

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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,

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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;

BILL ORIGINAL YEAR

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.;

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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,

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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.

BILL

ORIGINAL

YEAR

281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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.~~

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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,

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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

	BILL	ORIGINAL	YEAR
--	------	----------	------

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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:

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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:

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.~~

BILL ORIGINAL YEAR

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,

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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:

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.—

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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:

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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,

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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).

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.—

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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~~

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

	BILL	ORIGINAL	YEAR
--	------	----------	------

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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,~~

BILL ORIGINAL YEAR

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,~~

BILL

ORIGINAL

YEAR

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

	BILL	ORIGINAL	YEAR
--	------	----------	------

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.—

BILL ORIGINAL YEAR

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

	BILL	ORIGINAL	YEAR
--	------	----------	------

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.

BILL

ORIGINAL

YEAR

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.—

BILL

ORIGINAL

YEAR

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:

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL	ORIGINAL	YEAR
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.	

BILL ORIGINAL YEAR

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

	ORIGINAL	YEAR
--	----------	------

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

BILL ORIGINAL YEAR

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,

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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.

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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-

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

- 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

BILL ORIGINAL YEAR

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.~~

BILL ORIGINAL YEAR

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.~~

BILL

ORIGINAL

YEAR

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,

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.

BILL	ORIGINAL	YEAR
3329	5.6. Section 550.235 or s. 550.3551, relating to dogracing	
3330	and horseracing.	
3331	6.7. Chapter 550, relating to jai alai frontons.	
3332	7.8. Chapter 552, relating to the manufacture,	
3333	distribution, and use of explosives.	
3334	8.9. Chapter 562, relating to beverage law enforcement.	
3335	9.10. 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	10.11. Chapter 687, relating to interest and usurious	
3341	practices.	
3342	11.12. Section 721.08, s. 721.09, or s. 721.13, relating	
3343	to real estate timeshare plans.	
3344	12.13. Chapter 782, relating to homicide.	
3345	13.14. Chapter 784, relating to assault and battery.	
3346	14.15. Chapter 787, relating to kidnapping or human	
3347	trafficking.	
3348	15.16. Chapter 790, relating to weapons and firearms.	
3349	16.17. Section 796.03, s. 796.04, s. 796.045, s. 796.05,	
3350	or s. 796.07, relating to prostitution.	
3351	17.18. Chapter 806, relating to arson.	
3352	18.19. Section 810.02(2)(c), relating to specified	
3353	burglary of a dwelling or structure.	
3354	19.20. Chapter 812, relating to theft, robbery, and	
3355	related crimes.	
3356	20.21. Chapter 815, relating to computer-related crimes.	

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL	ORIGINAL	YEAR
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	

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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)

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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~~

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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~~

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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~~

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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.—

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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~~

BILL

ORIGINAL

YEAR

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.~~

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

- 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

BILL ORIGINAL YEAR

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"

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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~~

BILL

ORIGINAL

YEAR

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~~

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

	BILL	ORIGINAL	YEAR
--	------	----------	------

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;

BILL ORIGINAL YEAR

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,

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

	BILL	ORIGINAL	YEAR
--	------	----------	------

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.

BILL

ORIGINAL

YEAR

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,

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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,

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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;

BILL ORIGINAL YEAR

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.—
 5119

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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~~

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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:

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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

	BILL	ORIGINAL	YEAR
--	------	----------	------

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.

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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.

BILL

ORIGINAL

YEAR

5679
5680
5681
5682
5683
5684
5685
5686
5687
5688
5689
5690
5691
5692
5693
5694
5695
5696
5697
5698
5699
5700
5701
5702
5703
5704
5705
5706

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

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

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

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

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

(a) The names of contracting parties.

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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.~~

BILL ORIGINAL YEAR

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.—

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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~~

BILL

ORIGINAL

YEAR

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~~

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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:

BILL ORIGINAL YEAR

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.—

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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

	BILL	ORIGINAL	YEAR
--	------	----------	------

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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,

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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.~~

BILL

ORIGINAL

YEAR

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:

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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~~

BILL ORIGINAL YEAR

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:

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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~~

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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~~

BILL

ORIGINAL

YEAR

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)-(l).
 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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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~~

BILL

ORIGINAL

YEAR

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~~

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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

BILL ORIGINAL YEAR

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~~

BILL

ORIGINAL

YEAR

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.

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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~~

BILL ORIGINAL YEAR

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.

BILL ORIGINAL YEAR

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.-

BILL

ORIGINAL

YEAR

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.

BILL ORIGINAL YEAR

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

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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

BILL

ORIGINAL

YEAR

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 |

BILL ORIGINAL YEAR

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

BILL

ORIGINAL

YEAR

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.