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PART V

REGULATION AND DISCLOSURE PRIOR TO SALE OF RESIDENTIAL CONDOMINIUMS

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

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

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

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

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

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

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

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

2.The division may issue an order requiring the developer, bulk assignee, bulk buyer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, bulk assignee-designated assignees or agents, bulk buyer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division carry out the purposes of this chapter. If the division finds that a developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate any provision of this chapter, any rule

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adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger to the public requiring an immediate final order, it may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

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

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

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

6.The division may impose a civil penalty against a developer, bulk assignee, or bulk buyer, or association, or its assignee or agent, for any violation of this chapter or related rule. The division may impose a civil penalty individually against an officer or board member who willfully and knowingly violates a provision of this chapter, adopted rule, or a final order of the division; may order the removal of such individual as an officer or from the board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or on the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before initiating formal agency action under chapter 120, must afford the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the penalty for any offense may not exceed \$5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer, bulk assignee, or bulk buyer, or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible

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mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer, bulk assignee, or bulk buyer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer, bulk assignee, or bulk buyer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order is not effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

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

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

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

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

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

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

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

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

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

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

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

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

(o)The division may:

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

or

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

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

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

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

(s)The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees an annual report that includes, but need not be limited to, the number of training programs provided for condominium association board members and unit owners, the number of complaints received by type, the number and percent of complaints acknowledged in writing within 30 days and the number and percent of

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investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report must also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

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

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

History.—s. 1, ch. 76-222; s. 1, ch. 77-174; s. 2, ch. 77-221; s. 4, ch. 78-323; ss. 4, 12, ch. 78-340; s. 32, ch. 79-4; s. 15, ch. 79-314; s. 1, ch. 81-28; ss. 1, 2, 3, ch. 81-54; s. 4, ch. 81-172; s. 6, ch. 81-185; s. 477, ch. 81-259; ss. 1, 4, ch. 82-46; s. 2, ch. 82-113; ss. 5, 7, ch. 82-199; s. 154, ch. 83-216; s. 16, ch. 84-368; s. 5, ch. 85-60; s. 8, ch. 86-175; s. 18, ch. 87-102; s. 16, ch. 91-103; s. 5, ch. 91-426; s. 12, ch. 92-49; s. 233, ch. 94-218; s. 299, ch. 96-410; s. 1774, ch. 97-102; s. 3, ch. 97-301; s. 221, ch. 98-200; s. 62, ch. 2000-302; s. 1891, ch. 2003-261; s. 21, ch. 2008-28; s. 4, ch. 2008-134; s. 48, ch. 2008-240; s. 90, ch. 2009-21; s. 17, ch. 2010-174.

718.5011 Ombudsman; appointment; administration.—

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

(2) The Governor shall appoint the ombudsman. The ombudsman must be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Governor. A vacancy in the office shall be filled in the same manner as the original appointment. An officer or full-time employee of the ombudsman's office may not actively engage in any other business or profession; serve as the representative of any political party, executive committee, or other governing body of a political party; serve as an executive, officer, or employee of a political party; receive remuneration for activities on behalf of any candidate for public office; or engage in soliciting votes or other activities on behalf of a candidate for public office. The ombudsman or any employee of his or her office may not become a candidate for election to public office unless he or she first resigns from his or her office or employment.

History.—s. 6, ch. 2004-345; s. 49, ch. 2008-240.

718.5012 Ombudsman; powers and duties.—The ombudsman shall have the powers that are necessary to carry out the duties of his or her office, including the following specific powers:

(1) To have access to and use of all files and records of the division.

(2) To employ professional and clerical staff as necessary for the efficient operation of the office.

(3) To prepare and issue reports and recommendations to the Governor, the department, the division, the Advisory Council on Condominiums, the President of the Senate, and the Speaker of the House of Representatives on any matter or subject within the jurisdiction of the division. The ombudsman shall make recommendations he or she deems appropriate for legislation relative to division procedures, rules, jurisdiction, personnel, and functions.

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(4)To act as liaison between the division, unit owners, boards of directors, board members, community association managers, and other affected parties. The ombudsman shall develop policies and procedures to assist unit owners, boards of directors, board members, community association managers, and other affected parties to understand their rights and responsibilities as set forth in this chapter and the condominium documents governing their respective association. The ombudsman shall coordinate and assist in the preparation and adoption of educational and reference material, and shall endeavor to coordinate with private or volunteer providers of these services, so that the availability of these resources is made known to the largest possible audience.

(5)To monitor and review procedures and disputes concerning condominium elections or meetings, including, but not limited to, recommending that the division pursue enforcement action in any manner where there is reasonable cause to believe that election misconduct has occurred.

(6)To make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints filed by unit owners, associations, and managers.

(7)To provide resources to assist members of boards of directors and officers of associations to carry out their powers and duties consistent with this chapter, division rules, and the condominium documents governing the association.

(8)To encourage and facilitate voluntary meetings with and between unit owners, boards of directors, board members, community association managers, and other affected parties when the meetings may assist in resolving a dispute within a community association before a person submits a dispute for a formal or administrative remedy. It is the intent of the Legislature that the ombudsman act as a neutral resource for both the rights and responsibilities of unit owners, associations, and board members.

(9)To assist with the resolution of disputes between unit owners and the association or between unit owners when the dispute is not within the jurisdiction of the division to resolve.

(10)Fifteen percent of the total voting interests in a condominium association, or six unit owners, whichever is greater, may petition the ombudsman to appoint an election monitor to attend the annual meeting of the unit owners and conduct the election of directors. The ombudsman shall appoint a division employee, a person or persons specializing in condominium election monitoring, or an attorney licensed to practice in this state as the election monitor. All costs associated with the election monitoring process shall be paid by the association. The division shall adopt a rule establishing procedures for the appointment of election monitors and the scope and extent of the monitor's role in the election process.

History.—ss. 7, 36, ch. 2004-345; s. 22, ch. 2008-28.

718.5014 Ombudsman location.—The ombudsman shall maintain his or her principal office in Leon County on the premises of the division or, if suitable space cannot be provided there, at another place convenient to the offices of the division which will enable the ombudsman to expeditiously carry out the duties and functions of his or her office. The ombudsman may establish branch offices elsewhere in the state upon the concurrence of the Governor.

History.—s. 8, ch. 2004-345.

718.50151 Community Association Living Study Council; membership functions.—

(1)There is created the Community Association Living Study Council. The council shall consist of seven appointed members. Two members shall be appointed by the President of the Senate, two members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the Governor. One member that is appointed by the Governor may represent timeshare

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condominiums. The council shall be created as of October 1 every 5 years, commencing October 1, 2008, and shall exist for a 6-month term. The director of the division shall appoint an ex officio nonvoting member. The Legislature intends that the persons appointed represent a cross-section of persons interested in community association issues. The council shall be located within the division for administrative purposes. Members of the council shall serve without compensation but are entitled to receive per diem and travel expenses pursuant to s. 112.061 while on official business.

(2)The functions of the council shall be to:

(a)Receive, from the public, input regarding issues of concern with respect to community association living, including living in condominiums, cooperatives, and homeowners' associations. The council shall make recommendations for changes in the law related to community association living. The issues that the council shall consider include, but are not limited to, the rights and responsibilities of the unit owners in relation to the rights and responsibilities of the association.

(b)Review, evaluate, and advise the division concerning revisions and adoption of rules affecting condominiums and cooperatives.

(c)Recommend improvements, if needed, in the education programs offered by the division.

(d)Review, evaluate, and advise the Legislature concerning revisions and improvements to the laws relating to condominiums, cooperatives, and homeowners' associations.

(3)The council may elect a chair and vice chair and such other officers as it may deem advisable. The council shall meet at the call of its chair, at the request of a majority of its membership, at the request of the division, or at such times as it may prescribe. A majority of the members of the council shall constitute a quorum. Council action may be taken by vote of a majority of the voting members who are present at a meeting where there is a quorum.

History.—s. 5, ch. 2004-345; s. 23, ch. 2008-28.

718.50152 Offices.—

(1)The executive offices of the division shall be established and maintained in Tallahassee.

(2)The division may establish and maintain branch offices.

History.—s. 6, ch. 63-129; s. 5, ch. 67-229; s. 2, ch. 71-98; s. 3, ch. 76-168; ss. 1, 7, ch. 76-262; s. 1, ch. 77-457; ss. 5, 30, 32, ch. 79-347; ss. 2, 3, ch. 81-318; ss. 33, 34, ch. 88-90; s. 4, ch. 91-429; s. 34, ch. 2008-240.

Note.—Former s. 478.061; s. 498.009.

718.50153 Payment of per diem, mileage, and other expenses to division employees.—The amount of per diem and mileage and expense money paid to employees shall be as provided in s. 112.061, except that the division shall establish by rule the standards for reimbursement of actual verified expenses incurred in connection with an onsite review or investigation.

History.—s. 8, ch. 63-129; s. 7, ch. 67-229; s. 2, ch. 71-98; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 6, 30, 32, ch. 79-347; ss. 2, 3, ch. 81-318; ss. 5, 33, 34, ch. 88-90; s. 4, ch. 91-429; s. 1, ch. 93-190; s. 3, ch. 97-192; s. 35, ch. 2008-240.

Note.—Former s. 478.081; s. 498.011.

718.50154 Seal and authentication of records.—The division shall adopt a seal by which it shall authenticate its records. Copies of the records of the division, and certificates purporting to relate the facts contained in those records, when authenticated by the seal, shall be prima facie evidence of the records in all the courts of this state.

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History.—s. 9, ch. 63-129; s. 8, ch. 67-229; s. 2, ch. 71-98; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 7, 30, 32, ch. 79-347; ss. 2, 3, ch. 81-318; ss. 6, 33, 34, ch. 88-90; s. 4, ch. 91-429; s. 36, ch. 2008-240.

Note.—Former s. 478.091; s. 498.013.

718.50155 Service of process.—

(1) In addition to the methods of service provided for in the Florida Rules of Civil Procedure and the Florida Statutes, service may be made and shall be binding upon the defendant or respondent if:

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

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

(2) If any person, including any nonresident of this state, allegedly engages in conduct prohibited by this chapter, or any rule or order of the division, and has not filed a consent to service of process, and personal jurisdiction over him or her cannot otherwise be obtained in this state, the director shall be authorized to receive service of process in any noncriminal proceeding against that person or his or her successor which grows out of the conduct and which is brought by the division under this chapter or any rule or order of the division. The process shall have the same force and validity as if personally served. Notice shall be given as provided in subsection (1).

History.—s. 26, ch. 67-229; s. 2, ch. 71-98; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 26, 30, 32, ch. 79-347; ss. 2, 3, ch. 81-318; ss. 26, 33, 34, ch. 88-90; s. 4, ch. 91-429; s. 581, ch. 97-103; s. 37, ch. 2008-240.

Note.—Former s. 478.29; s. 498.057.

718.502 Filing prior to sale or lease.—

(1)(a) A developer of a residential condominium or mixed-use condominium shall file with the division one copy of each of the documents and items required to be furnished to a buyer or lessee by ss. 718.503 and 718.504, if applicable. Until the developer has so filed, a contract for sale of a unit or lease of a unit for more than 5 years shall be voidable by the purchaser or lessee prior to the closing of his or her purchase or lease of a unit.

(b) A developer may not close on any contract for sale or contract for a lease period of more than 5 years until the developer prepares and files with the division documents complying with the requirements of this chapter and the rules adopted by the division and until the division notifies the developer that the filing is proper and the developer prepares and delivers all documents required by s. 718.503(1)(b) to the prospective buyer.

(c) The division by rule may develop filing, review, and examination requirements and relevant timetables to ensure compliance with the notice and disclosure provisions of this section.

(2)(a) Prior to filing as required by subsection (1), and prior to acquiring an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed, a developer shall not offer a contract for purchase of a unit or lease of a unit for more than 5 years. However, the developer may accept deposits for reservations upon the approval of a fully executed escrow agreement and reservation agreement form properly filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes. Each filing of a proposed reservation program shall be accompanied by a filing fee of \$250. Reservations shall not be taken on a proposed condominium unless the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed. The division shall notify the developer within 20 days of receipt of the reservation filing of any deficiencies contained therein. Such notification shall not preclude the determination of

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

(b)The executed escrow agreement signed by the developer and the escrow agent shall contain the following information:

1.A statement that the escrow agent will grant a prospective purchaser an immediate, unqualified refund of the reservation deposit moneys upon written request either directly to the escrow agent or to the developer.

2.A statement that the escrow agent is responsible for not releasing moneys directly to the developer except as a down payment on the purchase price at the time a contract is signed by the purchaser if provided in the contract.

(c)The reservation agreement form shall include the following:

1.A statement of the obligation of the developer to file condominium documents with the division prior to entering into a binding purchase agreement or binding agreement for a lease of more than 5 years.

2.A statement of the right of the prospective purchaser to receive all condominium documents as required by this chapter.

3.The name and address of the escrow agent.

4.A statement as to whether the developer assures that the purchase price represented in or pursuant to the reservation agreement will be the price in the contract for purchase and sale or that the price represented may be exceeded within a stated amount or percentage or that no assurance is given as to the price in the contract for purchase or sale.

5.A statement that the deposit must be payable to the escrow agent and that the escrow agent must provide a receipt to the prospective purchaser.

(3)Upon filing as required by subsection (1), the developer shall pay to the division a filing fee of \$20 for each residential unit to be sold by the developer which is described in the documents filed. If the condominium is to be built or sold in phases, the fee shall be paid prior to offering for sale units in any subsequent phase. Every developer who holds a unit or units for sale in a condominium shall submit to the division any amendments to documents or items on file with the division and deliver to purchasers all amendments prior to closing, but in no event, later than 10 days after the amendment. Upon filing of amendments to documents currently on file with the division, the developer shall pay to the division a filing fee of up to \$100 per filing, with the exact fee to be set by division rule.

(4)Any developer who complies with this section is not required to file with any other division or agency of this state for approval to sell the units in the condominium, the information for the condominium for which he or she filed.

(5)In addition to those disclosures described by ss. 718.503 and 718.504, the division is authorized to require such other disclosure as deemed necessary to fully or fairly disclose all aspects of the offering.

History.—s. 1, ch. 76-222; s. 8, ch. 79-314; s. 7, ch. 81-185; s. 17, ch. 84-368; s. 6, ch. 85-60; s. 19, ch. 87-102; s. 18, ch. 91-103; s. 5, ch. 91-426; s. 39, ch. 95-274; s. 868, ch. 97-102; s. 6, ch. 98-195; s. 50, ch. 2008-240.

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

(1)DEVELOPER DISCLOSURE.—

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(a)Contents of contracts.—Any contract for the sale of a residential unit or a lease thereof for an unexpired term of more than 5 years shall:

1.Contain the following legend in conspicuous type: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE CONDOMINIUM ACT ARE ESTIMATES ONLY AND REPRESENT AN APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE OFFERING.

2.Contain the following caveat in conspicuous type on the first page of the contract: ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

3.If the unit has been occupied by someone other than the buyer, contain a statement that the unit has been occupied.

4.If the contract is for the sale or transfer of a unit subject to a lease, include as an exhibit a copy of the executed lease and shall contain within the text in conspicuous type: THE UNIT IS SUBJECT TO A LEASE (OR SUBLEASE).

5.If the contract is for the lease of a unit for a term of 5 years or more, include as an exhibit a copy of the proposed lease.

6.If the contract is for the sale or lease of a unit that is subject to a lien for rent payable under a lease of a recreational facility or other commonly used facility, contain within the text the following statement in conspicuous type: THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMONLY USED FACILITIES. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE LIEN.

7.State the name and address of the escrow agent required by s. 718.202 and state that the purchaser may obtain a receipt for his or her deposit from the escrow agent upon request.

8.If the contract is for the sale or transfer of a unit in a condominium in which timeshare estates have been or may be created, contain within the text in conspicuous type: UNITS IN THIS CONDOMINIUM ARE SUBJECT TO TIMESHARE ESTATES. The contract for the sale of a fee interest in a timeshare estate shall also contain, in conspicuous type, the following: FOR THE PURPOSE OF AD VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING AUTHORITIES AGAINST A FEE INTEREST IN A TIMESHARE ESTATE, THE MANAGING

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ENTITY IS GENERALLY CONSIDERED THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE AN ASSESSMENT BY A TAXING AUTHORITY RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO THE PROVISIONS OF CHAPTER 194, FLORIDA STATUTES.

(b)Copies of documents to be furnished to prospective buyer or lessee.—Until such time as the developer has furnished the documents listed below to a person who has entered into a contract to purchase a residential unit or lease it for more than 5 years, the contract may be voided by that person, entitling the person to a refund of any deposit together with interest thereon as provided in s. 718.202. The contract may be terminated by written notice from the proposed buyer or lessee delivered to the developer within 15 days after the buyer or lessee receives all of the documents required by this section. The developer may not close for 15 days following the execution of the agreement and delivery of the documents to the buyer as evidenced by a signed receipt for documents unless the buyer is informed in the 15-day voidability period and agrees to close prior to the expiration of the 15 days. The developer shall retain in his or her records a separate agreement signed by the buyer as proof of the buyer's agreement to close prior to the expiration of said voidability period. Said proof shall be retained for a period of 5 years after the date of the closing of the transaction. The documents to be delivered to the prospective buyer are the prospectus or disclosure statement with all exhibits, if the development is subject to the provisions of s. 718.504, or, if not, then copies of the following which are applicable:

1.The question and answer sheet described in s. 718.504, and declaration of condominium, or the proposed declaration if the declaration has not been recorded, which shall include the certificate of a surveyor approximately representing the locations required by s. 718.104.

2.The documents creating the association.

3.The bylaws.

4.The ground lease or other underlying lease of the condominium.

5.The management contract, maintenance contract, and other contracts for management of the association and operation of the condominium and facilities used by the unit owners having a service term in excess of 1 year, and any management contracts that are renewable.

6.The estimated operating budget for the condominium and a schedule of expenses for each type of unit, including fees assessed pursuant to s. 718.113(1) for the maintenance of limited common elements where such costs are shared only by those entitled to use the limited common elements.

7.The lease of recreational and other facilities that will be used only by unit owners of the subject condominium.

8.The lease of recreational and other common facilities that will be used by unit owners in common with unit owners of other condominiums.

9.The form of unit lease if the offer is of a leasehold.

10.Any declaration of servitude of properties serving the condominium but not owned by unit owners or leased to them or the association.

11.If the development is to be built in phases or if the association is to manage more than one condominium, a description of the plan of phase development or the arrangements for the association to manage two or more condominiums.

12.If the condominium is a conversion of existing improvements, the statements and disclosure required by s. 718.616.

13.The form of agreement for sale or lease of units.

14.A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

15.A copy of all covenants and restrictions which will affect the use of the property and which are not contained in the foregoing.

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

17.Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed.

(c)Subsequent estimates; when provided.—If the closing on a contract occurs more than 12 months after the filing of the offering circular with the division, the developer shall provide a copy of the current estimated operating budget of the association to the buyer at closing, which shall not be considered an amendment that modifies the offering provided any changes to the association’s budget from the budget given to the buyer at the time of contract signing were the result of matters beyond the developer’s control. Changes in budgets of any master association, recreation association, or club and similar budgets for entities other than the association shall likewise not be considered amendments that modify the offering. It is the intent of this paragraph to clarify existing law.

(2)NONDEVELOPER DISCLOSURE.—

(a)Each unit owner who is not a developer as defined by this chapter shall comply with the provisions of this subsection prior to the sale of his or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller’s expense, to a current copy of the declaration of condominium, articles of incorporation of the association, bylaws and rules of the association, financial information required by s. 718.111, and the document entitled “Frequently Asked Questions and Answers” required by s. 718.504. On and after January 1, 2009, the prospective purchaser shall also be entitled to receive from the seller a copy of a governance form. Such form shall be provided by the division summarizing governance of condominium associations. In addition to such other information as the division considers helpful to a prospective purchaser in understanding association governance, the governance form shall address the following subjects:

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

2.The board’s responsibility to provide advance notice of board and membership meetings.

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

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

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

6.Owners’ rights to inspect and copy association records and the limitations on such rights.

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

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

9.The responsibility of owners with regard to payment of regular or special assessments necessary for the operation of the property and the potential consequences of failure to pay such assessments.

10.The voting rights of owners.

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

The governance form shall also include the following statement in conspicuous type: “This publication is intended as an informal educational overview of condominium governance. In the event of a

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conflict, the provisions of chapter 718, Florida Statutes, rules adopted by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation, the provisions of the condominium documents, and reasonable rules adopted by the condominium association's board of administration prevail over the contents of this publication.”

(b) If a person licensed under part I of chapter 475 provides to or otherwise obtains for a prospective purchaser the documents described in this subsection, the person is not liable for any error or inaccuracy contained in the documents.

(c) Each contract entered into after July 1, 1992, for the resale of a residential unit shall contain in conspicuous type either:

1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF THE ASSOCIATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or

2. A clause which states: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

A contract that does not conform to the requirements of this paragraph is voidable at the option of the purchaser prior to closing.

(3) OTHER DISCLOSURE.—

(a) If residential condominium parcels are offered for sale or lease prior to completion of construction of the units and of improvements to the common elements, or prior to completion of remodeling of previously occupied buildings, the developer shall make available to each prospective purchaser or lessee, for his or her inspection at a place convenient to the site, a copy of the complete plans and specifications for the construction or remodeling of the unit offered to him or her and of the improvements to the common elements appurtenant to the unit.

(b) Sales brochures, if any, shall be provided to each purchaser, and the following caveat in conspicuous type shall be placed on the inside front cover or on the first page containing text material

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of the sales brochure, or otherwise conspicuously displayed: ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, MAKE REFERENCE TO THIS BROCHURE AND TO THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE. If timeshare estates have been or may be created with respect to any unit in the condominium, the sales brochure shall contain the following statement in conspicuous type: UNITS IN THIS CONDOMINIUM ARE SUBJECT TO TIMESHARE ESTATES.

History.—s. 1, ch. 76-222; s. 1, ch. 77-174; s. 8, ch. 78-328; s. 16, ch. 79-314; s. 4, ch. 80-3; s. 2, ch. 82-199; s. 59, ch. 82-226; s. 18, ch. 84-368; s. 19, ch. 91-103; s. 5, ch. 91-426; s. 14, ch. 92-49; s. 869, ch. 97-102; s. 7, ch. 98-195; s. 5, ch. 98-322; s. 14, ch. 2002-27; s. 10, ch. 2004-345; s. 6, ch. 2004-353; s. 7, ch. 2007-80; s. 24, ch. 2008-28; s. 91, ch. 2009-21.

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Condominiums, Timeshares, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled “Frequently Asked Questions and Answers,” which shall be in accordance with a format approved by the division and a copy of the financial information required by s. 718.111. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of \$100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

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

(a)The name of the condominium.

(b)The following statements in conspicuous type:

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

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

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

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

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

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

(a)Its name and location.

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

1.The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the condominium is not a phase condominium, or the maximum number of buildings that may be contained within the condominium, the minimum and maximum numbers of units in each building, the minimum and maximum numbers of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium, if the condominium is a phase condominium.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8)Recreation lease or associated club membership:

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

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ASSOCIATED WITH THIS CONDOMINIUM. There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.

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

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

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

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

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

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

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

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

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

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

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 condominium 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.

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(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 condominium property and of other property that will serve the unit owners of the condominium 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.

(b)The term of the contract.

(c)The nature of the services included.

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

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

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

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

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

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

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

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

(c)A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the

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condominium. If the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: **BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM.**

Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

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

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

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

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

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

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

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

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

(a) The information required by s. 718.616.

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

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

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

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land and the nature and term of service, and the declaration or other instrument creating such servitude shall be included as an exhibit.

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

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

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

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

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

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

1.Expenses for the association and condominium:

a.Administration of the association.

b.Management fees.

c.Maintenance.

d.Rent for recreational and other commonly used facilities.

e.Taxes upon association property.

f.Taxes upon leased areas.

g.Insurance.

h.Security provisions.

i.Other expenses.

j.Operating capital.

k.Reserves.

l.Fees payable to the division.

2.Expenses for a unit owner:

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

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

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

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

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

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

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

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

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

(b)The articles of incorporation creating the association.

(c)The bylaws of the association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History.—s. 1, ch. 76-222; s. 1, ch. 77-174; s. 9, ch. 78-328; s. 17, ch. 79-314; s. 5, ch. 80-3; s. 19, ch. 84-368; s. 7, ch. 85-60; s. 19, ch. 90-151; s. 20, ch. 91-103; s. 5, ch. 91-426; s. 15, ch. 92-49; s. 870, ch. 97-102; s. 6, ch. 98-322; s. 61, ch. 2000-302; s. 22, ch. 2001-64; s. 15, ch. 2002-27; s. 8, ch. 2007-80; s. 51, ch. 2008-240.

718.505 Good faith effort to comply.—If a developer, in good faith, has attempted to comply with the requirements of this part, and if, in fact, he or she has substantially complied with the disclosure requirements of this chapter, nonmaterial errors or omissions in the disclosure materials shall not be actionable.

History.—s. 1, ch. 76-222; s. 871, ch. 97-102.

718.506 Publication of false and misleading information.—

(1)Any person who, in reasonable reliance upon any material statement or information that is false or misleading and published by or under authority from the developer in advertising and promotional materials, including, but not limited to, a prospectus, the items required as exhibits to a prospectus, brochures, and newspaper advertising, pays anything of value toward the purchase of a condominium parcel located in this state shall have a cause of action to rescind the contract or collect damages from the developer for his or her loss prior to the closing of the transaction. After the closing of the transaction, the purchaser shall have a cause of action against the developer for damages under this section from the time of closing until 1 year after the date upon which the last of the events described in paragraphs (a) through (d) shall occur:

(a)The closing of the transaction;

(b)The first issuance by the applicable governmental authority of a certificate of occupancy or other evidence of sufficient completion of construction of the building containing the unit to allow lawful occupancy of the unit. In counties or municipalities in which certificates of occupancy or other evidences of completion sufficient to allow lawful occupancy are not customarily issued, for the purpose of this section, evidence of lawful occupancy shall be deemed to be given or issued upon the date that such lawful occupancy of the unit may first be allowed under prevailing applicable laws, ordinances, or statutes;

(c)The completion by the developer of the common elements and such recreational facilities, whether or not the same are common elements, which the developer is obligated to complete or

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provide under the terms of the written contract or written agreement for purchase or lease of the unit;
or

(d) In the event there shall not be a written contract or agreement for sale or lease of the unit, then the completion by the developer of the common elements and such recreational facilities, whether or not the same are common elements, which the developer would be obligated to complete under any rule of law applicable to the developer's obligation.

Under no circumstances shall a cause of action created or recognized under this section survive for a period of more than 5 years after the closing of the transaction.

(2) In any action for relief under this section or under s. 718.503, the prevailing party shall be entitled to recover reasonable attorney's fees.

History.—s. 1, ch. 76-222; s. 872, ch. 97-102.

718.507 Zoning and building laws, ordinances, and regulations.—All laws, ordinances, and regulations concerning buildings or zoning shall be construed and applied with reference to the nature and use of such property, without regard to the form of ownership. No law, ordinance, or regulation shall establish any requirement concerning the use, location, placement, or construction of buildings or other improvements which are, or may thereafter be, subjected to the condominium form of ownership, unless such requirement shall be equally applicable to all buildings and improvements of the same kind not then, or thereafter to be, subjected to the condominium form of ownership. This section does not apply if the owner in fee of any land enters into and records a covenant that existing improvements or improvements to be constructed shall not be converted to the condominium form of residential ownership prior to 5 years after the later of the date of the covenant or completion date of the improvements. Such covenant shall be entered into with the governing body of the municipality in which the land is located or, if the land is not located in a municipality, with the governing body of the county in which the land is located.

History.—s. 1, ch. 76-222; s. 6, ch. 80-3.

718.508 Regulation by Division of Hotels and Restaurants.—In addition to the authority, regulation, or control exercised by the Division of Florida Condominiums, Timeshares, and Mobile Homes pursuant to this act with respect to condominiums, buildings included in a condominium property are subject to the authority, regulation, or control of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, to the extent provided in chapter 399.

History.—s. 1, ch. 76-222; s. 8, ch. 85-60; s. 235, ch. 94-218; s. 52, ch. 2008-240.

718.509 Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.—

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

(2) All moneys collected by the division from fees, fines, or penalties or from costs awarded to the division by a court or administrative final order shall be paid into the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. The Legislature shall appropriate funds from this trust fund sufficient to carry out the provisions of this chapter and the provisions of law with respect to each category of business covered by the trust fund. The division shall maintain separate

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revenue accounts in the trust fund for each of the businesses regulated by the division. The division shall provide for the proportionate allocation among the accounts of expenses incurred by the division in the performance of its duties with respect to each of these businesses. As part of its normal budgetary process, the division shall prepare an annual report of revenue and allocated expenses related to the operation of each of these businesses which may be used to determine fees charged by the division. This subsection shall operate pursuant to the provisions of s. 215.20.

History.—ss. 10, 32, ch. 79-347; ss. 2, 5, 7, ch. 81-172; ss. 2, 3, ch. 81-318; s. 3, ch. 83-265; ss. 20, 21, ch. 83-339; ss. 16, 20, ch. 87-102; ss. 8, 33, 34, ch. 88-90; s. 83, ch. 90-132; s. 4, ch. 91-429; s. 53, ch. 2008-240.

Note.—Former s. 498.019.