259 entity of the multisite timeshare plan and the various component  
 7260 site managing entities.

7261 (h) A description of the purchaser's liability for common  
 7262 expenses of the multisite timeshare plan, including the  
 7263 following:

7264 1. A description of the common expenses of the plan,  
 7265 including the method of allocation and assessment of such common  
 7266 expenses, whether component site common expenses and real estate  
 7267 taxes are included within the total common expense assessment of  
 7268 the multisite timeshare plan, and, if not, the manner in which  
 7269 timely payment of component site common expenses and real estate  
 7270 taxes shall be accomplished.

7271 2. A description of any cap imposed upon the level of  
 7272 common expenses payable by the purchaser. In no event shall the  
 7273 total common expense assessment for the multisite timeshare plan  
 7274 in a given calendar year exceed 125 percent of the total common

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7275 expense assessment for the plan in the previous calendar year.

7276 3. A description of the entity responsible for the  
 7277 determination of the common expenses of the multisite timeshare  
 7278 plan, as well as any entity which may increase the level of  
 7279 common expenses assessed against the purchaser at the multisite  
 7280 timeshare plan level.

7281 4. A description of the method used to collect common  
 7282 expenses, including the entity responsible for such collections,  
 7283 and the lien rights of any entity for nonpayment of common  
 7284 expenses. If the common expenses of any component site are  
 7285 collected by the managing entity of the multisite timeshare  
 7286 plan, a statement to that effect together with the identity and  
 7287 address of the escrow agent required by s. 721.56~~(3)~~.

7288 5. If the purchaser will receive an interest in a  
 7289 nonspecific multisite timeshare plan, a statement that a  
 7290 multisite timeshare plan budget is attached to the public  
 7291 offering statement as an exhibit pursuant to paragraph  
 7292 (6)~~(7)~~(c). ~~The multisite timeshare plan budget shall comply with~~  
 7293 ~~the provisions of s. 721.07(5)(t).~~

7294 6. If the developer intends to guarantee the level of  
 7295 assessments for the multisite timeshare plan, such guarantee  
 7296 must be based upon a good faith estimate of the revenues and  
 7297 expenses of the multisite timeshare plan. The guarantee must  
 7298 include a description of the following:

7299 a. The specific time period, measured in one or more  
 7300 calendar or fiscal years, during which the guarantee will be in  
 7301 effect.

7302 b. A statement that the developer will pay all common

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7303 expenses incurred in excess of the total revenues of the  
 7304 multisite timeshare plan, if the developer is to be excused from  
 7305 the payment of assessments during the guarantee period.

7306 c. The level, expressed in total dollars, at which the  
 7307 developer guarantees the assessments. If the developer has  
 7308 reserved the right to extend or increase the guarantee level, a  
 7309 disclosure must be included to that effect.

7310 7. If required under applicable law, the developer shall  
 7311 also disclose the following matters for each component site:

7312 a. Any limitation upon annual increases in common  
 7313 expenses;

7314 b. The existence of any bad debt or working capital  
 7315 reserve; and

7316 c. The existence of any replacement or deferred  
 7317 maintenance reserve.

7318 (i) If there are any restrictions upon the sale, transfer,  
 7319 conveyance, or leasing of an interest in a multisite timeshare  
 7320 plan, a description of the restrictions together with a  
 7321 statement in conspicuous type in substantially the following  
 7322 form:

7323 The sale, lease, or transfer of interests in this multisite  
 7324 timeshare plan is restricted or controlled.

7325 (j) The following statement in conspicuous type in  
 7326 substantially the following form:

7327 The purchase of an interest in a multisite timeshare plan  
 7328 (or multisite vacation ownership plan or multisite vacation plan  
 7329 or vacation club) should be based upon its value as a vacation  
 7330 experience or for spending leisure time, and not considered for

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7331 purposes of acquiring an appreciating investment or with an  
 7332 expectation that the interest may be resold.

7333 (k) If the multisite timeshare plan provides purchasers  
 7334 with the opportunity to participate in an exchange program, a  
 7335 description of the name and address of the exchange company and  
 7336 the method by which a purchaser accesses the exchange program.  
 7337 In lieu of this requirement, the public offering statement text  
 7338 may contain a cross-reference to other provisions in the public  
 7339 offering statement or in an exhibit containing this information.

7340 (l) A description of each component site, which  
 7341 description may be disclosed in a written, graphic, tabular, or  
 7342 other form approved by the division. The description of each  
 7343 component site shall include the following information:

7344 1. The name and address of each component site.

7345 2. The number of accommodations, timeshare interests, and  
 7346 timeshare periods, expressed in periods of 7-day use  
 7347 availability, committed to the multisite timeshare plan and  
 7348 available for use by purchasers.

7349 3. Each type of accommodation in terms of the number of  
 7350 bedrooms, bathrooms, sleeping capacity, and whether or not the  
 7351 accommodation contains a full kitchen. For purposes of this  
 7352 description, a full kitchen shall mean a kitchen having a  
 7353 minimum of a dishwasher, range, sink, oven, and refrigerator.

7354 4. A description of facilities available for use by the  
 7355 purchaser at each component site, including the following:

7356 a. The intended use of the facility, if not apparent from  
 7357 the description.

7358 b. Any user fees associated with a purchaser's use of the

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7359 facility.

7360 5. A cross-reference to the location in the public

7361 offering statement of the description of any priority

7362 reservation features which may affect a purchaser's ability to

7363 obtain a reservation in the component site.

7364 ~~(5) Such other information as the division determines is~~

7365 ~~necessary to fairly, meaningfully, and effectively disclose all~~

7366 ~~aspects of the multisite timeshare plan, including, but not~~

7367 ~~limited to, any disclosures made necessary by the operation of~~

7368 ~~s. 721.03(8). However, if a developer has, in good faith,~~

7369 ~~attempted to comply with the requirements of this section, and~~

7370 ~~if, in fact, the developer has substantially complied with the~~

7371 ~~disclosure requirements of this chapter, nonmaterial errors or~~

7372 ~~emissions shall not be actionable.~~

7373 (5)~~(6)~~ Any other information that the developer, ~~with the~~

7374 ~~approval of the division,~~ desires to include in the public

7375 offering statement text.

7376 (6)~~(7)~~ The following documents shall be included as

7377 exhibits to the ~~filed~~ public offering statement, if applicable:

7378 (a) The timeshare instrument.

7379 (b) The reservation system rules and regulations.

7380 (c) The multisite timeshare plan budget pursuant to

7381 subparagraph (4) (h) 5.

7382 (d) Any document containing the material rules and

7383 regulations described in paragraph (4) (e).

7384 (e) Any contract, agreement, or other document through

7385 which component sites are affiliated with the multisite

7386 timeshare plan.



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7387 (f) Any escrow agreement required pursuant to s. 721.08 or  
 7388 s. 721.56~~(3)~~.

7389 (g) The form agreement for sale or lease of an interest in  
 7390 the multisite timeshare plan.

7391 (h) The form receipt for multisite timeshare plan  
 7392 documents required to be given to the purchaser pursuant to s.  
 7393 721.551~~(2)~~ ~~(b)~~.

7394 (i) The description of documents list required to be given  
 7395 to the purchaser by s. 721.551~~(2)~~ ~~(b)~~.

7396 (j) The component site managing entity affidavit or  
 7397 statement required by s. 721.56~~(1)~~.

7398 ~~(k) Any subordination instrument required by s. 721.53.~~

7399 ~~(1)1. If the multisite timeshare plan contains any~~  
 7400 ~~component sites located in this state, the information required~~  
 7401 ~~by s. 721.07(5) pertaining to each such component site unless~~  
 7402 ~~exempt pursuant to s. 721.03.~~

7403 ~~2. If the purchaser will receive a timeshare estate~~  
 7404 ~~pursuant to s. 721.57, or an interest in a specific multisite~~  
 7405 ~~timeshare plan, in a component site located outside of this~~  
 7406 ~~state but which is offered in this state, the information~~  
 7407 ~~required by s. 721.07(5) pertaining to that component site,~~  
 7408 ~~provided, however, that the provisions of s. 721.07(5) (t) shall~~  
 7409 ~~only require disclosure of information related to the estimated~~  
 7410 ~~budget for the timeshare plan and purchaser's expenses as~~  
 7411 ~~required by the jurisdiction in which the component site is~~  
 7412 ~~located.~~

7413 ~~(8) (a) A timeshare plan containing only one component site~~  
 7414 ~~must be filed with the division as a multisite timeshare plan if~~

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7415 ~~the timeshare instrument reserves the right for the developer to~~  
 7416 ~~add future component sites. However, if the developer fails to~~  
 7417 ~~add at least one additional component site to a timeshare plan~~  
 7418 ~~described in this paragraph within 3 years after the date the~~  
 7419 ~~plan is initially filed with the division, the multisite filing~~  
 7420 ~~for such plan shall thereupon terminate, and the developer may~~  
 7421 ~~not thereafter offer any further interests in such plan unless~~  
 7422 ~~and until he or she refiles such plan with the division pursuant~~  
 7423 ~~to this chapter.~~

7424 ~~(b) The public offering statement for any timeshare plan~~  
 7425 ~~described in paragraph (a) must include the following disclosure~~  
 7426 ~~in conspicuous type:~~

7427  
 7428 ~~This timeshare plan has been filed as a multisite timeshare~~  
 7429 ~~plan (or multisite vacation ownership plan or multisite vacation~~  
 7430 ~~plan or vacation club); however, this plan currently contains~~  
 7431 ~~only one component site. The developer is not required to add~~  
 7432 ~~any additional component sites to the plan. Do not purchase an~~  
 7433 ~~interest in this plan in reliance upon the addition of any other~~  
 7434 ~~component sites.~~

7435 Section 217. Section 721.551, Florida Statutes, is amended  
 7436 to read:

7437 721.551 Delivery of multisite timeshare plan purchaser  
 7438 public offering statement.—

7439 ~~(1) The division is authorized to prescribe by rule the~~  
 7440 ~~form of the approved multisite timeshare plan public offering~~  
 7441 ~~statement that must be furnished by a seller to each purchaser~~  
 7442 ~~pursuant to this section. The form of the public offering~~

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7443 ~~statement that is furnished to purchasers must provide fair,~~  
 7444 ~~meaningful, and effective disclosure of all aspects of the~~  
 7445 ~~multisite timeshare plan.~~

7446 ~~(2)~~ The developer shall furnish each purchaser with the  
 7447 following:

7448 (1)~~(a)~~ A copy of the approved multisite timeshare plan  
 7449 public offering statement text containing the information  
 7450 required by s. 721.55(1) - (5)~~(6)~~.

7451 (2)~~(b)~~ A receipt for multisite timeshare plan documents  
 7452 and a list describing any exhibit to the ~~filed~~ public offering  
 7453 statement which is not delivered to the purchaser. The division  
 7454 is authorized to prescribe by rule the form of the receipt for  
 7455 multisite timeshare plan documents and the description of  
 7456 exhibits list that must be furnished to the purchaser pursuant  
 7457 to this section.

7458 ~~(c)~~ ~~If the purchaser will receive a timeshare estate~~  
 7459 ~~pursuant to s. 721.57, or an interest in a specific multisite~~  
 7460 ~~timeshare plan, in a component site located in this state, the~~  
 7461 ~~developer shall also furnish the purchaser with the information~~  
 7462 ~~required to be delivered pursuant to s. 721.07(6)(a) and (b) for~~  
 7463 ~~the component site in which the purchaser will receive an estate~~  
 7464 ~~or interest in a specific multisite timeshare plan.~~

7465 (3)~~(d)~~ Any other exhibit that the developer elects to  
 7466 include as part of the purchaser public offering statement,  
 7467 provided that the developer first files the exhibit with the  
 7468 division.

7469 (4)~~(e)~~ An executed copy of any document which the  
 7470 purchaser signs.

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7471 |        (5)~~(f)~~ The developer shall be required to provide the  
 7472 | managing entity of the multisite timeshare plan with a copy of  
 7473 | the approved ~~filed~~ public offering statement and any approved  
 7474 | amendments thereto to be maintained by the managing entity as  
 7475 | part of the books and records of the timeshare plan pursuant to  
 7476 | s. 721.13(3) (d).

7477 |        Section 218. Paragraph (b) of subsection (1) and paragraph  
 7478 | (g) of subsection (2) of section 721.552, Florida Statutes, are  
 7479 | amended to read:

7480 |        721.552 Additions, substitutions, or deletions of  
 7481 | component site accommodations or facilities; purchaser remedies  
 7482 | for violations.—Additions, substitutions, or deletions of  
 7483 | component site accommodations or facilities may be made only in  
 7484 | accordance with the following:

7485 |        (1) ADDITIONS.—

7486 |        (b) Any person who is authorized by the timeshare  
 7487 | instrument to make additions to the multisite timeshare plan  
 7488 | pursuant to this subsection shall act as a fiduciary in such  
 7489 | capacity in the best interests of the purchasers of the plan as  
 7490 | a whole and shall adhere to the demand balancing standard set  
 7491 | forth in s. 721.56(4)~~(6)~~ in connection with such additions.  
 7492 | Additions that are otherwise permitted may be made only so long  
 7493 | as a one-to-one use right to use night requirement ratio is  
 7494 | maintained at all times.

7495 |        (2) SUBSTITUTIONS.—

7496 |        (g) The person who is authorized by the timeshare  
 7497 | instrument to make substitutions to the multisite timeshare plan  
 7498 | pursuant to this subsection shall act as a fiduciary in such

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7499 capacity in the best interests of the purchasers of the plan as  
 7500 a whole and shall adhere to the demand balancing standard set  
 7501 forth in s. 721.56(4)~~(6)~~ in connection with such substitutions.  
 7502 Substitutions that are otherwise permitted may be made only so  
 7503 long as a one-to-one use right to use night requirement ratio is  
 7504 maintained at all times.

7505 Section 219. Subsections (3) through (6) of section  
 7506 721.56, Florida Statutes, are renumbered as subsections (1)  
 7507 through (4), respectively, and present subsections (1), (2), and  
 7508 (3) of that section are amended to read:

7509 721.56 Management of multisite timeshare plans;  
 7510 reservation systems; demand balancing.-

7511 ~~(1) The developer as a prerequisite for approval of his or~~  
 7512 ~~her public offering statement filing or his or her phase filing~~  
 7513 ~~must obtain an affidavit, or other evidence satisfactory to the~~  
 7514 ~~director of the division, from the component site managing~~  
 7515 ~~entity containing all of the following:~~

7516 ~~(a) A statement that all assessments on inventory are~~  
 7517 ~~fully paid as required by applicable law.~~

7518 ~~(b) A statement as to the amount of delinquent assessments~~  
 7519 ~~existing at the component site, if any.~~

7520 ~~(c) If required by applicable law, a statement that the~~  
 7521 ~~latest annual audit of the component site shows that, if~~  
 7522 ~~required, reserves are adequately maintained with respect to~~  
 7523 ~~each component site.~~

7524 ~~(d) A statement that the component site managing entity~~  
 7525 ~~specifically acknowledges the existence of the multisite~~  
 7526 ~~timeshare plan relating to the use of the accommodations and~~

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7527 ~~facilities of the component site by purchasers of the plan.~~  
 7528 ~~(2) In the event that the developer files an affidavit or~~  
 7529 ~~other evidence with the division pursuant to subsection (1) and~~  
 7530 ~~subsequently determines that the status of the component site~~  
 7531 ~~has materially changed such that any portion of the affidavit or~~  
 7532 ~~other evidence is consequently materially changed, the developer~~  
 7533 ~~shall immediately notify the division of the change.~~

7534 ~~(1)(3)~~

7535 (a) The managing entity of the multisite timeshare plan  
 7536 shall establish an escrow account with an escrow agent qualified  
 7537 pursuant to s. 721.05 and deposit into such account all payments  
 7538 received by the managing entity from time to time from the  
 7539 developer and purchasers of the plan that relate to common  
 7540 expenses and real estate taxes due with respect to any component  
 7541 site. The managing entity of the multisite timeshare plan shall  
 7542 not be required to escrow payments received from the developer  
 7543 or purchasers that relate to other plan expenses, including  
 7544 those pertaining to the compensation of the managing entity of  
 7545 the multisite timeshare plan and pertaining to the operation of  
 7546 the reservation system.

7547 (b) Funds may only be disbursed from the escrow account  
 7548 described in paragraph (a) by the escrow agent upon receipt of  
 7549 an affidavit from the managing entity of the multisite timeshare  
 7550 plan specifying the purpose for which the disbursement is  
 7551 requested and making reference to the budgetary source of  
 7552 authority for such disbursement. The escrow agent shall only  
 7553 disburse moneys from escrow relating to a particular component  
 7554 site directly to the managing entity of that component site.

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7555 Real estate tax payments shall only be disbursed from the escrow  
 7556 account to the component site managing entity or to the  
 7557 appropriate tax collection authority pursuant to applicable law.

7558 (c) The escrow agent shall be entitled to rely upon the  
 7559 affidavit of the managing entity and shall have no obligation to  
 7560 independently ascertain the propriety of the requested  
 7561 disbursement so long as the escrow agent has no actual knowledge  
 7562 that the affidavit is false in any respect.

7563 ~~(d) An escrow agent shall maintain the account called for~~  
 7564 ~~in this section only in such a manner as to be under the direct~~  
 7565 ~~supervision and control of the escrow agent. The escrow agent~~  
 7566 ~~shall have a fiduciary duty to each purchaser to maintain the~~  
 7567 ~~escrow account in accordance with good accounting principles and~~  
 7568 ~~to release funds from escrow only in accordance with this~~  
 7569 ~~subsection. The escrow agent shall retain all affidavits~~  
 7570 ~~received pursuant to this subsection for a period of 5 years.~~  
 7571 ~~Should the escrow agent receive conflicting demands for the~~  
 7572 ~~escrowed funds, the escrow agent shall immediately notify the~~  
 7573 ~~division of the dispute and either promptly submit the matter to~~  
 7574 ~~arbitration or, by interpleader or otherwise, seek an~~  
 7575 ~~adjudication of the matter by court.~~

7576 (d)~~(e)~~ Any managing entity or escrow agent who  
 7577 intentionally fails to comply with the provisions of this  
 7578 subsection concerning the establishment of an escrow account,  
 7579 deposit of funds into escrow, and withdrawal therefrom commits a  
 7580 felony of the third degree, punishable as provided in s.  
 7581 775.082, s. 775.083, or s. 775.084, or the successor thereof.  
 7582 The failure to establish an escrow account or to place funds

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7583 | therein as required in this subsection is prima facie evidence  
 7584 | of an intentional and purposeful violation of this subsection.

7585 | ~~(f) In lieu of the escrow required by this subsection, the~~  
 7586 | ~~director of the division shall have the discretion to accept~~  
 7587 | ~~other assurances in accordance with s. 721.08, provided that~~  
 7588 | ~~such other assurances are maintained at a minimum amount equal~~  
 7589 | ~~to the total common expense assessment payments for the then-~~  
 7590 | ~~current fiscal year.~~

7591 | (e)~~(g)~~ The provisions of this subsection shall not apply  
 7592 | to any payments made directly to a component site managing  
 7593 | entity by the developer or a purchaser of a multisite timeshare  
 7594 | plan.

7595 | Section 220. Section 721.58, Florida Statutes, is  
 7596 | repealed.

7597 | Section 221. Subsections (4) and (14) of section 721.82,  
 7598 | Florida Statutes, are amended to read:

7599 | 721.82 Definitions.—As used in this part, the term:

7600 | (4) "Lienholder" means a holder of an assessment lien or a  
 7601 | holder of a mortgage lien, as applicable. ~~A receiver appointed~~  
 7602 | ~~under s. 721.26 is a lienholder for purposes of foreclosure of~~  
 7603 | ~~assessment liens under this part.~~

7604 | (14) "Trustee" means an attorney who is a member in good  
 7605 | standing of The Florida Bar and who has been practicing law for  
 7606 | at least 5 years or that attorney's law firm, or a title insurer  
 7607 | authorized to transact business in this state under s. 624.401  
 7608 | and who has been authorized to transact business for at least 5  
 7609 | years, appointed as trustee or as substitute trustee in  
 7610 | accordance with s. 721.855 or s. 721.856. ~~A receiver appointed~~



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7611 ~~under s. 721.26 may act as a trustee under s. 721.855.~~ A trustee  
 7612 must be independent as defined in s. 721.05(18)~~(20)~~.

7613 Section 222. Section 721.98, Florida Statutes, is  
 7614 repealed.

7615 Section 223. Subsection (2) of section 723.002, Florida  
 7616 Statutes, is amended to read:

7617 723.002 Application of chapter.—

7618 (2) The provisions of ss. 723.035, 723.037, ~~723.038,~~  
 7619 723.054, 723.055, 723.056, 723.058, and 723.068 are applicable  
 7620 to mobile home subdivision developers and the owners of lots in  
 7621 mobile home subdivisions.

7622 Section 224. Subsections (2) through (15) of section  
 7623 723.003, Florida Statutes, are renumbered as subsections (1)  
 7624 through (14), respectively, and present subsections (1) and (11)  
 7625 of that section are amended to read:

7626 723.003 Definitions.—As used in this chapter, the  
 7627 following words and terms have the following meanings unless  
 7628 clearly indicated otherwise:

7629 ~~(1) The term "division" means the Division of Florida~~  
 7630 ~~Condominiums, Timeshares, and Mobile Homes of the Department of~~  
 7631 ~~Business and Professional Regulation.~~

7632 (10)~~(11)~~ The term "proportionate share" as used in  
 7633 subsection (9)~~(10)~~ means an amount calculated by dividing  
 7634 equally among the affected developed lots in the park the total  
 7635 costs for the necessary and actual direct costs and impact or  
 7636 hookup fees incurred for governmentally mandated capital  
 7637 improvements serving the recreational and common areas and all  
 7638 affected developed lots in the park.

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7639 Section 225. Subsection (5) of section 723.004, Florida  
 7640 Statutes, is amended to read:  
 7641 723.004 Legislative intent; preemption of subject matter.-  
 7642 (5) Nothing in this chapter shall be construed to prevent  
 7643 the enforcement of a right or duty under this section, s.  
 7644 723.022, s. 723.023, s. 723.031, s. 723.032, s. 723.033, s.  
 7645 723.035, s. 723.037, ~~s. 723.038~~, s. 723.061, s. 723.0615, s.  
 7646 723.062, s. 723.063, or s. 723.081 by civil action after the  
 7647 party has exhausted its administrative remedies, if any.  
 7648 Section 226. Section 723.005, Florida Statutes, is  
 7649 repealed.  
 7650 Section 227. Section 723.007, Florida Statutes, is  
 7651 repealed.  
 7652 Section 228. Section 723.008, Florida Statutes, is  
 7653 repealed.  
 7654 Section 229. Section 723.009, Florida Statutes, is  
 7655 repealed.  
 7656 Section 230. Section 723.011, Florida Statutes, is  
 7657 repealed.  
 7658 Section 231. Section 723.012, Florida Statutes, is  
 7659 repealed.  
 7660 Section 232. Section 723.013, Florida Statutes, is  
 7661 repealed.  
 7662 Section 233. Section 723.016, Florida Statutes, is  
 7663 repealed.  
 7664 Section 234. Paragraph (b) of subsection (5) of section  
 7665 723.031, Florida Statutes, is amended to read:  
 7666 723.031 Mobile home lot rental agreements.-

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7667 (5) The rental agreement shall contain the lot rental  
 7668 amount and services included. An increase in lot rental amount  
 7669 upon expiration of the term of the lot rental agreement shall be  
 7670 in accordance with ss. 723.033 and 723.037 or s. 723.059(4),  
 7671 whichever is applicable, provided that, pursuant to s.  
 7672 723.059(4), the amount of the lot rental increase is disclosed  
 7673 and agreed to by the purchaser, in writing. An increase in lot  
 7674 rental amount shall not be arbitrary or discriminatory between  
 7675 similarly situated tenants in the park. No lot rental amount may  
 7676 be increased during the term of the lot rental agreement,  
 7677 except:

7678 (b) For pass-through charges as defined in s.  
 7679 723.003(9) ~~(10)~~.

7680 Section 235. Subsection (7) of section 723.033, Florida  
 7681 Statutes, is amended to read:

7682 723.033 Unreasonable lot rental agreements; increases,  
 7683 changes.—

7684 (7) An arbitrator or mediator under s. ~~ss.~~ 723.037,  
 7685 ~~723.038, and 723.0381~~ shall employ the same standards as set  
 7686 forth in this section.

7687 Section 236. Subsection (2) of section 723.035, Florida  
 7688 Statutes, is amended to read:

7689 723.035 Rules and regulations.—

7690 (2) No rule or regulation shall provide for payment of any  
 7691 fee, fine, assessment, or charge, except as otherwise provided  
 7692 in the prospectus or offering circular ~~filed under s. 723.012,~~  
 7693 if one is required to be provided, and until after the park  
 7694 owner has complied with the procedure set forth in s. 723.037.

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7695 Section 237. Subsections (4), (5), and (6) of section  
 7696 723.037, Florida Statutes, are amended to read:

7697 723.037 Lot rental increases; reduction in services or  
 7698 utilities; change in rules and regulations; ~~mediation.~~

7699 (4) (a) A committee, not to exceed five in number,  
 7700 designated by a majority of the affected mobile home owners or  
 7701 by the board of directors of the homeowners' association, if  
 7702 applicable, and the park owner shall meet, at a mutually  
 7703 convenient time and place within 30 days after receipt by the  
 7704 homeowners of the notice of change, to discuss the reasons for  
 7705 the increase in lot rental amount, reduction in services or  
 7706 utilities, or change in rules and regulations.

7707 (b)1. At the meeting, the park owner or subdivision  
 7708 developer shall in good faith disclose and explain all material  
 7709 factors resulting in the decision to increase the lot rental  
 7710 amount, reduce services or utilities, or change rules and  
 7711 regulations, including how those factors justify the specific  
 7712 change proposed. The park owner or subdivision developer may not  
 7713 limit the discussion of the reasons for the change to  
 7714 generalities only, such as, but not limited to, increases in  
 7715 operational costs, changes in economic conditions, or rents  
 7716 charged by comparable mobile home parks. For example, if the  
 7717 reason for an increase in lot rental amount is an increase in  
 7718 operational costs, the park owner must disclose the item or  
 7719 items which have increased, the amount of the increase, any  
 7720 similar item or items which have decreased, and the amount of  
 7721 the decrease. If an increase is based upon the lot rental amount  
 7722 charged by comparable mobile home parks, the park owner shall

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7723 disclose, and provide in writing to the committee at or before  
 7724 the meeting, the name, address, lot rental amount, and any other  
 7725 relevant factors relied upon by the park owner, such as  
 7726 facilities, services, and amenities, concerning the comparable  
 7727 mobile home parks. The information concerning comparable mobile  
 7728 home parks to be exchanged by the parties is to encourage a  
 7729 dialogue concerning the reasons used by the park owner for the  
 7730 increase in lot rental amount and to encourage the home owners  
 7731 to evaluate and discuss the reasons for those changes with the  
 7732 park owner. The park owner shall prepare a written summary of  
 7733 the material factors and retain a copy for 3 years. The park  
 7734 owner shall provide the committee a copy of the summary at or  
 7735 before the meeting.

7736 2. The park owner shall not limit the comparable mobile  
 7737 home park disclosure to those mobile home parks that are owned  
 7738 or operated by the same owner or operator as the subject park,  
 7739 except in certain circumstances, which include, but are not  
 7740 limited to:

7741 a. That the market area for comparable mobile home parks  
 7742 includes mobile home parks owned or operated by the same entity  
 7743 that have similar facilities, services, and amenities;

7744 b. That the subject mobile home park has unique attributes  
 7745 that are shared with similar mobile home parks;

7746 c. That the mobile home park is located in a geographic or  
 7747 market area that contains few comparable mobile home parks; or

7748 d. That there are similar considerations or factors that  
 7749 would be considered in such a market analysis by a competent  
 7750 professional and would be considered in determining the

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7751 valuation of the market rent.  
 7752 (c) If the committee disagrees with a park owner's lot  
 7753 rental amount increase based upon comparable mobile home parks,  
 7754 the committee shall disclose to the park owner the name,  
 7755 address, lot rental amount, and any other relevant factors  
 7756 relied upon by the committee, such as facilities, services, and  
 7757 amenities, concerning the comparable mobile home parks. The  
 7758 committee shall provide to the park owner the disclosure, in  
 7759 writing, within 15 days after the meeting with the park owner,  
 7760 together with a request for a second meeting. The park owner  
 7761 shall meet with the committee at a mutually convenient time and  
 7762 place within 30 days after receipt by the park owner of the  
 7763 request from the committee to discuss the disclosure provided by  
 7764 the committee. At the second meeting, the park owner may take  
 7765 into account the information on comparable parks provided by the  
 7766 committee, may supplement the information provided to the  
 7767 committee at the first meeting, and may modify his or her  
 7768 position, but the park owner may not change the information  
 7769 provided to the committee at the first meeting.

7770 (d) The committee and the park owner may mutually agree,  
 7771 in writing, to extend or continue any meetings required by this  
 7772 section.

7773 (e) Either party may prepare and use additional  
 7774 information to support its position during or subsequent to the  
 7775 meetings required by this section.

7776  
 7777 This subsection is not intended to be enforced by civil or  
 7778 administrative action. Rather, the meetings and discussions are

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7779 | intended to be in the nature of settlement discussions ~~prior to~~  
 7780 | ~~the parties proceeding to mediation of any dispute.~~  
 7781 |       ~~(5) (a) Within 30 days after the date of the last scheduled~~  
 7782 | ~~meeting described in subsection (4), the homeowners may petition~~  
 7783 | ~~the division to initiate mediation of the dispute pursuant to s.~~  
 7784 | ~~723.038 if a majority of the affected homeowners have~~  
 7785 | ~~designated, in writing, that:~~  
 7786 |           ~~1. The rental increase is unreasonable;~~  
 7787 |           ~~2. The rental increase has made the lot rental amount~~  
 7788 | ~~unreasonable;~~  
 7789 |           ~~3. The decrease in services or utilities is not~~  
 7790 | ~~accompanied by a corresponding decrease in rent or is otherwise~~  
 7791 | ~~unreasonable; or~~  
 7792 |           ~~4. The change in the rules and regulations is~~  
 7793 | ~~unreasonable.~~  
 7794 |       ~~(b) A park owner, within the same time period, may also~~  
 7795 | ~~petition the division to initiate mediation of the dispute.~~  
 7796 |       ~~(c) When a dispute involves a rental increase for~~  
 7797 | ~~different home owners and there are different rates or different~~  
 7798 | ~~rental terms for those home owners, all such rent increases in a~~  
 7799 | ~~calendar year for one mobile home park may be considered in one~~  
 7800 | ~~mediation proceeding.~~  
 7801 |       ~~(d) At mediation, the park owner and the homeowners~~  
 7802 | ~~committee may supplement the information provided to each other~~  
 7803 | ~~at the meetings described in subsection (4) and may modify their~~  
 7804 | ~~position, but they may not change the information provided to~~  
 7805 | ~~each other at the first and second meetings.~~  
 7806 |

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7807 ~~The purpose of this subsection is to encourage discussion and~~  
 7808 ~~evaluation by the parties of the comparable mobile home parks in~~  
 7809 ~~the competitive market area. The requirements of this subsection~~  
 7810 ~~are not intended to be enforced by civil or administrative~~  
 7811 ~~action. Rather, the meetings and discussions are intended to be~~  
 7812 ~~in the nature of settlement discussions prior to the parties~~  
 7813 ~~proceeding to litigation of any dispute.~~

7814 ~~(6) If a party requests mediation and the opposing party~~  
 7815 ~~refuses to agree to mediate upon proper request, the party~~  
 7816 ~~refusing to mediate shall not be entitled to attorney's fees in~~  
 7817 ~~any action relating to a dispute described in this section.~~

7818 Section 238. Section 723.038, Florida Statutes, is  
 7819 repealed.

7820 Section 239. Section 723.0381, Florida Statutes, is  
 7821 repealed.

7822 Section 240. Section 723.042, Florida Statutes, is amended  
 7823 to read:

7824 723.042 Provision of improvements.—No person shall be  
 7825 required by a mobile home park owner or developer, as a  
 7826 condition of residence in the mobile home park, to provide any  
 7827 improvement unless the requirement is disclosed ~~pursuant to s.~~  
 7828 ~~723.011~~ prior to occupancy in the mobile home park.

7829 Section 241. Subsection (1) of section 723.06115, Florida  
 7830 Statutes, is amended to read:

7831 723.06115 Florida Mobile Home Relocation Trust Fund.—

7832 (1) There is established within the Department of Business  
 7833 and Professional Regulation the Florida Mobile Home Relocation  
 7834 Trust Fund, to be used by the department for the purpose of



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7835 | funding the administration and operations of the Florida Mobile  
 7836 | Home Relocation Corporation. All interest earned from the  
 7837 | investment or deposit of moneys in the trust fund shall be  
 7838 | deposited in the trust fund. The trust fund shall be funded from  
 7839 | the moneys collected by the department under s. 723.06116 from  
 7840 | mobile home park owners who change the use of their mobile home  
 7841 | parks; ~~the surcharge collected by the department under s.~~  
 7842 | ~~723.007(2);~~ the surcharge collected by the Department of Highway  
 7843 | Safety and Motor Vehicles; and by other appropriated funds.  
 7844 |         Section 242. This act shall take effect July 1, 2011.