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2 An act relating to timeshare plans; amending s.  
3 721.03, F.S.; revising provisions with respect  
4 to the scope of the chapter; providing for  
5 certain rules; amending s. 721.05, F.S.;  
6 defining the term "regulated short-term  
7 product"; amending s. 721.06, F.S.; revising  
8 provisions with respect to contracts for the  
9 purchase of timeshare periods; amending s.  
10 721.07, F.S.; revising provisions with respect  
11 to public offering statements; providing a time  
12 period for amendments that add a new component  
13 site to an approved multisite timeshare plan;  
14 amending s. 721.075, F.S.; deleting provisions  
15 with respect to certain incidental benefits  
16 offered by a developer; amending s. 721.09,  
17 F.S.; revising provisions with respect to  
18 reservation agreements; providing for  
19 cancellation of such agreements under certain  
20 circumstances; amending s. 721.11, F.S.;  
21 requiring that advertisements of regulated  
22 short-term products be filed with the division;  
23 requiring disclosure statements for purchase  
24 agreements; amending s. 721.13, F.S.; revising  
25 provisions with respect to management; amending  
26 s. 721.15, F.S.; revising provisions with  
27 respect to assessments for common expenses;  
28 amending s. 721.18, F.S.; revising a time  
29 period with respect to the filing of certain  
30 information concerning exchange programs;  
31 amending s. 721.26, F.S.; authorizing the

1 imposition of penalties with respect to certain  
2 rules; amending s. 721.265, F.S.; providing  
3 service of process in receivership proceedings;  
4 creating part III of chapter 721, F.S.;  
5 creating the "Timeshare Lien Foreclosure Act";  
6 providing legislative purpose; providing  
7 definitions; providing for a registered agent;  
8 providing for the consolidation of foreclosure  
9 actions; creating part IV of ch. 721, F.S.;  
10 creating timeshare commissioners of deeds;  
11 providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Paragraphs (b) and (c) of subsection (1) of  
16 section 721.03, Florida Statutes, are amended to read:

17 721.03 Scope of chapter.--

18 (1) This chapter applies to all timeshare plans  
19 consisting of more than seven timeshare periods over a period  
20 of at least 3 years in which the accommodations or facilities  
21 are located within this state; provided that:

22 (b) With respect to timeshare plans containing  
23 accommodations or facilities located in this state which are  
24 offered for sale outside the jurisdictional limits of the  
25 United States, such offers shall be exempt from the  
26 requirements of this chapter so long as the seller files the  
27 information required by s. 721.07 or s. 721.55 with, and  
28 obtains the approval of, the division ~~complies with the~~  
29 ~~provisions of this paragraph.~~ This exemption becomes effective  
30 upon the filing of such information with the division, if  
31 approval is obtained within 6 months after the initial filing

1 at which time the exemption will expire unless the division  
2 stipulates otherwise or approves the filing. The fees set  
3 forth in s. 721.07(4) apply to all filings made hereunder.  
4 Each purchase contract utilized in any offer of a timeshare  
5 plan that occurs outside the jurisdictional limits of the  
6 United States shall contain the following disclosure in  
7 conspicuous type immediately above the space provided for the  
8 purchaser's signature:

9  
10 The offering of this timeshare plan outside the jurisdictional  
11 limits of the United States of America is exempt from  
12 regulation under Florida law, and any such purchase is not  
13 protected by the State of Florida. However, the management  
14 and operation of any accommodations or facilities located in  
15 Florida is subject to Florida law and may give rise to  
16 enforcement action regardless of the location of any offer.

17  
18 Purchaser should note that (name of developer or other person  
19 or entity) at (address) has a (describe developer's or other  
20 person's or entity's actual interest) in the accommodations  
21 and facilities of the timeshare plan.

22  
23 (c) The exemption provided in paragraph (a) shall not  
24 apply unless and until a claim of exemption from regulation  
25 containing the information required by paragraph (a) and s.  
26 721.51(3)(b) and accompanied by the fee required by s.  
27 721.51(3)(b) is filed with and approved by the division. The  
28 division may adopt rules designating those provisions of ss.  
29 721.07 and 721.55 which need not be addressed in the filings  
30 required in paragraph (b).~~The exemption provided in paragraph~~  
31 ~~(b) shall only apply to accommodations or facilities which~~

1 ~~have first been filed with and approved by the division~~  
2 ~~pursuant to s. 721.07 or s. 721.55.~~

3 Section 2. Present subsections (27), (28), (29), (30),  
4 (31), (32), (33), (34), (35), and (36) of section 721.05,  
5 Florida Statutes, are redesignated as subsections (28), (29),  
6 (30), (31), (32), (33), (34), (35), (36), and (37),  
7 respectively, and a new subsection (27) is added to that  
8 section to read:

9 721.05 Definitions.--As used in this chapter, the  
10 term:

11 (27) "Regulated short-term product" means a  
12 contractual right, offered by the seller, to use  
13 accommodations of a timeshare plan, provided that:

14 (a) The agreement to purchase the short-term right to  
15 use is executed in this state on the same day that the  
16 prospective purchaser receives an offer to acquire an interest  
17 in a timeshare plan and does not execute a purchase contract,  
18 after attending a sales presentation; and

19 (b) The acquisition of the right to use includes an  
20 agreement that all or a portion of the consideration paid by  
21 the prospective purchaser for the right to use will be applied  
22 to or credited against the price of a future purchase of a  
23 timeshare interest, or that the cost of a future purchase of a  
24 timeshare interest will be fixed or locked in at a specified  
25 price.

26 Section 3. Paragraph (f) of subsection (1) of section  
27 721.06, Florida Statutes, is amended to read:

28 721.06 Contracts for purchase of timeshare periods.--

29 (1) Each seller shall utilize, and furnish each  
30 purchaser a fully completed and executed copy of, a contract

31

1 pertaining to the sale, which contract shall include the  
2 following information:

3 (f) Immediately prior to the space reserved in the  
4 contract for the signature of the purchaser, in conspicuous  
5 type, substantially the following statements:

6  
7 You may cancel this contract without any penalty or  
8 obligation within 10 calendar days after ~~from~~ the date you  
9 sign this contract, and within ~~until~~ 10 calendar days after  
10 the date you receive the approved public offering statement,  
11 whichever is later.

12 If you decide to cancel this contract, you must notify  
13 the developer in writing of your intent to cancel. Your  
14 notice of cancellation shall be effective upon the date sent  
15 and shall be sent to ...(Name of Developer)... at ...(Address  
16 of Developer).... Any attempt to obtain a waiver of your  
17 cancellation right is unlawful. While you may execute all  
18 closing documents in advance, the closing, as evidenced by  
19 delivery of the deed or other document, before expiration of  
20 your 10-day cancellation period, is prohibited.

21 Section 4. Paragraph (a) of subsection (3) of section  
22 721.07, Florida Statutes, is amended to read:

23 721.07 Public offering statement.--Prior to offering  
24 any timeshare plan, the developer must file a public offering  
25 statement with the division for approval as prescribed by s.  
26 721.03, s. 721.55, or this section. Until the division  
27 approves such filing, any contract regarding the sale of the  
28 timeshare plan which is the subject of the public offering  
29 statement is voidable by the purchaser.

30 (3)(a)1. Any change to an approved filing shall be  
31 filed with the division for approval as an amendment prior to

1 becoming effective. The division shall have 20 days after  
2 receipt of a proposed amendment to approve or cite  
3 deficiencies in the proposed amendment. If the division fails  
4 to act within 20 days, the amendment will be deemed approved.  
5 If the proposed amendment adds a new component site to an  
6 approved multisite timeshare plan, the division's initial  
7 period in which to approve or cite deficiencies is 45 days.If  
8 the developer fails to adequately respond to any deficiency  
9 notice within 30 days, the division may reject the amendment.  
10 Subsequent to such rejection, a new filing fee pursuant to  
11 subsection (4) and a new division initial review period  
12 pursuant to this paragraph shall apply to any refiling or  
13 further review of the rejected amendment.

14         2. For filings only subject to this part, each  
15 approved amendment, other than an amendment made only for the  
16 purpose of the addition of a phase or phases to the timeshare  
17 plan in the manner described in the timeshare instrument,  
18 shall be delivered to a purchaser no later than 10 days prior  
19 to closing. For filings made under part II, each approved  
20 amendment to the multisite timeshare plan public offering  
21 statement, other than an amendment made only for the purpose  
22 of the addition, substitution, or deletion of a component site  
23 pursuant to part II or the addition of a phase or phases to a  
24 component site of a multisite timeshare plan in the manner  
25 described in the timeshare instrument, shall be delivered to a  
26 purchaser no later than 10 days prior to closing.

27         3. Amendments made to a timeshare instrument for a  
28 component site located in this state shall only be delivered  
29 to those purchasers who will receive a timeshare estate or a  
30 specific timeshare license in that component site. Amendments  
31 made to a timeshare instrument for a component site not

1 located in this state are not required to be delivered to  
2 purchasers.

3 Section 5. Section 721.075, Florida Statutes, is  
4 amended to read:

5 721.075 Incidental benefits.--Incidental benefits  
6 shall be offered only as provided in this section.

7 (1) Accommodations, facilities, products, services,  
8 discounts, or other benefits which satisfy the requirements of  
9 this subsection shall be subject to the provisions of this  
10 section and exempt from the other provisions of this part  
11 which would otherwise apply to accommodations and facilities  
12 if and only if:

13 (a) The use of or participation in the incidental  
14 benefit by the prospective purchaser is completely voluntary,  
15 and payment of any fee or other cost associated with the  
16 incidental benefit is required only upon such use or  
17 participation.

18 (b) No costs of acquisition, operation, maintenance,  
19 or repair of the incidental benefit are passed on to  
20 purchasers of the timeshare plan as common expenses of the  
21 timeshare plan or as common expenses of a component site of a  
22 multisite timeshare plan.

23 (c) The continued availability of the incidental  
24 benefit is not necessary in order for any accommodation or  
25 facility of the timeshare plan to be available for use by  
26 purchasers of the timeshare plan in a manner consistent in all  
27 material respects with the manner portrayed by any promotional  
28 material, advertising, or public offering statement.

29 (d) The continued availability to purchasers of  
30 timeshare plan accommodations on no greater than a one-to-one  
31

1 purchaser to accommodation ratio is not dependent upon  
2 continued availability of the incidental benefit.

3 (e) The incidental benefit will continue to be  
4 available in the manner represented to prospective purchasers  
5 for no less than 6 months but less than 3 years after the  
6 first date that the timeshare plan is available for use by the  
7 purchaser. The developer shall not be required to make the  
8 incidental benefit available for longer than 18 months after  
9 the date of purchase. Nothing herein shall prevent the renewal  
10 or extension of the availability of an incidental benefit  
11 ~~after the expiration of its term, provided that any ability to~~  
12 ~~renew is not represented or otherwise portrayed to a~~  
13 ~~prospective purchaser or to a purchaser prior to the~~  
14 ~~expiration of his or her initial 10-day voidability period.~~

15 (f) The aggregate represented value of all incidental  
16 benefits offered by a developer to a purchaser may not exceed  
17 15 percent of the purchase price paid by the purchaser for his  
18 or her timeshare period.

19 (g) The incidental benefit is filed with the division  
20 in conjunction with the filing of a timeshare plan or in  
21 connection with a previously filed timeshare plan.

22 (2) Each purchaser shall execute a separate  
23 acknowledgment and disclosure statement with respect to all  
24 incidental benefits, which statement shall include the  
25 following information:

26 (a) A fair description of the incidental benefit,  
27 including, but not limited to, the represented value of the  
28 benefit; any user fees or costs associated therewith; and any  
29 restrictions upon use or availability.

30 (b) A statement that use of or participation in the  
31 incidental benefit by the prospective purchaser is completely



1 voluntary, and that payment of any fee or other cost  
2 associated with the incidental benefit is required only upon  
3 such use or participation.

4 (c) A statement that the incidental benefit is not  
5 assignable or otherwise transferable by the prospective  
6 purchaser or purchaser.

7 (d) The following disclosure in conspicuous type  
8 immediately above the space for the purchaser's signature:

9  
10 [Describe incidental benefit] is an incidental benefit  
11 offered to prospective purchasers of the timeshare plan [or  
12 other permitted reference pursuant to s. 721.11(5)(a)]. This  
13 benefit is available for your use for a ~~term of~~ [minimum of 6  
14 months but less than 3 years] after the first date that the  
15 timeshare plan is available for your use. The availability of  
16 the incidental benefit may or may not be renewed or extended.  
17 You should not purchase an interest in the timeshare plan in  
18 reliance upon the continued availability or renewal or  
19 extension of this benefit.

20  
21 The acknowledgment and disclosure statement for each  
22 incidental benefit shall be filed with the division prior to  
23 use. Each purchaser shall receive a copy of his or her  
24 executed acknowledgment and disclosure statement as a document  
25 required to be provided to him or her pursuant to s.  
26 721.10(1)(b).

27 (3)(a) In the event that an incidental benefit becomes  
28 unavailable to purchasers in the manner represented by the  
29 developer in the acknowledgment and disclosure statement, the  
30 developer shall pay the purchaser the greater of twice the  
31 verifiable retail value or twice the represented value of the

1 unavailable incidental benefit in cash within 30 days of the  
2 date that the unavailability of the incidental benefit was  
3 made known to the developer unless the developer has reserved  
4 a substitution right pursuant to paragraph (b) by making the  
5 required disclosure in the acknowledgment and disclosure  
6 statement and timely makes the substitution as required by  
7 paragraph (b). The developer shall promptly notify the  
8 division upon learning of the unavailability of any incidental  
9 benefit.

10 (b) If an incidental benefit becomes unavailable as a  
11 result of events beyond the control of the developer, the  
12 developer may reserve the right to substitute a replacement  
13 incidental benefit of a type, quality, value, and term  
14 reasonably similar to the unavailable incidental benefit by  
15 including the following language in the disclosure required by  
16 paragraph (2)(d):

17  
18 In the event [describe incidental benefit] becomes  
19 unavailable as a result of events beyond the control of the  
20 developer, the developer reserves the right to substitute a  
21 replacement incidental benefit of a type, quality, value, and  
22 term reasonably similar to the unavailable incidental benefit.

23  
24 The substituted incidental benefit shall be delivered to the  
25 purchaser within 30 days after the date that the  
26 unavailability of the incidental benefit was made known to the  
27 developer.

28 ~~(4) If the aggregate represented value of all~~  
29 ~~incidental benefits offered by a developer to a purchaser~~  
30 ~~exceeds 5 percent of the purchase price paid by that~~  
31 ~~purchaser, then, prior to offering the incidental benefits,~~

1 ~~the developer must file an irrevocable letter of credit,~~  
2 ~~surety bond, or other assurance acceptable to the director of~~  
3 ~~the division that will reasonably assure the delivery of the~~  
4 ~~promised incidental benefits to the purchaser; provided,~~  
5 ~~however, that the maximum amount of such assurance shall equal~~  
6 ~~the portion of the aggregate represented value of the offered~~  
7 ~~incidental benefits which exceeds 5 percent of the purchase~~  
8 ~~price contracted for by that purchaser. Proceeds from any~~  
9 ~~assurance accepted by the division shall be used to provide~~  
10 ~~refunds to purchasers pursuant to this section. If the~~  
11 ~~aggregate represented value of all incidental benefits offered~~  
12 ~~by a developer to a purchaser is equal to or less than 5~~  
13 ~~percent of the purchase price paid by that purchaser, no~~  
14 ~~assurance shall be required from the developer prior to~~  
15 ~~offering any incidental benefit.~~

16 ~~(4)(5)~~ All purchaser remedies pursuant to s. 721.21  
17 shall be available for any violation of the provisions of this  
18 section.

19 Section 6. Subsection (1) of section 721.09, Florida  
20 Statutes, is amended to read:

21 721.09 Reservation agreements; escrows.--

22 (1)(a) Prior to filing the public offering statement  
23 with the division, a seller shall not offer a timeshare plan  
24 for sale but may accept reservation deposits and advertise the  
25 reservation deposit program upon approval by the division of a  
26 fully executed escrow agreement and reservation agreement  
27 properly filed with the division.

28 (b) Reservations shall not be taken on a timeshare  
29 plan unless the seller has an ownership interest or leasehold  
30 interest, of a duration at least equal to the duration of the  
31

1 proposed timeshare plan, in the land upon which the timeshare  
2 plan is to be developed.

3 (c) If the timeshare plan subject to the reservation  
4 agreement has not been filed with the division under s.  
5 721.07(5) or s. 721.55 within 90 days after the date the  
6 division approves the reservation agreement filing, the seller  
7 must immediately cancel all outstanding reservation  
8 agreements, refund all escrowed funds to prospective  
9 purchasers, and discontinue accepting reservation deposits or  
10 advertising the availability of reservation agreements.

11 (d) A seller who has filed a reservation agreement and  
12 an escrow agreement under this section may advertise the  
13 reservation agreement program if the advertising material  
14 meets the following requirements:

15 1. The seller complies with the provisions of s.  
16 721.11 with respect to such advertising material.

17 2. The advertising material is limited to a general  
18 description of the proposed timeshare plan, including, but not  
19 limited to, a general description of the type, number, and  
20 size of accommodations and facilities and the name of the  
21 proposed timeshare plan.

22 3. The advertising material contains a statement that  
23 the advertising material is being distributed in connection  
24 with an approved reservation agreement filing only and that  
25 the seller cannot offer an interest in the timeshare plan for  
26 sale until a public offering statement has been filed with the  
27 division under this chapter.

28 Section 7. Subsection (6) is added to section 721.11,  
29 Florida Statutes, to read:

30 721.11 Advertising materials; oral statements.--

31

1           (6) Failure to provide cancellation rights or  
2 disclosures as required by this subsection in connection with  
3 the sale of a regulated short-term product constitutes  
4 misrepresentation in accordance with paragraph (4)(a). Any  
5 agreement relating to the sale of a regulated short-term  
6 product must be regulated as advertising material and is  
7 subject to the following:

8           (a) A standard form of any agreement relating to the  
9 sale of a regulated short-term product must be filed 10 days  
10 prior to use with the division as advertising material under  
11 this section. Each seller shall furnish each purchaser of a  
12 regulated short-term product with a fully completed and  
13 executed copy of the agreement at the time of execution.

14           (b) A purchaser of a regulated short-term product has  
15 the right to cancel the agreement until midnight of the 10th  
16 calendar day following the execution date of the agreement.  
17 The right of cancellation may not be waived by the prospective  
18 purchaser or by any other person on behalf of the prospective  
19 purchaser. Notice of cancellation must be given in the same  
20 manner prescribed for giving notice of cancellation under s.  
21 721.10(2). If the prospective purchaser gives a valid notice  
22 of cancellation or is otherwise entitled to cancel the sale,  
23 the funds or property received from or on behalf of the  
24 prospective purchaser, or the proceeds thereof, must be  
25 returned to the prospective purchaser. Such refund must be  
26 made in the same manner prescribed for refunds under s.  
27 721.10.

28           (c) An agreement for purchase of a regulated  
29 short-term product must contain substantially the following  
30 statements, given at the time the agreement is made:  
31

1           1. A statement that if the purchaser of a regulated  
2 short-term product cancels the agreement during the 10-day  
3 cancellation period, the seller will refund to the prospective  
4 purchaser the total amount of all payments made by the  
5 prospective purchaser under the agreement, reduced by the  
6 proportion of any benefits the prospective purchaser has  
7 actually received under the agreement prior to the effective  
8 date of the cancellation; and

9           2. A statement that the specific value for each  
10 benefit received by the prospective purchaser under the  
11 agreement will be as agreed to between the prospective  
12 purchaser and the seller.

13           (d) An agreement for purchase of a regulated  
14 short-term product must contain substantially the following  
15 statements in conspicuous type immediately above the space  
16 reserved in the agreement for the signature of the prospective  
17 purchaser:

18                   You may cancel this agreement without any  
19                   penalty or obligation within 10 calendar days  
20                   [or specify a longer time period represented to  
21                   the purchaser] after the date you sign this  
22                   agreement. If you decide to cancel this  
23                   agreement, you must notify the seller in  
24                   writing of your intent to cancel. Your notice  
25                   of cancellation is effective upon the date sent  
26                   and must be sent to ...(Name of Seller)... at  
27                   ...(Address of Seller).... Any attempt to  
28                   obtain a waiver of your cancellation right is  
29                   unlawful.

30                   If you execute a purchase contract for a  
31                   timeshare period, section 721.08, Florida

1           Statutes, (escrow accounts) will apply to any  
2           funds or other property received from you or on  
3           your behalf. Section 721.10, Florida Statutes,  
4           (cancellation) will apply to the purchase and  
5           you will not be entitled to a cancellation  
6           refund of the short-term product [or specify an  
7           alternate refund policy under these  
8           circumstances].

9           (e) If the seller provides the purchaser with the  
10          right to cancel the purchase of a regulated short-term product  
11          at any time up to 7 days prior to the purchaser's reserved use  
12          of the accommodations, but in no event less than 10 days, and  
13          if the seller refunds the total amount of all payments made by  
14          the purchaser reduced by the proportion of any benefits the  
15          purchaser has actually received prior to the effective date of  
16          the cancellation, the specific value of which has been agreed  
17          to between the purchaser and the seller, the short-term  
18          product offer shall be exempt from the requirements of  
19          paragraphs (b), (c), and (d). An agreement relating to the  
20          sale of the regulated short-term product made pursuant to this  
21          paragraph must contain a statement setting forth the  
22          cancellation and refund rights of the prospective purchaser in  
23          a manner that is consistent with this section and s. 721.10,  
24          including a description of the length of the cancellation  
25          right, a statement that the purchaser's intent to cancel must  
26          be in writing and sent to the seller at a specified address, a  
27          statement that the notice of cancellation is effective upon  
28          the date sent, and a statement that any attempt to waive the  
29          cancellation right is unlawful. The right of cancellation  
30          provided to the purchaser pursuant to this paragraph may not  
31          be waived by the prospective purchaser or by any other person

1 on behalf of the prospective purchaser. Notice of cancellation  
2 must be given in the same manner prescribed for giving notice  
3 of cancellation pursuant to s. 721.10(2). If the prospective  
4 purchaser gives a valid notice of cancellation, or is  
5 otherwise entitled to cancel the sale, the funds or property  
6 received from or on behalf of the prospective purchaser, or  
7 the proceeds thereof, shall be returned to the prospective  
8 purchaser. Such refund shall be made in the manner prescribed  
9 for refunds under s. 721.10.

10 Section 8. Paragraphs (c), (e), and (i) of subsection  
11 (3) and subsection (4) of section 721.13, Florida Statutes,  
12 are amended to read:

13 721.13 Management.--

14 (3) The duties of the managing entity include, but are  
15 not limited to:

16 (c)1. Providing each year to all purchasers an  
17 itemized annual budget which shall include all estimated  
18 revenues and expenses. The budget shall be in the form  
19 required by s. 721.07(5)(x) and shall be the final budget  
20 adopted by the managing entity for the current fiscal year.  
21 The budget shall contain, as a footnote or otherwise, any  
22 related party transaction disclosures or notes which appear in  
23 the audited financial statements of the managing entity for  
24 the previous budget year as required by paragraph (e). A copy  
25 of the final budget shall be filed with the division within 30  
26 days after its adoption by the managing entity together with a  
27 statement of the number of periods of 7-day annual use  
28 availability that exist within the timeshare plan, including  
29 those periods filed for sale by the developer but not yet  
30 committed to the timeshare plan, for which annual fees are  
31 required to be paid to the division under s. 721.27.



1           2. Notwithstanding anything contained in chapter 718  
2 or chapter 719 to the contrary, the board of administration of  
3 an owners' association which serves as managing entity may  
4 from time to time reallocate reserves for deferred maintenance  
5 and capital expenditures required by s. 721.07(5)(x)3.a.(XI)  
6 from any deferred maintenance or capital expenditure reserve  
7 account to any other deferred maintenance or capital  
8 expenditure reserve account or accounts in its discretion  
9 without the consent of purchasers of the timeshare plan.  
10 Funds in any deferred maintenance or capital expenditure  
11 reserve account may not be transferred to any operating  
12 account without the consent of a majority of the purchasers of  
13 the timeshare plan.

14           (e) Arranging for an annual ~~independent~~ audit of the  
15 financial statements ~~all the books and financial records~~ of  
16 the timeshare plan by a certified public accountant licensed  
17 by the Board of Accountancy of the Department of Business and  
18 Professional Regulation, in accordance with generally accepted  
19 auditing standards as defined by the rules of the Board of  
20 Accountancy of the Department of Business and Professional  
21 Regulation. The financial statements required by this section  
22 must be prepared on an accrual basis using fund accounting,  
23 and must be presented in accordance with generally accepted  
24 accounting principles. A copy of the audited financial  
25 statements ~~audit must shall~~ be filed with the division and  
26 forwarded to the board of directors and officers of the  
27 owners' association, ~~or, if one exists,~~ no later than 5  
28 calendar months after the end of the timeshare plan's fiscal  
29 year. ~~If no owners' association exists, the owner of each~~  
30 purchaser ~~timeshare period must shall~~ be notified, no later  
31 than 5 months after the end of the timeshare plan's fiscal

1 year, that a copy of the audited financial statements such  
2 audit is available upon request to the managing entity.  
3 Notwithstanding any requirement of s. 718.111(13) or (14), the  
4 audited financial statements required by this section are the  
5 only annual financial reporting requirements for timeshare  
6 condominiums.

7 (i) Submitting to the division the statement of  
8 receipts and disbursements regarding the ad valorem tax escrow  
9 account as required by s. 192.037(6)(e). The statement of  
10 receipts and disbursements must also include a statement  
11 disclosing that all ad valorem taxes have been paid in full to  
12 the tax collector through the current assessment year, or, if  
13 all such ad valorem taxes have not been paid in full to the  
14 tax collector, a statement disclosing those assessment years  
15 for which there are outstanding ad valorem taxes due and the  
16 total amount of all delinquent taxes, interest, and penalties  
17 for each such assessment year as of the date of the statement  
18 of receipts and disbursements.

19 (4) The managing entity shall maintain among its  
20 records and provide to the division upon request a complete  
21 list of the names and addresses of all purchasers and owners  
22 of timeshare units in the timeshare plan. The managing entity  
23 shall update this list no less frequently than quarterly.  
24 Pursuant to paragraph (3)(d), the managing entity may not  
25 publish this owner's list or provide a copy of it to any  
26 purchaser or to any third party other than the division.  
27 ~~However, if the managing entity includes a condominium~~  
28 ~~association subject to the provisions of chapter 718 or a~~  
29 ~~cooperative association subject to the provisions of chapter~~  
30 ~~719, the managing entity shall initiate a mailing to those~~  
31 persons listed on the owner's list upon the written request of

1 any purchaser if the purpose of the mailing is to advance  
2 legitimate association business, such as a proxy solicitation  
3 for any purpose, including the recall of one or more board  
4 members or the discharge of the manager or management firm.  
5 The use of any proxies solicited in this manner must comply  
6 with the provisions of the timeshare instrument and this  
7 chapter. The board of administration of the association shall  
8 be responsible for determining the appropriateness of any  
9 mailing requested pursuant to this subsection, and it shall be  
10 a violation of this chapter and of part VIII of chapter 468  
11 for the board of administration and/or the manager or  
12 management firm to refuse to initiate any mailing requested  
13 for the purpose of advancing legitimate association business.  
14 The purchaser who requests the mailing must reimburse the  
15 association in advance for the association's actual costs in  
16 performing the mailing.

17 Section 9. Subsection (1) of section 721.15, Florida  
18 Statutes, is amended to read:

19 721.15 Assessments for common expenses.--

20 (1)(a) Until a managing entity is created or provided  
21 pursuant to s. 721.13, the developer shall pay all common  
22 expenses. The timeshare instrument shall provide for the  
23 allocation of common expenses among all timeshare units or  
24 timeshare periods on a reasonable basis, ~~as appropriate,~~  
25 including timeshare periods owned or not yet sold by the  
26 developer. The timeshare instrument may provide that the  
27 common expenses allocated may differ between those units that  
28 are part of the timeshare plan and those units that are not  
29 part of the timeshare plan; however, the different proportion  
30 of expenses must be based upon reasonable differences in the  
31 benefit provided to each.The timeshare instrument shall

1 allocate common expenses to timeshare periods owned or not yet  
2 sold by the developer on the same basis that common expenses  
3 are allocated to similar or equivalent timeshare periods sold  
4 to purchasers. ~~Timeshare plans that are also governed by~~  
5 ~~chapter 718 or chapter 719 shall allocate common expenses~~  
6 ~~among the timeshare units in the manner required by those~~  
7 ~~chapters.~~

8 (b) Notwithstanding any provision of chapter 718 or  
9 chapter 719 to the contrary, the allocation of total common  
10 expenses for a condominium or a cooperative timeshare plan may  
11 vary on any reasonable basis including, but not limited to,  
12 unit size, unit type, unit location, specific identification,  
13 or a combination of these factors, if the percentage interest  
14 in the common elements attributable to each timeshare  
15 condominium parcel or timeshare cooperative parcel equals the  
16 share of the total common expenses allocable to that parcel.  
17 The share of a timeshare interest in the common expenses  
18 allocable to the timeshare condominium parcel or the timeshare  
19 cooperative parcel containing such interest may vary on any  
20 reasonable basis if the timeshare interest's share of its  
21 parcel's common expense allocation is equal to that timeshare  
22 interest's share of the percentage interest in common elements  
23 attributable to such parcel.

24 Section 10. Subsection (2) of section 721.18, Florida  
25 Statutes, is amended to read:

26 721.18 Exchange programs; filing of information and  
27 other materials; filing fees; unlawful acts in connection with  
28 an exchange program.--

29 (2) Each exchange company offering an exchange program  
30 to purchasers in this state shall file the information  
31 specified in subsection (1) and the audit specified in

1 subsection (1) on or before June 1 ~~at least 20 days prior to~~  
2 ~~July 1~~ of each year. However, an exchange company shall make  
3 its initial filing at least 20 days prior to offering an  
4 exchange program to any purchaser in this state. Each filing  
5 shall be accompanied by an annual filing fee of \$500. Within  
6 20 days of receipt of such filing, the division shall  
7 determine whether the filing is adequate to meet the  
8 requirements of this section and shall notify the exchange  
9 company in writing that the division has either approved the  
10 filing or found specified deficiencies in the filing. If the  
11 division fails to respond within 20 days, the filing shall be  
12 deemed approved. The exchange company may correct the  
13 deficiencies; and, within 10 days after receipt of corrections  
14 from the exchange company, the division shall notify the  
15 exchange company in writing that the division has either  
16 approved the filing or found additional specified deficiencies  
17 in the filing. If at any time the division determines that any  
18 of such information supplied by an exchange company fails to  
19 meet the requirements of this section, the division may  
20 undertake enforcement action against the exchange company in  
21 accordance with the provision of s. 721.26.

22 Section 11. Section 721.26, Florida Statutes, is  
23 amended to read:

24 721.26 Regulation by division.--The division has the  
25 power to enforce and ensure compliance with the provisions of  
26 this chapter, except for part III and part IV, using the  
27 powers provided in this chapter, as well as the powers  
28 prescribed in chapters 498, 718, and 719. In performing its  
29 duties, the division shall have the following powers and  
30 duties:

31

1           (1) To aid in the enforcement of this chapter, or any  
2 division rule or order promulgated or issued pursuant to this  
3 chapter, the division may make necessary public or private  
4 investigations within or outside this state to determine  
5 whether any person has violated or is about to violate this  
6 chapter, or any division rule or order promulgated or issued  
7 pursuant to this chapter.

8           (2) The division may require or permit any person to  
9 file a written statement under oath or otherwise, as the  
10 division determines, as to the facts and circumstances  
11 concerning a matter under investigation.

12           (3) For the purpose of any investigation under this  
13 chapter, the director of the division or any officer or  
14 employee designated by the director may administer oaths or  
15 affirmations, subpoena witnesses and compel their attendance,  
16 take evidence, and require the production of any matter which  
17 is relevant to the investigation, including the identity,  
18 existence, description, nature, custody, condition, and  
19 location of any books, documents, or other tangible things and  
20 the identity and location of persons having knowledge of  
21 relevant facts or any other matter reasonably calculated to  
22 lead to the discovery of material evidence. Failure to obey a  
23 subpoena or to answer questions propounded by the  
24 investigating officer and upon reasonable notice to all  
25 persons affected thereby shall be a violation of this chapter.  
26 In addition to the other enforcement powers authorized in this  
27 subsection, the division may, at its discretion, apply to the  
28 circuit court for an order compelling compliance.

29           (4) The division may prepare and disseminate a  
30 prospectus and other information to assist prospective  
31 purchasers, sellers, and managing entities of timeshare plans

1 in assessing the rights, privileges, and duties pertaining  
2 thereto.

3 (5) Notwithstanding any remedies available to  
4 purchasers, if the division has reasonable cause to believe  
5 that a violation of this chapter, or of any division rule or  
6 order promulgated or issued pursuant to this chapter, has  
7 occurred, the division may institute enforcement proceedings  
8 in its own name against any regulated party, as such term is  
9 defined in this subsection:

10 (a)1. "Regulated party," for purposes of this section,  
11 means any developer, exchange company, seller, managing  
12 entity, association, association director, association  
13 officer, management firm, escrow agent, trustee, any  
14 respective assignees or agents, or any other person having  
15 duties or obligations pursuant to this chapter.

16 2. Any person who materially participates in any offer  
17 or disposition of any interest in, or the management or  
18 operation of, a timeshare plan in violation of this chapter or  
19 relevant rules involving fraud, deception, false pretenses,  
20 misrepresentation, or false advertising or the disbursement,  
21 concealment, or diversion of any funds or assets, which  
22 conduct adversely affects the interests of a purchaser, and  
23 which person directly or indirectly controls a regulated party  
24 or is a general partner, officer, director, agent, or employee  
25 of such regulated party, shall be jointly and severally liable  
26 under this subsection with such regulated party, unless such  
27 person did not know, and in the exercise of reasonable care  
28 could not have known, of the existence of the facts giving  
29 rise to the violation of this chapter. A right of  
30 contribution shall exist among jointly and severally liable  
31 persons pursuant to this paragraph.

1 (b) The division may permit any person whose conduct  
2 or actions may be under investigation to waive formal  
3 proceedings and enter into a consent proceeding whereby an  
4 order, rule, or letter of censure or warning, whether formal  
5 or informal, may be entered against that person.

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

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

14 2. The division shall have broad authority and  
15 discretion to petition the circuit court to appoint a receiver  
16 with respect to any managing entity which fails to perform its  
17 duties and obligations under this chapter with respect to the  
18 operation of a timeshare plan. The circumstances giving rise  
19 to an appropriate petition for receivership under this  
20 subparagraph include, but are not limited to:

21 a. Damage to or destruction of any of the  
22 accommodations or facilities of a timeshare plan, where the  
23 managing entity has failed to repair or reconstruct same.

24 b. A breach of fiduciary duty by the managing entity,  
25 including, but not limited to, undisclosed self-dealing or  
26 failure to timely assess, collect, or disburse the common  
27 expenses of the timeshare plan.

28 c. Failure of the managing entity to operate the  
29 timeshare plan in accordance with the timeshare instrument and  
30 this chapter.

31



1 If, under the circumstances, it appears that the events giving  
2 rise to the petition for receivership cannot be reasonably and  
3 timely corrected in a cost-effective manner consistent with  
4 the timeshare instrument, the receiver may petition the  
5 circuit court to implement such amendments or revisions to the  
6 timeshare instrument as may be necessary to enable the  
7 managing entity to resume effective operation of the timeshare  
8 plan, or to enter an order terminating the timeshare plan, or  
9 to enter such further orders regarding the disposition of the  
10 timeshare property as the court deems appropriate. All  
11 reasonable costs and fees of the receiver relating to the  
12 receivership shall become common expenses of the timeshare  
13 plan upon order of the court.

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

17 (e)1. The division may impose a penalty against any  
18 regulated party for a violation of this chapter or any rule  
19 adopted thereunder. A penalty may be imposed on the basis of  
20 each day of continuing violation, but in no event may the  
21 penalty for any offense exceed \$10,000. All accounts  
22 collected shall be deposited with the Treasurer to the credit  
23 of the Division of Florida Land Sales, Condominiums, and  
24 Mobile Homes Trust Fund.

25 2.a. If a regulated party fails to pay a penalty, the  
26 division shall thereupon issue an order directing that such  
27 regulated party cease and desist from further operation until  
28 such time as the penalty is paid; or the division may pursue  
29 enforcement of the penalty in a court of competent  
30 jurisdiction.

31

1           b. If an association or managing entity fails to pay a  
2 civil penalty, the division may pursue enforcement in a court  
3 of competent jurisdiction.

4           (f) In order to permit the regulated party an  
5 opportunity either to appeal such decision administratively or  
6 to seek relief in a court of competent jurisdiction, the order  
7 imposing the penalty or the cease and desist order shall not  
8 become effective until 20 days after the date of such order.

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

12           (h) Notice to any regulated party shall be complete  
13 when delivered by United States mail, return receipt  
14 requested, to the party's address currently on file with the  
15 division or to such other address at which the division is  
16 able to locate the party. Every regulated party has an  
17 affirmative duty to notify the division of any change of  
18 address at least 5 business days prior to such change.

19           (6) The division is authorized to adopt, amend, or  
20 repeal rules pursuant to chapter 120 as necessary to  
21 implement, enforce, and interpret this chapter.

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

26           (b) Any violation of the Florida Deceptive and Unfair  
27 Trade Practices Act, ss. 501.201 et seq., relating to the  
28 creation, promotion, sale, operation, or management of any  
29 timeshare plan shall also be a violation of this chapter.

30           (c) The division is authorized to institute  
31 proceedings against any such person and take any appropriate

1 action authorized in this section in connection therewith,  
2 notwithstanding any remedies available to purchasers.

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

5 Section 12. Subsection (3) is added to section  
6 721.265, Florida Statutes, to read:

7 721.265 Service of process.--

8 (3) In addition to any means recognized by law,  
9 substituted service of process on timeshare purchasers in  
10 receivership proceedings may be made in accordance with s.  
11 721.85(1).

12 Section 13. Part III of chapter 721, Florida Statutes,  
13 consisting of sections 721.80, 721.81, 721.82, 721.83, 721.84,  
14 721.85, and 721.86, Florida Statutes, is created to read:

15 Part III

16 FORECLOSURE OF LIENS ON TIMESHARE ESTATES

17 721.80 Short title.--This part may be cited as the  
18 "Timeshare Lien Foreclosure Act."

19 721.81 Legislative purpose.--The purposes of this part  
20 are to:

21 (1) Recognize that timeshare estates are parcels of  
22 real property used for vacation experience rather than for  
23 homestead purposes and that there are numerous timeshare  
24 estates in the state.

25 (2) Recognize that the economic health and efficient  
26 operation of the vacation ownership industry are in part  
27 dependent upon the availability of an efficient and economical  
28 process for foreclosure.

29 (3) Recognize the need to assist vacation ownership  
30 resort owners' associations and mortgagees by simplifying and  
31

1 expediting the process of foreclosure of assessment liens and  
2 mortgage liens against timeshare estates.

3 (4) Reduce court congestion and the cost to taxpayers  
4 by establishing streamlined procedures for the foreclosure of  
5 assessment liens and mortgage liens against timeshare estates.

6 721.82 Definitions.--As used in this part, the term:

7 (1) "Assessment lien" means:

8 (a) A lien for delinquent assessments as provided in  
9 ss. 721.16 and 718.116 as to timeshare condominiums; or

10 (b) A lien for unpaid taxes and special assessments as  
11 provided in s. 192.037(8).

12 (2) "Junior interestholder" means any person who has a  
13 lien or interest of record against a timeshare estate in the  
14 county in which the timeshare estate is located, which is  
15 inferior to the mortgage lien or assessment lien being  
16 foreclosed under this part.

17 (3) "Lienholder" means a holder of an assessment lien  
18 or a holder of a mortgage lien, as applicable. A receiver  
19 appointed under s. 721.26 is a lienholder for purposes of this  
20 part.

21 (4) "Mortgage" has the same meaning set forth in s.  
22 697.01.

23 (5) "Mortgage lien" means a security interest in a  
24 timeshare estate created by a mortgage encumbering the  
25 timeshare estate.

26 (6) "Mortgagee" means a person holding a mortgage  
27 lien.

28 (7) "Mortgagor" means a person granting a mortgage  
29 lien or a person who has assumed the obligation secured by a  
30 mortgage lien.

31 (8) "Notice address" means:

1           (a) As to an assessment lien, the address of the  
2 current owner of a timeshare estate as reflected by the books  
3 and records of the timeshare plan under ss. 721.13(4) and  
4 721.15(7).

5           (b) As to a mortgage lien:

6           1. The address of the mortgagor as set forth in the  
7 mortgage, the promissory note or a separate document executed  
8 by the mortgagor at the time the mortgage lien was created, or  
9 the most current address of the mortgagor according to the  
10 records of the mortgagee; and

11           2. If the current owner of the timeshare estate is  
12 different from the mortgagor, the address of the current owner  
13 of the timeshare estate as reflected by the books and records  
14 of the mortgagee.

15           (c) As to a junior interestholder, the address as set  
16 forth in the recorded instrument creating the junior interest  
17 or lien, or any recorded supplement thereto changing the  
18 address, or written notification by the junior interestholder  
19 to the foreclosing lienholder of such change in address.

20           (9) "Obligor" means the mortgagor, the person subject  
21 to an assessment lien, or the record owner of the timeshare  
22 estate.

23           (10) "Registered agent" means an agent duly appointed  
24 by the obligor under s. 721.84 for the purpose of accepting  
25 all notices and service of process under this part. A  
26 registered agent may be an individual resident in this state  
27 whose business office qualifies as a registered office, or a  
28 domestic or foreign corporation or a not-for-profit  
29 corporation as defined in chapter 617 authorized to transact  
30 business or to conduct its affairs in this state, whose  
31 business office qualifies as a registered office. A registered

1 agent for any obligor may not be the lienholder or the  
2 attorney for the lienholder.

3 (11) "Registered office" means the street address of  
4 the business office of the registered agent appointed under s.  
5 721.84, located in this state.

6 721.83 Consolidation of foreclosure actions.--

7 (1) A complaint in a foreclosure proceeding involving  
8 timeshare estates may join in the same action multiple  
9 defendant obligors and junior interestholders of separate  
10 timeshare estates, provided:

11 (a) The foreclosure proceeding involves a single  
12 timeshare property;

13 (b) The foreclosure proceeding is filed by a single  
14 plaintiff;

15 (c) The default and remedy provisions in the written  
16 instruments on which the foreclosure proceeding is based are  
17 substantially the same for each defendant; and

18 (d) The nature of the defaults alleged are the same  
19 for each defendant.

20 (2) In any foreclosure proceeding involving multiple  
21 defendants filed under subsection (1), the court shall sever  
22 for separate trial any count of the complaint in which a  
23 defense or counterclaim is timely raised by a defendant.

24 721.84 Appointment of a registered agent; duties.--

25 (1) Any obligor may appoint a registered agent on whom  
26 notices and process may be served under s. 721.85. The  
27 statement of appointment must be in writing signed by the  
28 obligor and must:

29 (a) Provide the name of the registered agent and the  
30 street address for the registered office;

31

1           (b) Identify the obligor for whom the registered agent  
2 serves;

3           (c) Indicate the purpose of the appointment;

4           (d) Specify the instruments out of which the liens  
5 arise;

6           (e) Designate the address the obligor wishes to use to  
7 receive mail from the registered agent; and

8           (f) Contain the obligor's undertaking to inform the  
9 registered agent of any change in such designated address.

10

11 The statement of appointment must also provide for the  
12 registered agent's acceptance of the appointment, which must  
13 confirm that the registered agent is familiar with and accepts  
14 the obligations of that position as set forth in this section.

15           (2) An obligor may change but not revoke its  
16 appointment of registered agent and registered office under  
17 this chapter by executing a written statement of change that  
18 identifies the former registered agent and registered address  
19 and also satisfies all of the requirements of subsection (1).  
20 A copy of the statement of change must be promptly provided to  
21 the former registered agent and the affected lienholder and  
22 becomes effective upon receipt by the affected lienholder.

23           (3) A registered agent appointed under subsection (1)  
24 or a successor registered agent appointed under subsection (2)  
25 shall provide the lienholder with a copy of the obligor's  
26 appointment and the executed acceptance of the appointment by  
27 the registered agent promptly following the registered agent's  
28 receipt of the statement of appointment or statement of change  
29 executed by the obligor. The statement of appointment or  
30 statement of change becomes effective upon receipt by the  
31 lienholder of the fully executed form. A successor registered

1 agent shall promptly provide a copy of a statement of change  
2 to the former registered agent.

3 (4) A registered agent may change its business name or  
4 the street address of the registered office for any obligor  
5 for which it serves as registered agent by:

6 (a) Notifying all obligors of the specific change in  
7 writing at the address such obligor designated for receipt of  
8 mail from the registered agent; and

9 (b) Delivering to each respective lienholder a  
10 statement that updates the information on the original  
11 appointment or change of appointment, identifies the names of  
12 all affected obligors, and states that each such affected  
13 obligor has been notified of the change.

14 (5) A registered agent may resign his agency  
15 appointment for any obligor for which he serves as registered  
16 agent, provided that:

17 (a) The resigning registered agent executes a written  
18 statement of resignation that identifies himself or herself  
19 and the street address of his or her registered office, and  
20 identifies the obligors affected by his or her resignation;

21 (b) A successor registered agent is appointed and such  
22 successor registered agent executes an acceptance of  
23 appointment as successor registered agent and satisfies all of  
24 the requirements of subsection (1). The resigning registered  
25 agent may designate the successor registered agent; however,  
26 if the resigning registered agent fails to designate a  
27 successor registered agent or the designated successor  
28 registered agent fails to accept, the successor registered  
29 agent for the affected obligors may be designated by the  
30 mortgagee as to the mortgagee lien and by the association of  
31 the timeshare plan as to the assessment lien; and



1           (c) Copies of the statement of resignation and  
2 acceptance of appointment as successor registered agent are  
3 promptly mailed to the affected obligors at the obligors' last  
4 designated address shown on the records of the resigning  
5 registered agent and to the affected lienholders. The agency  
6 and registered office of the resigning registered agent are  
7 terminated and the agency and registered office of the  
8 successor registered agent are effective as of the 10th day  
9 after the date on which the statement of resignation and  
10 acceptance of appointment as successor registered agent are  
11 received by the lienholder, unless a longer period is provided  
12 in the statement of resignation and acceptance of appointment  
13 as successor registered agent.

14           (6) Unless otherwise provided in this section, a  
15 registered agent in receipt of any notice or other document  
16 addressed from the lienholder to the obligor in care of the  
17 registered agent at the registered office must mail, by first  
18 class mail if the obligor's address is within the United  
19 States, and by international air mail if the obligor's address  
20 is outside the United States, with postage fees prepaid, such  
21 notice or documents to the obligor at the obligor's last  
22 designated address within 5 days of receipt.

23           (7) In the absence of a written agreement to the  
24 contrary, a registered agent is not liable for the failure to  
25 give notice to the obligor of the receipt of any document  
26 under this part if, such registered agent has complied in a  
27 timely manner with the procedures and duties in this section.

28           721.85 Service to notice address or on registered  
29 agent.--

30           (1) Service of process for a foreclosure proceeding  
31 involving a timeshare estate may be made by any means

1 recognized by law. In addition, substituted service on a party  
2 who has appointed a registered agent under s. 721.84 may be  
3 made on such registered agent at the registered office. Also,  
4 when using s. 48.194 where in rem or quasi in rem relief only  
5 is sought, such service of process provisions are modified in  
6 connection with a foreclosure proceeding against a timeshare  
7 estate to provide that:

8 (a) Such service of process may be made on any person  
9 whether the person is located inside or outside this state, by  
10 certified or registered mail, addressed to the person to be  
11 served at the notice address, or on the party's registered  
12 agent duly appointed under s. 721.84, at the registered  
13 office; and

14 (b) Service shall be considered obtained upon the  
15 signing of the return receipt by any person at the notice  
16 address, or by the registered agent.

17 (2) The current owner and the mortgagor of a timeshare  
18 estate must promptly notify the association of the timeshare  
19 plan and the mortgagee of any change of address.

20 721.86 Miscellaneous provisions.--

21 (1) The procedures in this part must be given effect  
22 in the context of any foreclosure proceedings against  
23 timeshare estates governed by this chapter, chapter 702, or  
24 chapter 718.

25 (2) If any provision of this part, or the application  
26 thereof to any person or circumstances, is held invalid, such  
27 invalidity does not affect other provisions or applications of  
28 this part which can be given effect without the invalid  
29 provision or application. To this end, the provisions of this  
30 part are declared severable.

31

1       (3) The division has no authority to regulate,  
2 enforce, or ensure compliance with any provision of this part.

3       (4) In addition to assessment liens and mortgage liens  
4 arising after the effective date of this part, the provisions  
5 of this part apply to all assessment liens and mortgage liens  
6 existing prior to the effective date of this act regarding  
7 which a foreclosure proceeding has not yet commenced.

8       Section 14. Part IV of chapter 721, Florida Statutes,  
9 consisting of sections 721.96, 721.97, and 721.98, is created  
10 to read:

11                               Part IV

12                               COMMISSIONER OF DEEDS

13       721.96 Purpose.--The purpose of this part is to  
14 provide for the appointment of commissioners of deeds to take  
15 acknowledgments, proofs of execution, and oaths outside the  
16 United States in connection with the execution of any deed,  
17 mortgage, deed of trust, contract, power of attorney, or any  
18 other agreement, instrument or writing concerning, relating  
19 to, or to be used or recorded in connection with a timeshare  
20 estate, timeshare license, any property subject to a timeshare  
21 plan, or the operation of a timeshare plan located within this  
22 state.

23       721.97 Timeshare commissioner of deeds.--

24       (1) The Governor may appoint commissioners of deeds to  
25 take acknowledgments, proofs of execution, or oaths in any  
26 foreign country. The term of office is 4 years. Commissioners  
27 of deeds shall have authority to take acknowledgments, proofs  
28 of execution, and oaths in connection with the execution of  
29 any deed, mortgage, deed of trust, contract, power of  
30 attorney, or any other writing to be used or recorded in  
31 connection with a timeshare estate, timeshare license, any

1 property subject to a timeshare plan, or the operation of a  
2 timeshare plan located within this state; provided such  
3 instrument or writing is executed outside the United States.  
4 Such acknowledgments, proofs of execution, and oaths must be  
5 taken or made in the manner directed by the laws of this  
6 state, including but not limited to s. 117.05(4), (5)(a) and  
7 (6) and certified by a commissioner of deeds. The  
8 certification must be endorsed on or annexed to the instrument  
9 or writing aforesaid and has the same effect as if made or  
10 taken by a notary public licensed in this state.

11 (2) Any person seeking to be appointed a commissioner  
12 of deeds must take and subscribe to an oath, before a notary  
13 public in this state or any other state, or a person  
14 authorized to take oaths in another country, to well and  
15 faithfully execute and perform the duties of such commissioner  
16 of deeds. The oath must be filed with the Department of State  
17 prior to the person being commissioned.

18 (3) Official acts performed by any previously  
19 appointed commissioners of deeds, between May 30, 1997, and  
20 the effective date of this part, are declared valid as though  
21 such official acts were performed in accordance with and under  
22 the authority of this part.

23 721.98 Powers of the division.--The division has no  
24 duty or authority to regulate, enforce, or ensure compliance  
25 with any provision of this part.

26 Section 15. This act shall take effect upon becoming a  
27 law; however, with respect to any timeshare plan filing  
28 approved by the division prior to the date this act becomes a  
29 law, the amendment to s. 721.06(1)(f), Florida Statutes, shall  
30 not apply to such filing until January 1, 1999, unless and  
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1 only to the extent that the developer otherwise voluntarily  
2 agrees to comply with all or a portion of such provisions.  
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