

By Representatives Cantens, Goodlette and Greenstein

1 A bill to be entitled
2 An act relating to vacation and timeshare
3 plans; amending s. 721.03, F.S.; revising
4 language with respect to the scope of the
5 Florida Vacation Plan and Timesharing Act;
6 amending s. 721.05, F.S.; providing
7 definitions; amending s. 721.06, F.S.; revising
8 requirements with respect to contracts for the
9 purchase of timeshare interests; amending s.
10 721.065, F.S.; providing for resale listings;
11 providing legislative intent; providing for the
12 deposit of certain advance fees in a trust
13 account; providing requirements with respect to
14 resale; providing penalties; amending s.
15 721.07, F.S.; revising language with respect to
16 public offering statements; providing
17 conditions for the delivery of a purchaser
18 public offering statement which is not yet
19 approved by the Division of Florida Land Sales,
20 Condominiums, and Mobile Homes of the
21 Department of Business and Professional
22 Regulation; amending s. 721.075, F.S.; revising
23 language with respect to incidental benefits;
24 amending s. 721.08, F.S.; revising language
25 with respect to escrow accounts; providing
26 additional criteria with respect to compliance
27 with certain conditions for the release of
28 escrow funds; providing requirements with
29 respect to unclaimed escrow funds; amending s.
30 721.09, F.S.; revising language with respect to
31 reservation agreements; amending s. 721.10,

1 F.S.; revising language with respect to
2 cancellation; amending s. 721.11, F.S.;
3 providing a filing fee with respect to
4 advertising materials filed with the division;
5 revising language with respect to advertising
6 materials; providing additional criteria for
7 advertising materials; amending s. 721.111,
8 F.S.; revising language with respect to prize
9 and gift promotional offers; amending s.
10 721.12, F.S., relating to recordkeeping by a
11 seller; amending s. 721.13, F.S.; revising
12 language with respect to management; providing
13 additional powers of the board of
14 administration of the owners' association;
15 amending s. 721.14, F.S., relating to discharge
16 of the managing entity; amending s. 721.15,
17 F.S.; revising language with respect to
18 assessments for common expenses; providing
19 requirements with respect to insurance;
20 amending s. 721.16, F.S.; revising language
21 with respect to liens for overdue assessments
22 and liens for labor performed on, or materials
23 furnished to a timeshare unit; providing a lien
24 for certain damages done by a guest; amending
25 s. 721.17, F.S.; revising language with respect
26 to transfer of interest; amending s. 721.18,
27 F.S., relating to exchange programs; amending
28 s. 721.19, F.S., relating to provisions
29 requiring the purchase or lease of timeshare
30 property by owners' associations or purchasers;
31 amending s. 721.20, F.S.; revising language

1 with respect to licensing requirements;
2 amending s. 721.21, F.S., relating to
3 purchasers' remedies; amending s. 721.24, F.S.;
4 revising language with respect to firesafety;
5 amending s. 721.26, F.S.; revising language
6 with respect to regulation by the division;
7 amending s. 721.27, F.S.; revising language
8 with respect to the annual fee for each
9 timeshare unit in the plan; creating s. 721.29,
10 F.S.; providing for the protection of
11 purchasers' rights when recording is not
12 available in certain jurisdictions; amending s.
13 721.51, F.S.; revising language with respect to
14 legislative purpose and scope concerning
15 vacation clubs; amending s. 721.52, F.S.;
16 revising the definition of the term "multisite
17 timeshare plan"; amending s. 721.53, F.S.;
18 providing an additional piece of information
19 which the developer may provide to the division
20 prior to offering an accommodation or facility
21 as a part of a multisite timeshare plan;
22 amending s. 721.55, F.S.; revising language
23 with respect to the public offering statement
24 for a multisite timeshare plan; amending s.
25 721.551, F.S., relating to the delivery of a
26 multisite timeshare plan public offering
27 statement; amending s. 721.552, F.S., relating
28 to additions, substitutions, or deletions of
29 component site accommodations or facilities;
30 amending s. 721.56, F.S.; revising language
31 with respect to the management of multisite

1 timeshare plans; amending s. 721.58, F.S.;
2 deleting an annual fee; amending s. 721.81,
3 F.S.; revising legislative purpose with respect
4 to the Timeshare Lien Foreclosure Act; amending
5 s. 721.82, F.S.; revising the definition of the
6 term "assessment lien"; amending s. 721.84,
7 F.S., relating to the appointment of a resident
8 agent; amending s. 721.85, F.S., relating to
9 service to notice address or on registered
10 agent; amending s. 721.86, F.S., including a
11 cross reference; amending s. 718.103, F.S.;
12 correcting a cross reference; providing
13 severability; providing an effective date.
14

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

16
17 Section 1. Section 721.03, Florida Statutes, is
18 amended to read:

19 721.03 Scope of chapter.--

20 (1) This chapter applies to all timeshare plans
21 consisting of more than seven timeshare periods over a period
22 of at least 3 years in which the accommodations and ~~or~~
23 facilities, if any, are located within this state or offered
24 within this state; provided that:

25 (a) With respect to a timeshare plan ~~plans~~ containing
26 accommodations or facilities located in this state which has
27 previously been filed with and approved by the division and
28 which is ~~are~~ offered for sale in other jurisdictions within
29 the jurisdictional limits of the United States, ~~that regulate~~
30 the offering or sale of the timeshare plan in ~~plans~~, such
31 jurisdictions ~~offers~~ shall not be subject to the provisions of

1 ~~this chapter ss. 721.06, 721.08-721.12, and 721.20 to the~~
2 ~~extent that such activity is regulated in the other United~~
3 ~~States jurisdictions, but only after the division has received~~
4 ~~and accepted satisfactory evidence that the timeshare plan has~~
5 ~~been filed and accepted by the appropriate agency in the other~~
6 ~~jurisdictions. The director of the division shall also have~~
7 ~~the discretion to require all or a portion of the disclosures~~
8 ~~required by s. 721.07 or s. 721.55 to be made in connection~~
9 ~~with offers made in the other United States jurisdictions.~~

10 (b) With respect to a timeshare plan ~~plans~~ containing
11 accommodations or facilities located in this state which is
12 ~~are~~ offered for sale outside the jurisdictional limits of the
13 United States, such offer or sale ~~offers~~ shall be exempt from
14 the requirements of this chapter, provided that the developer
15 shall either file the timeshare plan with the division for
16 approval pursuant to this chapter, or pay an exemption
17 registration fee of \$100 and file the following minimum
18 information pertaining to the timeshare plan with the division
19 for approval:

- 20 1. The name and address of the timeshare plan.
- 21 2. The name and address of the developer and seller,
22 if any.
- 23 3. The location and a brief description of the
24 accommodations and facilities, if any, that are located in
25 this state.
- 26 4. The number of timeshare interests and timeshare
27 periods to be offered.
- 28 5. The term of the timeshare plan.
- 29 6. A copy of the timeshare instrument relating to the
30 management and operation of accommodations and facilities, if
31 any, that are located in this state.

1 7. A copy of the budget required by s. 721.07(5)(u) or
2 s. 721.55(4)(h), as applicable.

3 8. A copy of the management agreement and any other
4 contracts regarding management or operation of the
5 accommodations and facilities, if any, that are located in
6 this state, and which have terms in excess of 1 year.

7 9. A copy of the provision of the purchase contract to
8 be utilized in offering the timeshare plan containing so long
9 as the seller files the information required by s. 721.07 or
10 s. 721.55 with, and obtains the approval of, the division.
11 ~~This exemption becomes effective upon the filing of such~~
12 ~~information with the division, if approval is obtained within~~
13 ~~6 months after the initial filing at which time the exemption~~
14 ~~will expire unless the division stipulates otherwise or~~
15 ~~approves the filing. The fees set forth in s. 721.07(4) apply~~
16 ~~to all filings made hereunder. Each purchase contract utilized~~
17 ~~in any offer of a timeshare plan that occurs outside the~~
18 ~~jurisdictional limits of the United States shall contain the~~
19 ~~following disclosure in conspicuous type immediately above the~~
20 ~~space provided for the purchaser's signature:~~

21
22 The offering of this timeshare plan outside the jurisdictional
23 limits of the United States of America is exempt from
24 regulation under Florida law, and any such purchase is not
25 protected by the State of Florida. However, the management
26 and operation of any accommodations or facilities located in
27 Florida is subject to Florida law and may give rise to
28 enforcement action regardless of the location of any offer.

29
30 ~~Purchaser should note that ... (name of developer or other~~
31 ~~person or entity) ... at ... (address) ... has a ... (describe~~

1 ~~developer's or other person's or entity's actual interest)...
2 in the accommodations and facilities of the timeshare plan.~~

3
4 ~~(c) The exemption provided in paragraph (a) shall not
5 apply unless and until a claim of exemption from regulation
6 containing the information required by paragraph (a) and s.
7 721.51(3)(b) and accompanied by the fee required by s.
8 721.51(3)(b) is filed with and approved by the division. The
9 division may adopt rules designating those provisions of ss.
10 721.07 and 721.55 which need not be addressed in the filings
11 required in paragraph (b).~~

12 (c)(2) All timeshare accommodations or facilities
13 which are located outside the state but offered for sale in
14 this state shall be governed by the following:

15 1. The offering for sale in this state of timeshare
16 accommodations and facilities located outside the state is are
17 subject only to the provisions of ss. 721.01-721.12, 721.18,
18 721.20, 721.21, 721.26, and 721.28, and part II.

19 2. The division shall not require a developer of All
20 timeshare accommodations or facilities located outside of this
21 state to make changes in any timeshare instrument to conform
22 to the provisions of s. 721.07 or s. 721.55. The division
23 shall have the power to require disclosure of those provisions
24 of the timeshare instrument that do not conform to s. 721.07
25 or s. 721.55 as the director determines is necessary to
26 fairly, meaningfully, and effectively disclose all aspects of
27 the timeshare plan.

28 3. Except as provided in this subparagraph, the
29 division shall have no authority to determine whether any
30 person has complied with another state's laws or to disapprove
31 any out-of-state filing, timeshare instrument, or component

1 site document, based solely upon the lack or degree of
2 timeshare regulation in another state. The division may
3 require a developer to obtain and provide to the division
4 existing documentation relating to an out-of-state filing,
5 timeshare instrument, or component site document and prove
6 compliance of same with the laws of that state. In this
7 regard, the division may accept any evidence of the approval
8 or acceptance of any out-of-state filing, timeshare
9 instrument, or component site document by another state in
10 lieu of requiring a developer to file the out-of-state filing,
11 timeshare instrument, or component site document with the
12 division pursuant to this section, or the division may accept
13 an opinion letter from an attorney or law firm opining as to
14 the compliance of such out-of-state filing, timeshare
15 instrument, or component site document with the laws of
16 another state. The division may refuse to approve the
17 inclusion of any out-of-state filing, timeshare instrument, or
18 component site document as part of a public offering statement
19 based upon the inability of the developer to establish the
20 compliance of same with the laws of another state.

21 4. The division is authorized to enter into an
22 agreement with another state for the purpose of facilitating
23 the processing of out-of-state timeshare instruments or other
24 component site documents pursuant to this chapter and for the
25 purpose of facilitating the referral of consumer complaints to
26 the appropriate state.

27 5. Notwithstanding any other provision of this
28 paragraph, the offer, in this state, of an additional interest
29 to existing purchasers in the same timeshare plan or the same
30 component site of a multisite timeshare plan with
31 accommodations and facilities located outside of this state

1 ~~shall not be which are located outside the state but offered~~
2 ~~for sale in this state as part of a vacation club are also~~
3 subject to the provisions of this chapter if the offer
4 complies with the provisions of s. 721.11(4)~~part II.~~

5 (2)~~(3)~~ When a timeshare plan is subject to both the
6 provisions of this chapter and the provisions of chapter 718
7 or chapter 719, the plan shall meet the requirements of both
8 chapters unless exempted as provided in this section. The
9 division shall have the authority to adopt rules
10 differentiating between timeshare condominiums and
11 nontimeshare condominiums, and between timeshare cooperatives
12 and nontimeshare cooperatives, in the interpretation and
13 implementation of chapters 718 and 719, respectively. In the
14 event of a conflict between the provisions of this chapter and
15 the provisions of chapter 718 or chapter 719, the provisions
16 of this chapter shall prevail.

17 (3)~~(4)~~ A timeshare plan which is subject to the
18 provisions of chapter 718 or chapter 719, if fully in
19 compliance with the provisions of this chapter, is exempt from
20 the following:

21 (a) Sections 718.202 and 719.202, relating to sales or
22 reservation deposits prior to closing.

23 (b) Sections 718.502 and 719.502, relating to filing
24 prior to sale or lease.

25 (c) Sections 718.503 and 719.503, relating to
26 disclosure prior to sale.

27 (d) Sections 718.504 and 719.504, relating to
28 prospectus or offering circular.

29 (e) Part VI of chapter 718 and part VI of chapter 719,
30 relating to conversion of existing improvements to the
31 condominium or cooperative form of ownership, respectively,

1 provided that a developer converting existing improvements to
2 a timeshare condominium or timeshare cooperative must comply
3 with ss. 718.606, 718.608, 718.61, and 718.62, or ss. 719.606,
4 719.608, 719.61, and 719.62, if applicable, and, if the
5 existing improvements received a certificate of occupancy more
6 than 18 months before such conversion, one of the following:
7 1. The accommodations and facilities shall be
8 renovated and improved to a condition such that the remaining
9 useful life in years of the roof, plumbing, air-conditioning,
10 and any component of the structure which has a useful life
11 less than the useful life of the overall structure is equal to
12 the useful life of accommodations or facilities that would
13 exist if such accommodations and facilities were newly
14 constructed and not previously occupied.
15 2. The developer shall fund reserve accounts for
16 capital expenditures and deferred maintenance for the roof,
17 plumbing, air-conditioning, and any component of the structure
18 the useful life of which is less than the useful life of the
19 overall structure. The reserve accounts shall be funded for
20 each component in an amount equal to the product of the
21 estimated current replacement cost of such component (as
22 disclosed and substantiated by a certificate under the seal of
23 an architect or engineer authorized to practice in this state)
24 multiplied by a fraction, the numerator of which shall be the
25 remaining life of the component in years (as disclosed and
26 substantiated by a certificate under the seal of an architect
27 or engineer authorized to practice in this state) and the
28 denominator of which shall be the total useful life of the
29 component in years (as disclosed and substantiated by a
30 certificate under the seal of an architect or engineer
31 authorized to practice in this state). Alternatively, the

1 reserve accounts may be funded for each component in an amount
2 equal to the amount that, except for the application of this
3 subsection, would be required to be maintained pursuant to s.
4 718.618(1) or s. 719.618(1). The developer shall fund the
5 reserve accounts contemplated in this subparagraph out of the
6 proceeds of each sale of a timeshare interest, on a pro rata
7 basis, in an amount not less than a percentage of the total
8 amount to be deposited in the reserve account equal to the
9 percentage of ownership allocable to the timeshare interest
10 sold.

11 3. The developer shall provide each purchaser with a
12 warranty of fitness and merchantability pursuant to s.
13 718.618(6) or s. 719.618(6).

14 4. The developer shall post a surety bond issued by a
15 company licensed to do business in this state in an amount
16 which would be equal to the total amount of all reserve
17 accounts required under subparagraph 2., payable to the
18 owners' association.

19 ~~(4)(5)~~ The treatment of timeshare estates for ad
20 valorem tax purposes and special assessments shall be as
21 prescribed in chapters 192 through 200.

22 ~~(5)(6)~~ Membership camping plans shall be subject to
23 the provisions of ss. 509.501-509.512 and not to the
24 provisions of this chapter.

25 ~~(6)(7)~~ Unless otherwise provided herein, this chapter
26 shall not apply to the offering of any timeshare plan under
27 which the prospective purchaser's total financial obligation
28 will be ~~\$3,000~~~~\$1,500~~ or less during the entire term of the
29 plan.

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1 ~~(7)(8)~~ Every escrow agent or trustee required under
2 this chapter, or under chapter 192 as it relates to timeshare
3 plans, must be independent.

4 ~~(8)(9)~~ With respect to any accommodation or facility
5 of a timeshare plan which is situated upon personal property,
6 the division shall have the authority to adopt rules
7 interpreting and implementing the provisions of this chapter
8 as they apply to such accommodation or facility, or as they
9 apply to any other laws of this state, of the several states,
10 or of the United States with respect to such accommodation or
11 facility.

12 (9) Notwithstanding the provisions of any other law,
13 s. 687.03 shall govern with respect to the rate of interest
14 permitted for any loan, advance of money, line of credit,
15 forbearance to enforce the collection of any sum of money, or
16 other obligation in connection with a timeshare license.

17 (10) A developer or seller may not offer any number of
18 timeshare interests that would cause the total number of
19 timeshare interests offered to exceed a one-to-one purchaser
20 to accommodation ratio.

21 Section 2. Section 721.05, Florida Statutes, is
22 amended to read:

23 721.05 Definitions.--As used in this chapter, the
24 term:

25 (1) "Accommodation" means any apartment, condominium
26 or cooperative unit, cabin, lodge, hotel or motel room,
27 campground, or other private or commercial structure which is
28 situated on real or personal property and designed for
29 occupancy or use by one or more individuals. The term does
30 not include an incidental benefit as defined in this section.

31

1 (2) "Agreement for deed" means any written contract
2 utilized in the sale of timeshare estates which provides that
3 legal title will not be conveyed to the purchaser until the
4 contract price has been paid in full and the terms of payment
5 of which extend for a period in excess of 180 days after
6 either the date of execution of the contract or completion of
7 construction, whichever occurs later.

8 (3) "Assessment" means the share of funds required for
9 the payment of common expenses which is assessed from time to
10 time against each purchaser by the managing entity.

11 (4) "Closing" means:

12 (a) For any plan selling timeshare estates, conveyance
13 of the legal or beneficial title to a timeshare interest
14 ~~period~~ as evidenced by the delivery of a deed or other
15 instrument to the purchaser or to the clerk of the court for
16 recording or conveyance of the equitable title to a timeshare
17 interest ~~period~~ as evidenced by the irrevocable delivery of
18 an agreement for deed to the clerk of the court for recording.

19 (b) For any plan selling timeshare licenses, the final
20 execution and delivery by all parties of the last document
21 necessary for vesting in the purchaser the full rights
22 available under the plan.

23 (5) "Common expenses" means:

24 (a) Those expenses properly incurred for the
25 maintenance, operation, and repair of the accommodations or
26 facilities, or both, constituting the timeshare plan.

27 (b) Any other expenses designated as common expenses
28 in a timeshare instrument.

29 (c) Any past due and uncollected ad valorem taxes
30 assessed against a timeshare development pursuant to s.
31 192.037.

1 (6) "Completion of construction" means:
2 (a)1. That a certificate of occupancy has been issued
3 for the entire building in which the timeshare unit being sold
4 is located, or for the improvement, or that the equivalent
5 authorization has been issued, by the governmental body having
6 jurisdiction; or
7 2. In a jurisdiction in which no certificate of
8 occupancy or equivalent authorization is issued, that the
9 construction, finishing, and equipping of the building or
10 improvements according to the plans and specifications have
11 been substantially completed; and
12 (b) That all accommodations and facilities of the
13 timeshare plan are available for use in a manner identical in
14 all material respects to the manner portrayed by the
15 promotional material, advertising, and registered public
16 offering statements ~~filed with the division.~~
17 ~~(c) Notwithstanding the provisions of paragraph (b), a~~
18 ~~seller of a timeshare plan that is not a multisite timeshare~~
19 ~~plan may portray possible accommodations or facilities to~~
20 ~~prospective purchasers in advertising material or a public~~
21 ~~offering statement filed with the division without such~~
22 ~~accommodations or facilities being available for use by~~
23 ~~purchasers so long as the advertising material or public~~
24 ~~offering statement complies with the provisions of s.~~
25 ~~721.11(4).~~
26 ~~(d) Notwithstanding the provisions of paragraph (b), a~~
27 ~~developer of a timeshare plan that is not a multisite~~
28 ~~timeshare plan may portray the general geographic location of~~
29 ~~possible accommodations or facilities to prospective~~
30 ~~purchasers by disseminating oral or written statements~~
31 ~~regarding same to broadcast or print media with no obligation~~

1 ~~on the developer's part to actually construct such~~
2 ~~accommodations or facilities or to file such accommodations~~
3 ~~and facilities with the division, but only so long as such~~
4 ~~oral or written statements are not considered advertising~~
5 ~~material pursuant to s. 721.11(3)(e). For purposes of this~~
6 ~~paragraph, the term "general geographic location" means the~~
7 ~~boundaries of a state or country.~~

8 ~~(e) Notwithstanding the provisions of paragraph (b), a~~
9 ~~seller of a multisite timeshare plan may portray possible~~
10 ~~component sites to purchasers pursuant to s. 721.553.~~

11 (7) "Conspicuous type" means:

12 (a) Type in upper and lower case letters two point
13 sizes larger than the largest nonconspicuous type, exclusive
14 of headings, on the page on which it appears but in at least
15 10-point type; or

16 (b) Where the use of 10-point type would be
17 impractical or impossible with respect to a particular piece
18 of written advertising material, ~~then the division may approve~~
19 ~~the use of~~ a different style of type or print may be used, so
20 long as the print remains conspicuous under the circumstances.

21
22 Where conspicuous type is required, it must be separated on
23 all sides from other type and print. Conspicuous type may be
24 utilized in contracts for purchase or public offering
25 statements only where required by law or as authorized by the
26 division.

27 (8) "Contract" means any agreement conferring the
28 rights and obligations of a timeshare plan on the purchaser.

29 (9) "Developer" includes:

30 (a) A "creating developer," which means any person who
31 creates the timeshare plan;

1 (b) A "successor developer," which means any person
2 who succeeds to the interest of the persons in this subsection
3 by sale, lease, assignment, mortgage, or other transfer, but
4 the term includes only those persons who offer timeshare
5 interests ~~periods~~ in the ordinary course of business; and

6 (c) A "concurrent developer," which means any person
7 acting concurrently with the persons in this subsection with
8 the purpose of offering timeshare interests ~~periods~~ in the
9 ordinary course of business.

10 (d) The term "developer" does not include:

11 1. An owner of a timeshare interest ~~period~~ who has
12 acquired the timeshare interest ~~period~~ for his or her own use
13 and occupancy and who later offers it for resale; provided
14 that a rebuttable presumption shall exist that an owner who
15 has acquired more than seven timeshare interests ~~periods~~ did
16 not acquire them for his or her own use and occupancy;

17 2. A managing entity that is not otherwise a developer
18 and that offers, or engages a third party to offer on its
19 behalf, timeshare interests of a timeshare plan in its own
20 right and that offers timeshare periods for its own account in
21 a timeshare plan which it manages, provided that such offer
22 complies to existing purchasers of that timeshare plan, or a
23 managing entity which complies with the provisions of s.
24 721.065; or

25 3. A person who owns or is conveyed, assigned, or
26 transferred more than seven timeshare interests ~~periods~~ from a
27 developer in a single voluntary or involuntary transaction and
28 who subsequently conveys, assigns, or transfers all acquired
29 of the timeshare interests ~~periods~~ received from the developer
30 to a single purchaser in a single transaction, which
31 transaction may occur in stages; or

1 4. A person who has acquired or has the right to
2 acquire more than seven timeshare interests from a developer
3 or other interestholder in connection with security under a
4 loan or a securitization transaction and who subsequently
5 arranges for all or a portion of the timeshare interests to be
6 offered by one or more developers in the ordinary course of
7 business on their own behalves or on behalf of such person.

8 (e) A successor or concurrent developer shall be
9 exempt from any liability inuring to a predecessor or
10 concurrent developer of the same timeshare plan, provided that
11 this exemption shall not apply to any of the successor or
12 concurrent developer's responsibilities, duties, or
13 liabilities with respect to the timeshare plan that accrue
14 after the date the successor or concurrent developer became a
15 successor or concurrent developer, and provided that such
16 transfer does not constitute a fraudulent transfer. In
17 addition to other provisions of law, a transfer by a
18 predecessor developer to a successor or concurrent developer
19 shall be deemed fraudulent if the predecessor developer made
20 the transfer:

21 1. With actual intent to hinder, delay, or defraud any
22 purchaser or the division; or

23 2. To a person that would constitute an insider under
24 s. 726.102(7).

25
26 The provisions of this paragraph shall not be construed to
27 relieve any successor or concurrent developer from the
28 obligation to comply with the provisions of any applicable
29 timeshare instrument.

30
31

1 (10) "Division" means the Division of Florida Land
2 Sales, Condominiums, and Mobile Homes of the Department of
3 Business and Professional Regulation.

4 (11) "Enrolled" means paid membership in an exchange
5 program or membership in an exchange program evidenced by
6 written acceptance or confirmation of membership.

7 (12) "Escrow account" means an account established
8 solely for the purposes set forth in this chapter with a
9 financial institution located within this state.

10 (13) "Escrow agent" includes only:

11 (a) A savings and loan association, bank, trust
12 company, or other financial institution, any of which must be
13 located in this state and any of which must have a net worth
14 in excess of \$5 million;

15 (b) An attorney who is a member of The Florida Bar or
16 his or her law firm, so long as the attorney or firm has
17 posted a fidelity bond issued by a company authorized and
18 licensed to do business in this state as surety in the amount
19 of \$50,000;

20 (c) A real estate broker who is licensed pursuant to
21 chapter 475 or his or her brokerage firm, so long as the
22 broker or firm has posted a fidelity bond issued by a company
23 authorized and licensed to do business in this state as surety
24 in the amount of \$50,000; or

25 (d) A title insurance agent that is licensed pursuant
26 to s. 626.8417 or a title insurance agency that is licensed
27 pursuant to s. 626.8418, so long as the agent or agency has
28 posted a fidelity bond issued by a company authorized and
29 licensed to do business in this state as surety in the amount
30 of \$50,000.

31

1 If an escrow agent is required to post a \$50,000 fidelity bond
2 pursuant to this subsection, the escrow agent shall only be
3 required to post and maintain one such bond, regardless of the
4 number of escrow accounts maintained by that agent for any
5 number of developers, managing entities, or timeshare plans at
6 any given time.

7 (14) "Exchange company" means any person owning or
8 operating, or owning and operating, an exchange program.

9 (15) "Exchange program" means any method, arrangement,
10 or procedure for the voluntary exchange of the right to use
11 and occupy accommodations and facilities among purchasers. The
12 term does not include the assignment of the right to use and
13 occupy accommodations and facilities to purchasers pursuant to
14 a particular multisite timeshare plan's reservation system.
15 Any method, arrangement, or procedure that otherwise meets
16 this definition, wherein the purchaser's total contractual
17 financial obligation exceeds \$3,000 per any individual,
18 recurring timeshare period, shall be regulated as a multisite
19 timeshare plan in accordance with part II.

20 (16) "Facility" means any amenity, including any
21 structure, furnishing, fixture, equipment, service,
22 improvement, or real or personal property, improved or
23 unimproved, other than the accommodation of the timeshare
24 plan, which is made available to the purchasers of a timeshare
25 plan. The term does not include an incidental benefit as
26 defined in this section.

27 (17) "Incidental benefit" means an accommodation,
28 product, service, discount, or other benefit which is offered
29 to a prospective purchaser of a timeshare plan or to a
30 purchaser of a timeshare plan prior to the expiration of his
31 or her initial 10-day voidability period pursuant to s.

1 721.10; which is not an exchange program as defined in
2 subsection (15); and which complies with the provisions of s.
3 721.075. The term shall not include an offer of the use of
4 the accommodations and facilities of the timeshare plan on a
5 free or discounted one-time basis.

6 (18) "Independent," for purposes of determining
7 eligibility of escrow agents and trustees pursuant to s.
8 721.03(7)~~(8)~~, means that:

9 (a) The escrow agent or trustee is not a relative, as
10 described in s. 112.3135(1)(d), or an employee of the
11 developer, seller, or managing entity, or of any officer,
12 director, affiliate, or subsidiary thereof.

13 (b) There is no financial relationship, other than the
14 payment of fiduciary fees or as otherwise provided in this
15 subsection, between the escrow agent or trustee and the
16 developer, seller, or managing entity, or any officer,
17 director, affiliate, or subsidiary thereof.

18 (c) Compensation paid by the developer to an escrow
19 agent or trustee for services rendered shall not be paid from
20 funds in the escrow or trust account unless and until the
21 developer is otherwise entitled to receive the disbursement of
22 such funds from the escrow or trust account pursuant to this
23 chapter.

24 (d) A person shall not be disqualified to serve as an
25 escrow agent or a trustee solely because of the following:

26 1. A nonemployee, attorney-client relationship exists
27 between the developer and the escrow agent or trustee;

28 2. The escrow agent or trustee provides brokerage
29 services as defined by chapter 475 for the developer;

30 3. The escrow agent or trustee provides the developer
31 with routine banking services which do not include

1 construction or receivables financing or any other lending
2 activities; or

3 4. The escrow agent or trustee performs closings for
4 the developer or seller or issues owner's or lender's title
5 insurance commitments or policies in connection with such
6 closings.

7 (19) "Interestholder" means a developer, an owner of
8 the underlying fee, a mortgagee, judgment creditor, or other
9 lienor, or any other person having an interest in or lien or
10 encumbrance against the accommodations or facilities of the
11 timeshare plan.

12 (20) "Managing entity" means the person who operates
13 or maintains the timeshare plan pursuant to s. 721.13(1).

14 (21) "Memorandum of agreement" means a written
15 document, in recordable form, which includes the names of the
16 ~~purchaser and seller and the purchasers~~, a legal description
17 of the timeshare property and all timeshare interests to be
18 included in such document period, and a description of the
19 type of timeshare license sold by the seller.

20 (22) "Offer to sell," "offer for sale," "offered for
21 sale," or "offer" means the solicitation, advertisement, or
22 inducement, or any other method or attempt, to encourage any
23 person to acquire the opportunity to participate in a
24 timeshare plan.

25 (23) "One-to-one purchaser to accommodation ratio"
26 means the ratio of the number of purchasers eligible to use
27 the accommodations of a timeshare plan on a given day to the
28 number of accommodations available for use within the plan on
29 that day, such that the total number of purchasers eligible to
30 use the accommodations of the timeshare plan during a given
31 calendar year never exceeds the total number of accommodations

1 available for use in the timeshare plan during that year. For
2 purposes of calculation under this subsection, each purchaser
3 must be counted at least once, and no individual timeshare
4 unit may be counted more than 365 times per calendar year (or
5 more than 366 times per leap year). A purchaser who is
6 delinquent in the payment of timeshare plan assessments shall
7 continue to be considered eligible to use the accommodations
8 of the timeshare plan for purposes of this subsection
9 notwithstanding any application of s. 721.13(6).

10 (24) "Owner of the underlying fee" means any person
11 having an interest in the real property underlying the
12 accommodations or facilities of the timeshare plan at or
13 subsequent to the time of creation of the timeshare plan ~~or~~
14 ~~any person who purchases 15 or more timeshare periods for~~
15 ~~resale in the ordinary course of business.~~

16 (25) "Owners' association" means the association made
17 up of all purchasers of a timeshare plan who have purchased
18 timeshare estates.

19 (26) "Public offering statement" means the written
20 materials describing a single-site timeshare plan or a
21 multisite timeshare plan, including a text and any exhibits
22 attached thereto as required by ss. 721.07, 721.55, and
23 721.551. The term "public offering statement" shall refer to
24 both a registered public offering statement and a purchaser
25 public offering statement.

26 ~~(27)~~(26) "Purchaser" means any person, other than a
27 developer, who by means of a voluntary transfer acquires a
28 legal or equitable interest in a timeshare plan other than as
29 security for an obligation.

30 (28) "Purchaser public offering statement" means that
31 portion of the registered public offering statement which must

1 be delivered to purchasers pursuant to s. 721.07(6) or s.
2 721.551.

3 (29) "Registered public offering statement" means a
4 public offering statement which has been filed with the
5 division pursuant to s. 721.07(5) or s. 721.55.

6 (30)(27) "Regulated short-term product" means a
7 contractual right, offered by the seller, to use
8 accommodations of a timeshare plan or other accommodations,
9 provided that:

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

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

22 (31)(28) "Seller" means any developer or any other
23 person, or any agent or employee thereof, who offers timeshare
24 interests periods in the ordinary course of business. The
25 term "seller" does not include:

26 (a) An owner of a timeshare interest period who has
27 acquired the timeshare interest period for his or her own use
28 and occupancy and who later offers it for resale; provided
29 that a rebuttable presumption shall exist that an owner who
30 has acquired more than seven timeshare interests periods did
31 not acquire them for his or her own use and occupancy;

1 (b) A managing entity that is not otherwise a seller
2 and that offers, or engages a third party to offer on its
3 behalf, timeshare interests of a timeshare plan in its own
4 ~~right and that offers timeshare periods for its own account in~~
5 a timeshare plan which it manages, provided that such offer
6 complies to existing purchasers of that timeshare plan, or a
7 ~~managing entity which complies~~ with the provisions of s.
8 721.065; or

9 (c) A person who owns or is conveyed, assigned, or
10 transferred more than seven timeshare interests periods from a
11 ~~developer in a single voluntary or involuntary transaction and~~
12 who subsequently conveys, assigns, or transfers all acquired
13 ~~of the timeshare interests periods received from the developer~~
14 to a single purchaser in a single transaction, which
15 transaction may occur in stages; or

16 (d) A person who has acquired or has the right to
17 acquire more than seven timeshare interests from a developer
18 or other interestholder in connection with security under a
19 loan or a securitization transaction and who subsequently
20 arranges for all or a portion of the timeshare interests to be
21 offered by one or more developers in the ordinary course of
22 business on their own behalves or on behalf of such person.

23 ~~(32)(29)~~ "Timeshare estate" means a right to occupy a
24 timeshare unit, coupled with a freehold estate or an estate
25 for years with a future interest in a timeshare property or a
26 specified portion thereof. The term shall also mean an
27 interest in a condominium unit pursuant to s. 718.103, an
28 interest in a cooperative unit pursuant to s. 719.103, or an
29 interest in a trust that complies in all respects with the
30 provisions of s. 721.08(2)(c)3.

31

1 (33)~~(30)~~ "Timeshare instrument" means one or more
2 documents, by whatever name denominated, creating or governing
3 the operation of a timeshare plan.

4 (34) "Timeshare interest" means a timeshare estate or
5 timeshare license.

6 (35)~~(31)~~ "Timeshare license" means a right to occupy a
7 timeshare unit, which right is neither coupled with a freehold
8 interest, nor coupled with an estate for years with a future
9 interest, in a timeshare property.

10 (36)~~(32)~~ "Timeshare period" means the period or
11 periods of time when a purchaser of a timeshare interest ~~plan~~
12 is afforded the opportunity to use the accommodations or
13 facilities, or both, of a timeshare plan.

14 (37)~~(33)~~ "Timeshare plan" means any arrangement, plan,
15 scheme, or similar device, other than an exchange program,
16 whether by membership, agreement, tenancy in common, sale,
17 lease, deed, rental agreement, license, or right-to-use
18 agreement or by any other means, whereby a purchaser, for
19 consideration, receives ownership rights in or a right to use
20 accommodations, and facilities, if any, for a period of time
21 less than a full year during any given year, but not
22 necessarily for consecutive years.

23 (38)~~(34)~~ "Timeshare property" means one or more
24 timeshare units subject to the same timeshare instrument,
25 together with any other property or rights to property
26 appurtenant to those timeshare units. Notwithstanding anything
27 to the contrary contained in chapter 718 or chapter 719, the
28 timeshare instrument for a timeshare condominium or
29 cooperative may designate personal property, contractual
30 rights, affiliation agreements of component sites of vacation
31 clubs, exchange companies, or reservation systems, or any

1 other agreements or personal property, as common elements or
2 limited common elements of the timeshare condominium or
3 cooperative.

4 (39)(35) "Timeshare unit" means an accommodation of a
5 timeshare plan which is divided into timeshare periods. Any
6 timeshare unit in which a door or doors connecting two or more
7 separate rooms are capable of being locked to create two or
8 more private dwellings shall only constitute one timeshare
9 unit for purposes of this chapter, unless the timeshare
10 instrument provides that timeshare interests may be separately
11 conveyed in such locked-off portions.

12 (40)(36) "Vacation ownership plan" means any timeshare
13 plan consisting exclusively of timeshare estates.

14 (41)(37) "Vacation plan" or "vacation membership plan"
15 means any timeshare plan consisting exclusively of timeshare
16 licenses or consisting of a combination of timeshare licenses
17 and timeshare estates.

18 Section 3. Section 721.06, Florida Statutes, is
19 amended to read:

20 721.06 Contracts for purchase of timeshare interests
21 periods.--

22 (1) Each seller shall utilize, and furnish each
23 purchaser a fully completed and executed copy of, a contract
24 pertaining to the sale, which contract shall include the
25 following information:

26 (a) The actual date the contract is executed by each
27 party.

28 (b) The names and addresses of the developer, ~~any~~
29 ~~owner of the underlying fee,~~ and the timeshare plan.

30 (c) The ~~total financial obligation of the purchaser,~~
31 ~~including the~~ initial purchase price and any additional

1 charges to which the purchaser may be subject in connection
2 with the purchase of the timeshare interest, such as
3 financing, or which will be collected from the purchaser on or
4 before closing, such as the current year's annual assessment
5 for common expenses.

6 (d) Any annually recurring use charge and the next
7 year's estimated annual assessment for common expenses and for
8 ad valorem taxes or, if an estimate for next year's assessment
9 is unavailable, the current year's actual annual assessment
10 for common expenses and for ad valorem taxes.~~reservation,~~
11 ~~maintenance, management, and recreation charges.~~

12 (e)~~(d)~~ The estimated date of completion of
13 construction of each accommodation or facility promised to be
14 completed which is not completed at the time the contract is
15 executed and the estimated date of closing.

16 (f)~~(e)~~ A brief description of the nature and duration
17 of the timeshare interest ~~period~~ being sold, including whether
18 any interest in real property is being conveyed and the
19 specific number of years constituting the term of the
20 timeshare plan.

21 (g)~~(f)~~ Immediately prior to the space reserved in the
22 contract for the signature of the purchaser, in conspicuous
23 type, substantially the following statements:
24

25 You may cancel this contract without any penalty or
26 obligation within 10 calendar days after the date you sign
27 this contract, and within 10 calendar days after the date you
28 receive the approved public offering statement, whichever is
29 later.

30 If you decide to cancel this contract, you must notify
31 the seller ~~developer~~ in writing of your intent to cancel.

1 Your notice of cancellation shall be effective upon the date
2 sent and shall be sent to ...(Name of Seller Developer)... at
3 ...(Address of Seller Developer).... Any attempt to obtain a
4 waiver of your cancellation right is void and of no effect
5 ~~unlawful~~. While you may execute all closing documents in
6 advance, the closing, as evidenced by delivery of the deed or
7 other document, before expiration of your 10-day cancellation
8 period, is prohibited.

9
10 (h)~~(g)~~ If a timeshare estate license is being
11 conveyed, the following statement in conspicuous type:

12
13 ~~You may also cancel this contract at any time after the~~
14 ~~accommodations or facilities are no longer available as~~
15 ~~provided in this contract and the public offering statement.~~

16
17 ~~(h) If a timeshare estate is being conveyed, the~~
18 ~~following statement in conspicuous type:~~

19
20 For the purpose of ad valorem assessment, taxation and
21 special assessments, the managing entity will be considered
22 the taxpayer as your agent pursuant to section 192.037,
23 Florida Statutes.

24
25 (i) A statement that, in the event the purchaser
26 cancels the contract during a 10-day cancellation period, the
27 developer will refund to the purchaser the total amount of all
28 payments made by the purchaser under the contract, reduced by
29 the proportion of any contract benefits the purchaser has
30 actually received under the contract prior to the effective
31 date of the cancellation. The statement shall further provide

1 that the refund will be made within 20 days after receipt of
2 notice of cancellation or within 5 days after receipt of funds
3 from the purchaser's cleared check, whichever is later. A
4 seller and a purchaser shall agree in writing on a specific
5 value for each contract benefit received by the purchaser for
6 purposes of this paragraph. The term "contract benefit" shall
7 not include purchaser public offering statements or other
8 documentation or materials that must be furnished to a
9 purchaser pursuant to statute or rule.

10 (j) If the timeshare interest ~~period~~ is being sold
11 pursuant to an agreement for deed, a statement that the
12 signing of the agreement for deed does not entitle the
13 purchaser to receive a deed until all payments under the
14 agreement have been made.

15 (k) Unless the developer is at the time of offering
16 the plan the owner in fee simple absolute of the
17 accommodations and facilities of the timeshare plan, free and
18 clear of all liens and encumbrances, a statement that the
19 developer is not the sole owner of the underlying fee of such
20 ~~the~~ accommodations or facilities without liens or
21 encumbrances, which statement shall include:

22 1. The names and addresses of all persons or entities
23 having an ownership interest or other interest in the
24 accommodations or facilities; and

25 2. The actual interest of the developer in the
26 accommodations or facilities. As an alternative to including
27 the statement in the purchase contract, a seller may include a
28 reference to the location of such information in the purchaser
29 public offering statement text.

30 ~~(l) If the contract is for the sale or transfer of a~~
31 ~~timeshare period in which the accommodations or facilities are~~

1 ~~subject to a lease, the following statement within the text in~~
2 ~~conspicuous type: This timeshare period is subject to a lease~~
3 ~~(or sublease). A copy of the executed lease shall be attached~~
4 ~~as an exhibit.~~

5 (1)~~(m)~~ If the purchaser will receive an interest in a
6 multisite timeshare plan pursuant to part II, the following
7 statement shall be provided in conspicuous type in
8 substantially the following form:

9
10 The developer is required to provide the managing
11 entity of the multisite timeshare plan~~(or multisite vacation~~
12 ~~ownership plan or multisite vacation plan or vacation club)~~
13 with a copy of the approved public offering statement text and
14 exhibits filed with the division and any approved amendments
15 thereto, and any other component site documents as described
16 in section 721.07 or section 721.55, Florida Statutes, that
17 are not required to be ~~not~~ filed with the division, to be
18 maintained by the managing entity for inspection as part of
19 the books and records of the plan.

20
21 (m)~~(n)~~ The following statement in conspicuous type:

22
23 Any resale of this timeshare interest must be
24 accompanied by certain disclosures in accordance with section
25 721.065, Florida Statutes.

26
27 (n) A description of any rights reserved by the
28 developer to alter or modify the offering prior to closing.

29 (2) An agreement for deed shall be recorded by the
30 developer within 30 days after the day it is executed by the
31

1 purchaser. The developer shall pay all recording costs
2 associated therewith.

3 (3) The escrow agent shall provide the developer with
4 a receipt for all purchaser funds or other property received
5 by the escrow agent from a seller.

6 ~~(4) A developer may not offer any number of timeshare~~
7 ~~estates or timeshare licenses that would cause the total~~
8 ~~number of estates or licenses offered to exceed a one-to-one~~
9 ~~purchaser to accommodation ratio.~~

10 Section 4. Section 721.065, Florida Statutes, is
11 amended to read:

12 721.065 Resale purchase agreements.--

13 (1) An owner who acquires a timeshare interest period
14 for her or his own use and occupancy and later offers it for
15 resale, or any agent of such person, must utilize a resale
16 purchase agreement which complies with the provisions of
17 subsection (2) to effectuate any resale of the timeshare
18 interest period. A managing entity that is not otherwise a
19 developer and that, for its own account, sells, or engages a
20 third party to sell on its behalf, 50 or fewer timeshare
21 interests which, for its own account, offers fewer than 20
22 timeshare periods in the timeshare plan which it manages in a
23 given calendar year to persons who are not existing purchasers
24 of that timeshare plan may also use a resale purchase
25 agreement which complies with subsection (2) in lieu of
26 complying with the provisions of ss. 721.06-721.12 and 721.20.
27 A managing entity that is not otherwise a developer and that
28 sells, or engages a third party to sell on its behalf,
29 timeshare interests in the timeshare plan which it manages to
30 persons who are existing purchasers of that timeshare plan may
31 also use a resale purchase agreement in compliance with

1 subsection (2) in lieu of complying with the provisions of ss.
2 721.06-721.12 and 721.20.For purposes of this subsection, a
3 rebuttable presumption shall exist that an owner who has
4 acquired more than seven timeshare interests ~~periods~~ did not
5 acquire them for her or his own use and occupancy.

6 (2) Any resale purchase agreement utilized by a person
7 described in subsection (1) must contain all of the following:

8 (a) The name and address of the timeshare plan and of
9 the managing entity of the timeshare plan.

10 (b) The following statements in conspicuous type
11 located immediately prior to the disclosure required by
12 paragraph (c):

13
14 The current year's assessment for common expenses allocable to
15 the timeshare interest ~~period~~ you are purchasing is \$.....
16 This assessment, which may be increased from time to time by
17 the managing entity of the timeshare plan, is payable in full
18 each year on or before This assessment
19 (includes/does not include) yearly ad valorem real estate
20 taxes, which (are/are not) billed and collected separately.
21 (If ad valorem real property taxes are not included in the
22 current year's assessment for common expenses, the following
23 statement must be included: The most recent annual assessment
24 for ad valorem real estate taxes for the timeshare interest
25 ~~period~~ you are purchasing is \$.....) (If there are any
26 delinquent assessments for common expenses or ad valorem taxes
27 outstanding with respect to the timeshare interest ~~period~~ in
28 question, the following statement must be included: A
29 delinquency in the amount of \$.... for unpaid common expenses
30 or ad valorem taxes currently exists with respect to the
31 timeshare interest ~~period~~ you are purchasing, together with a

1 per diem charge of \$.... for interest and late charges.) For
2 the purpose of ad valorem assessment, taxation, and special
3 assessments, the managing entity will be considered the
4 taxpayer as your agent pursuant to section 192.037, Florida
5 Statutes. Each owner is personally liable for the payment of
6 her or his assessments for common expenses, and failure to
7 timely pay these assessments may result in restriction or loss
8 of your use and/or ownership rights.

9
10 There are many important documents relating to the timeshare
11 plan which you should review prior to purchasing a timeshare
12 interest period, including the declaration of condominium or
13 covenants and restrictions; the association articles and
14 bylaws; the current year's operating and reserve budgets; and
15 any rules and regulations affecting the use of timeshare plan
16 accommodations and facilities.

17
18 (c) The following statement in conspicuous type
19 located immediately prior to the space in the contract
20 reserved for the signature of the purchaser:

21
22 You may cancel this contract without any penalty or obligation
23 within 10 days after the date you sign this contract. If you
24 decide to cancel this contract, you must notify the seller in
25 writing of your intent to cancel. Your notice of cancellation
26 shall be effective upon the date sent and shall be sent to the
27 seller at ...(address).... Any attempt to obtain a waiver of
28 your cancellation right is void and of no effect. While you
29 may execute all closing documents in advance, the closing, as
30 evidenced by delivery of the deed or other document, before
31 expiration of your 10-day cancellation period, is prohibited.

1
2 (d) The year in which the purchaser will first be
3 entitled to occupancy of a timeshare period associated with
4 the timeshare interest that is the subject of the resale
5 purchase agreement.

6 (3) If a resale purchase agreement utilized by a
7 person described in subsection (1) does not comply with the
8 provisions of subsection (2), the contract shall be voidable
9 at the option of the purchaser for a period of 1 year after
10 the date of closing.

11 Section 5. Section 721.07, Florida Statutes, is
12 amended to read:

13 721.07 Public offering statement.--Prior to offering
14 any timeshare plan, the developer must submit file a
15 registered public offering statement to ~~with~~ the division for
16 approval as prescribed by s. 721.03, s. 721.55, or this
17 section. Until the division approves such filing, any
18 contract regarding the sale of that ~~the~~ timeshare plan ~~which~~
19 ~~is the subject of the public offering statement~~ is voidable by
20 the purchaser.

21 (1) The division shall, upon receiving a registered
22 public offering statement from a developer, mail to the
23 developer an acknowledgment of receipt. The failure of the
24 division to send such acknowledgment will not, however,
25 relieve the developer from the duty of complying with this
26 section.

27 (2)(a) Within 45 days after receipt of a registered
28 public offering statement which is subject only to this part
29 and is submitted in proper form as prescribed by rule, or
30 within 120 days after receipt of a registered public offering
31 statement which is subject to part II and is submitted in

1 proper form as prescribed by rule, the division shall
2 determine whether the proposed registered public offering
3 statement is adequate to meet the requirements of this section
4 and shall notify the developer by mail that the division has
5 either approved the statement or found specified deficiencies
6 in the statement. If the division fails to approve the
7 statement or specify deficiencies in the statement within the
8 period specified in this paragraph, the filing will be deemed
9 approved.

10 (b) If the developer fails to respond to any cited
11 deficiencies within 20 days after receipt of the division's
12 deficiency notice, the division may reject the filing.
13 Subsequent to such rejection, a new filing fee pursuant to
14 subsection (4) and a new division initial review period
15 pursuant to paragraph (a) shall apply to any refiling or
16 further review of the rejected filing.

17 (c) Within 20 days after receipt of the developer's
18 timely and complete response to any deficiency notice, the
19 division shall notify the developer by mail that the division
20 has either approved the filing, found additional specified
21 deficiencies in it, or determined that any previously
22 specified deficiency has not been corrected. If the division
23 fails to approve or specify additional deficiencies within 20
24 days after receipt of the developer's timely and complete
25 response, the filing will be deemed approved.

26 (d) A developer shall have the authority to deliver to
27 purchasers any purchaser public offering statement that is not
28 yet approved by the division, provided that the following
29 shall apply:

30 1. At the time the developer delivers an unapproved
31 purchaser public offering statement to a purchaser pursuant to

1 this paragraph, the developer shall deliver a fully completed
2 and executed copy of the purchase contract required by s.
3 721.06 that contains the following statement in conspicuous
4 type in substantially the following form which shall replace
5 the statements required by s. 721.06(1)(g):
6
7 The developer is delivering to you a public offering statement
8 that has been filed with but not yet approved by the Division
9 of Florida Land Sales, Condominiums, and Mobile Homes. Any
10 revisions to the unapproved public offering statement you have
11 received must be delivered to you, but only if the revisions
12 materially alter or modify the offering in a manner adverse to
13 you. After the division approves the public offering
14 statement, you will receive notice of the approval from the
15 developer and the required revisions, if any.
16
17 Your statutory right to cancel this transaction without any
18 penalty or obligation expires 10 calendar days after the date
19 you signed your purchase contract or after you receive
20 revisions required to be delivered to you, if any, whichever
21 is later.
22
23 2. After receipt of approval from the division and
24 prior to closing, if any revisions made to the documents
25 contained in the purchaser public offering statement
26 materially alter or modify the offering in a manner adverse to
27 a purchaser, the developer shall send the purchaser such
28 revisions together with a notice containing a statement in
29 conspicuous type in substantially the following form:
30
31

1 The unapproved public offering statement previously delivered
2 to you, together with the enclosed revisions, has been
3 approved by the Division of Florida Land Sales, Condominiums,
4 and Mobile Homes. Accordingly, your cancellation right expires
5 10 days after you sign your purchase contract or you receive
6 these revisions, whichever is later. If you have any questions
7 regarding your cancellation rights, you may contact the
8 division at [insert division's current address].

9
10 3. After receipt of approval from the division and
11 prior to closing, if no revisions have been made to the
12 documents contained in the unapproved purchaser public
13 offering statement, or if such revisions do not materially
14 alter or modify the offering in a manner adverse to a
15 purchaser, the developer shall send the purchaser a notice
16 containing a statement in conspicuous type in substantially
17 the following form:

18
19 The unapproved public offering statement previously delivered
20 to you has been approved by the Division of Florida Land
21 Sales, Condominiums, and Mobile Homes. Revisions made to the
22 unapproved public offering statement, if any, are either not
23 required to be delivered to you or are not deemed by the
24 developer to materially alter or modify the offering in a
25 manner that is adverse to you. Accordingly, your cancellation
26 right expired 10 days after you signed your purchase contract.
27 A complete copy of the approved public offering statement is
28 available through the managing entity for inspection as part
29 of the books and records of the plan. If you have any
30 questions regarding your cancellation rights, you may contact
31 the division at [insert division's current address].~~The~~

1 ~~division is authorized to enter into an agreement with another~~
2 ~~state for the purpose of facilitating the processing of~~
3 ~~out-of-state timeshare instruments or other component site~~
4 ~~documents pursuant to subsection (5) or part II and for the~~
5 ~~purpose of facilitating the referral of consumer complaints to~~
6 ~~the appropriate state.~~

7
8 ~~(e) The division shall have no authority to determine~~
9 ~~whether any person has complied with another state's laws or~~
10 ~~to disapprove any filing, or out-of-state timeshare instrument~~
11 ~~or component site document, based solely upon the lack or~~
12 ~~degree of timeshare regulation in another state. The division~~
13 ~~may require a developer to obtain and provide to the division~~
14 ~~existing documentation certified by another state relating to~~
15 ~~an out-of-state filing, timeshare instrument, or component~~
16 ~~site document and attesting to the compliance of same with the~~
17 ~~laws of that state. The division may accept evidence of the~~
18 ~~approval or acceptance of any out-of-state filing, timeshare~~
19 ~~instrument, or component site document by another state in~~
20 ~~lieu of requiring a developer to file the out-of-state filing,~~
21 ~~timeshare instrument, or component site document with the~~
22 ~~division pursuant to this section. The division may refuse to~~
23 ~~approve the inclusion of any out-of-state filing, timeshare~~
24 ~~instrument, or component site document as part of a public~~
25 ~~offering statement based upon the inability of the developer~~
26 ~~to establish the compliance of same with the laws of another~~
27 ~~state.~~

28 ~~(3)(a)1. Any change to an approved filing shall be~~
29 ~~filed with the division for approval as an amendment prior to~~
30 ~~becoming effective. The division shall have 20 days after~~
31 ~~receipt of a proposed amendment to approve or cite~~

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

12 2. For filings only subject to this part, each
13 approved amendment to the approved purchaser public offering
14 statement, other than an amendment made only for the purpose
15 of the addition of a phase or phases to the timeshare plan in
16 the manner described in the timeshare instrument or any
17 amendment that does not materially alter or modify the
18 offering in a manner that is adverse to a purchaser, shall be
19 delivered to a purchaser no later than 10 days prior to
20 closing. For filings made under part II, each approved
21 amendment to the multisite timeshare plan purchaser public
22 offering statement, other than an amendment made only for the
23 purpose of the addition, substitution, or deletion of a
24 component site pursuant to part II or the addition of a phase
25 or phases to a component site of a multisite timeshare plan in
26 the manner described in the timeshare instrument or any
27 amendment that does not materially alter or modify the
28 offering in a manner that is adverse to a purchaser, shall be
29 delivered to a purchaser no later than 10 days prior to
30 closing.

31

1 3. Amendments made to a timeshare instrument for a
2 component site located in this state are not required to shall
3 ~~only~~ be delivered to ~~those~~ purchasers who do not will receive
4 a timeshare estate or a specific timeshare license in that
5 component site. Amendments made to a timeshare instrument for
6 a component site not located in this state are not required to
7 be delivered to purchasers.

8 (b) At the time that any amendments required to be
9 delivered to purchasers, as provided in paragraph (a), are
10 delivered to purchasers, the developer shall provide to those
11 purchasers who have not closed a written statement that ~~if any~~
12 ~~of such amendments materially alter or modify the offering in~~
13 ~~a manner which is adverse to the purchaser,~~ the purchaser or
14 lessee will have a 10-day voidability period.

15 (4)(a) Upon the filing of a registered public offering
16 statement, the developer shall pay a filing fee of \$2 for each
17 7 days of annual use availability in each timeshare unit that
18 may be offered as a part of the proposed timeshare plan
19 pursuant to the filing. ~~Commencing January 1, 1995, the~~
20 ~~division may by rule increase the filing fee up to a maximum~~
21 ~~of \$3 for each 7 days of annual use availability in each~~
22 ~~timeshare unit that is offered as a part of the proposed~~
23 ~~timeshare plan.~~

24 (b) Upon the filing of an amendment to an approved
25 registered public offering statement, other than an amendment
26 adding a phase to the timeshare plan, the developer shall pay
27 a filing fee of \$100.

28 (5) Every registered public offering statement ~~filed~~
29 ~~with the division~~ for a timeshare plan which is not a
30 multisite ~~multistate~~ timeshare plan shall contain the
31 information required by this subsection. The division is

1 authorized to provide by rule the method by which a developer
2 must provide such information to the division.

3 (a) A cover page stating only:

4 1. The name of the timeshare plan; and

5 2. The following statement, in conspicuous type: This
6 public offering statement contains important matters to be
7 considered in acquiring a timeshare interest ~~period~~. The
8 statements contained in this public offering statement ~~herein~~
9 are only summary in nature. A prospective purchaser should
10 refer to all references, accompanying exhibits ~~hereto~~,
11 contract documents, and sales materials. You should not rely
12 upon oral representations as being correct. Refer to this
13 document and accompanying exhibits for correct
14 representations. The seller is prohibited from making any
15 representations other than those contained in the contract and
16 this public offering statement.

17 (b) A listing of all statements required to be in
18 conspicuous type in the public offering statement ~~statements~~
19 and in all exhibits thereto.

20 (c) A separate index of the contents and exhibits of
21 the public offering statement.

22 (d) A text, which shall include, where applicable, the
23 disclosures set forth in paragraphs (e)-(hh) ~~and~~
24 ~~cross-references to the location in the public offering~~
25 ~~statement of each exhibit.~~

26 (e) A description of the timeshare plan, including,
27 but not limited to:

28 1. Its name and location.

29 2. An explanation of the form of timeshare ownership
30 that is being offered, including a statement as to whether any
31 interest in the underlying real property will be conveyed to

1 the purchaser. If the plan is being created or being sold on a
2 leasehold, a description of the material terms of the lease
3 ~~shall be included the location of the lease in the exhibits to~~
4 ~~the public offering statement shall be stated.~~

5 3. An explanation of the manner in which the
6 apportionment of common expenses and ownership of the common
7 elements has been determined.

8 (f) A description of the accommodations ~~and~~
9 ~~facilities~~, including, but not limited to:

10 1. The number of timeshare buildings, ~~the number of~~
11 ~~units in each building, the number of timeshare periods in~~
12 ~~each unit, the total number of timeshare periods~~ declared as
13 part of the timeshare plan and filed with the division, and
14 ~~being offered,~~ the number of bathrooms and bedrooms in each
15 type of timeshare unit, ~~and the total number of units and unit~~
16 ~~weeks.~~

17 2. The latest date estimated for completion of
18 constructing, finishing, and equipping the timeshare units
19 declared as part of the timeshare plan and filed with the
20 division.

21 3. The estimated maximum number of units and timeshare
22 periods that will use the accommodations and facilities. If
23 the maximum number of timeshare units or timeshare periods
24 will vary, a description of the basis for variation ~~and the~~
25 ~~minimum amount of dollars per timeshare period to be spent for~~
26 ~~additional recreational facilities or for enlargement of such~~
27 ~~facilities. If the addition or enlargement of facilities will~~
28 ~~result in a material increase of a purchaser's maintenance~~
29 ~~expense or rental expense, the maximum increase and~~
30 ~~limitations thereon shall be stated.~~

31

1 ~~4. A statement of whether the developer intends to~~
2 ~~offer whole units in addition to timeshare units.~~

3 ~~4.5.~~ The duration, in years, of the timeshare plan.

4 (g) A description of the ~~recreational and other~~
5 ~~commonly used~~ facilities that will be used only by purchasers
6 of the plan, including, but not limited to:

7 1. The intended purpose, if not apparent from the
8 description.~~Each room and its intended purposes, location~~
9 ~~capacity in numbers of people.~~

10 2. ~~Each swimming pool and its general location,~~
11 ~~approximate size, depths, and capacity; its approximate deck~~
12 ~~size and capacity; and whether the pool is heated.~~

13 3. ~~Each additional facility; the number of each such~~
14 ~~facility; and its approximate location, approximate size, and~~
15 ~~approximate capacity.~~

16 4. ~~A general description of the items of personal~~
17 ~~property and the approximate numbers of each item of personal~~
18 ~~property that the developer is committing to furnish for each~~
19 ~~room or other facility or, in the alternative, a~~
20 ~~representation as to the minimum amount of expenditure that~~
21 ~~will be made to purchase the personal property for the~~
22 ~~facility.~~

23 2.5. The estimated date when each room or other
24 facility will be available for use by the purchaser.

25 6. ~~An identification of each room, accommodation, or~~
26 ~~other facility to be used by purchasers that will not be owned~~
27 ~~by the purchasers or the association.~~

28 7. ~~A reference to the location in the disclosure~~
29 ~~materials of the lease or other agreements providing for the~~
30 ~~use of those facilities.~~

31

1 ~~8. A description of the terms of the lease or other~~
2 ~~agreement, including the length of its term; the rent payable,~~
3 ~~directly or indirectly, by each purchaser; and the total rent~~
4 ~~payable to the lessor, stated in weekly, monthly, and annual~~
5 ~~amounts for the entire term of the lease; and a description of~~
6 ~~any option to purchase the property under any such lease,~~
7 ~~including the time the option may be exercised, the purchase~~
8 ~~price or how it is to be determined, the manner of payment,~~
9 ~~and whether the option may be exercised for a purchaser's~~
10 ~~share or only as to the entire leased property.~~

11 ~~3.9. A statement as to whether the facilities will~~
12 ~~developer may provide additional facilities not described~~
13 ~~above; the general locations and types of such facilities;~~
14 ~~improvements or changes that may be made; the approximate~~
15 ~~dollar amounts to be expended; and the estimated maximum~~
16 ~~additional common expense or cost to the individual purchaser~~
17 ~~that may be charged during the first annual period of~~
18 ~~operation of the modified or added facilities.~~

19 ~~(h) A description of the recreational and other~~
20 ~~commonly used facilities which will not be used exclusively by~~
21 ~~purchasers of the timeshare plan, and, if not, a statement as~~
22 ~~to whether the purchasers of the timeshare plan are required~~
23 ~~to pay and which require the payment of any portion of the~~
24 ~~maintenance and expenses of such facilities, either directly~~
25 ~~or indirectly, by the purchasers. The description shall~~
26 ~~include, but not be limited to, the following:~~

- 27 ~~1. Each building or facility committed to be built.~~
28 ~~2. Facilities not committed to be built except under~~
29 ~~certain conditions, and a statement of those conditions or~~
30 ~~contingencies.~~

31

1 3. ~~As to each facility committed to be built, or which~~
2 ~~will be committed to be built upon the happening of one of the~~
3 ~~conditions in subparagraph 2., a statement as to whether it~~
4 ~~will be owned by the purchasers having the use thereof or by~~
5 ~~an association or other entity which will be controlled by the~~
6 ~~purchasers, or others, and the location in the exhibits of the~~
7 ~~lease or other document providing for use of those facilities.~~

8 4. ~~The year in which each facility will be available~~
9 ~~for use by the purchasers or, in the alternative, the maximum~~
10 ~~number of purchasers in the project at the time each of the~~
11 ~~facilities is committed to be completed.~~

12 5. ~~A general description of the items of personal~~
13 ~~property and the approximate numbers of each item of personal~~
14 ~~property that the developer is committing to furnish for each~~
15 ~~room or other facility or, in the alternative, a~~
16 ~~representation as to the minimum amount of expenditure that~~
17 ~~will be made to purchase the personal property for the~~
18 ~~facility.~~

19 6. ~~If there are leases, descriptions thereof,~~
20 ~~including the length of their terms, the rents payable, and~~
21 ~~descriptions of any options to purchase.~~

22 (h)(i)1. ~~If any recreational facilities or other~~
23 ~~facilities offered by the developer for use by purchasers are~~
24 ~~to be leased or have club memberships ~~membership~~ associated~~
25 ~~with them, other than participation in a vacation club, one of~~
26 ~~the following statements in conspicuous type: There is a~~
27 ~~recreational facilities lease associated with one or more~~
28 ~~facilities of the ~~this~~ timeshare plan; or, There is a club~~
29 ~~membership associated with one or more facilities of the ~~this~~~~
30 ~~timeshare plan. ~~There shall be a reference to the location in~~~~
31

1 ~~the disclosure materials where the recreation lease or club~~
2 ~~membership is described in detail.~~

3 2. If it is mandatory that purchasers ~~unit owners~~ pay
4 fees, rent, dues, or other charges under a ~~recreational~~
5 facilities lease or club membership for the use of the
6 facilities, other than participation in a vacation club, the
7 applicable statement in conspicuous type in substantially the
8 following form:

9 a. Membership in a ~~the recreational~~ facilities club is
10 mandatory for purchasers;

11 b. Purchasers or the association(s) are required, as a
12 condition of ownership, to be lessees under the ~~recreational~~
13 facilities lease;

14 c. Purchasers or the association(s) are required to
15 pay their share of the rent or costs and expenses of
16 maintenance, management, upkeep, and replacement, ~~rent, and~~
17 ~~fees~~ under the ~~recreational~~ facilities lease (or the other
18 instruments providing the facilities); or

19 d. A similar statement of the nature of the
20 organization or the manner in which the use rights are
21 created, and that purchasers are required to pay.

22
23 Immediately following the applicable statement a description
24 of the lease or other instrument shall be stated, including a
25 description of terms of the payment of rent or costs and
26 expenses of maintenance, management, upkeep, and replacement
27 of the facilities, ~~the location in the disclosure materials~~
28 ~~where the development is described in detail shall be stated.~~

29 3. If the purchasers are required to pay a use ~~if the~~
30 ~~developer, or any other person other than the purchasers and~~
31 ~~other persons having use rights in the facilities, reserves,~~

1 ~~or is entitled to receive, any rent, fee, or other payment for~~
2 ~~the use of the facilities, not including the rent or~~
3 ~~maintenance, management, upkeep, or replacement costs and~~
4 ~~expenses,the following statement in conspicuous type: The~~
5 ~~purchasers or the association(s) must pay ~~rent or land~~ use~~
6 ~~fees for one or more recreational or other commonly used~~
7 ~~facilities. Immediately following this statement a~~
8 ~~description of the use fees shall be included, the location in~~
9 ~~the disclosure materials where the rent or land use fees are~~
10 ~~described in detail shall be stated.~~

11 4. ~~If, in any recreation format, whether leasehold,~~
12 ~~club, or other, any person other than the association has the~~
13 ~~right to a lien on the timeshare interests periods to secure~~
14 ~~the payment of assessments, rent, or other exactions, a~~
15 ~~statement in conspicuous type in substantially the following~~
16 ~~form:~~

17 a. There is a lien or lien right against each
18 timeshare interest period to secure the payment of rent and
19 other exactions under the facilities recreation lease. A
20 purchaser's failure to make these payments may result in
21 foreclosure of the lien; or

22 b. There is a lien or lien right against each
23 timeshare interest period to secure the payment of assessments
24 or other exactions coming due for the use, maintenance,
25 upkeep, or repair of one or more the recreational or commonly
26 ~~used~~ facilities. A purchaser's failure to make these payments
27 may result in foreclosure of the lien.

28
29 Immediately following the applicable statement, a description
30 ~~of the lien right shall be included~~ the location in the
31

1 ~~disclosure materials where the lien or lien right is described~~
2 ~~in detail shall be stated.~~

3 (i)~~(j)~~ If the developer or any other person has the
4 right to increase or add to the ~~recreational~~ facilities at any
5 time after the establishment of the timeshare plan, without
6 the consent of the purchasers or association being required, a
7 statement in conspicuous type in substantially the following
8 form: ~~Recreational~~ Facilities may be expanded or added without
9 consent of the purchasers or the association(s). Immediately
10 following this statement, a description of ~~the location in the~~
11 ~~disclosure materials where~~ such reserved rights ~~are described~~
12 shall be included ~~stated~~.

13 (j)~~(k)~~ An explanation of the status of the title to
14 the real property underlying the timeshare plan, including a
15 statement of the existence of any lien, defect, judgment,
16 mortgage, or other encumbrance affecting the title to the
17 property, and how such lien, defect, judgment, mortgage, or
18 other encumbrance will be removed or satisfied prior to
19 closing.

20 (k)~~(l)~~ A description of any judgment against the
21 developer, the managing entity, or owner of the underlying
22 fee, which judgment is material to the timeshare plan; the
23 status of any pending suit to which the developer, the
24 managing entity, or owner of the underlying fee is a party,
25 which suit is material to the timeshare plan; and any other
26 suit which is material to the timeshare plan of which the
27 developer, managing entity, or owner of the underlying fee has
28 actual knowledge. If no judgments or pending suits exist,
29 there shall be a statement of such fact.

30
31

1 (l)~~(m)~~ A description of all unusual and material
2 circumstances, features, and characteristics of the real
3 property.

4 (m)~~(n)~~ A description of any financing to be offered to
5 purchasers by the developer or any person or entity in which
6 the developer has a financial interest, together with a
7 disclosure that the description of such financing may be
8 changed by the developer and that any change in the financing
9 offered to prospective purchasers will not be deemed to be a
10 material change.

11 (n)~~(o)~~ A detailed explanation of any financial
12 arrangements which have been provided for completion of all
13 promised improvements.

14 ~~(p) A statement as to whether the plan of the
15 developer includes a program of leasing units or timeshare
16 periods rather than selling them, or leasing and selling them
17 subject to such leases. If so, there shall be a description
18 of the plan, including the number and identification of the
19 units and the provisions and term of the proposed leases, and
20 a statement in conspicuous type that: The units (or timeshare
21 periods) may be transferred subject to a lease.~~

22 (o)~~(q)~~ The name and address of the managing entity; a
23 statement whether the seller may change the managing entity or
24 its control and, if so, the manner by which the seller may
25 change the managing entity; a statement of the arrangements
26 for management, maintenance, and operation of the
27 accommodations and facilities and of other property that will
28 serve the purchasers; and a description of the management
29 arrangement and any contracts for these purposes having a term
30 in excess of 1 year, including the names of the contracting
31 parties, the term of the contract, the nature of the services

1 included, and the compensation, stated for a month and for a
2 year, and provisions for increases in the compensation.
3 ~~Copies of all described contracts shall be attached as~~
4 ~~exhibits.~~

5 (p)~~(r)~~ If ~~the developer, or any person other than the~~
6 purchasers purchaser, has the right to retain control of the
7 board of administration of the association for a period of
8 time which may exceed 1 year after the closing of the sale of
9 a majority of the timeshare interests units in that timeshare
10 plan to persons other than successors or concurrent developers
11 and the plan is one in which all purchasers automatically
12 become members of the association, a statement in conspicuous
13 type in substantially the following form: The developer (or
14 other person) has the right to retain control of the
15 association after a majority of the timeshare interests units
16 have been sold. Immediately following this statement, a
17 description of the applicable transfer of control provisions
18 of the timeshare plan shall be included ~~the location in the~~
19 ~~disclosure materials where this right to control is described~~
20 ~~in detail shall be stated.~~

21 (q)~~(s)~~1. If there are any restrictions upon the sale,
22 transfer, conveyance, or leasing of a timeshare interest
23 period, a statement in conspicuous type in substantially the
24 following form: The sale, lease, or transfer of timeshare
25 interests periods is restricted or controlled. Immediately
26 following this statement, a description of the nature of ~~the~~
27 ~~location in the disclosure materials where~~ the restriction,
28 limitation, or control on the sale, lease, or transfer of
29 timeshare interests periods ~~is described in detail~~ shall be
30 included ~~stated.~~

31

1 2. The following statement in conspicuous type in
2 substantially the following form: The purchase of a timeshare
3 interest period should be based upon its value as a vacation
4 experience or for spending leisure time, and not considered
5 for purposes of acquiring an appreciating investment or with
6 an expectation that the timeshare interest period may be
7 resold.

8 (r)~~(t)~~ If the timeshare plan is part of a phase
9 project, a statement to that effect and a complete description
10 of the phasing. Notwithstanding any provisions of s. 718.110
11 or s. 719.1055, a developer may develop a timeshare
12 condominium or a timeshare cooperative in phases if the
13 original declaration of condominium or cooperative documents
14 submitting the initial phase to condominium ownership or
15 cooperative ownership or an amendment to the declaration of
16 condominium or cooperative documents which has been approved
17 by all of the unit owners and unit mortgagees provides for
18 phasing. Notwithstanding any provisions of s. 718.403 or s.
19 719.403 to the contrary, the original declaration of
20 condominium or cooperative documents, or an amendment to the
21 declaration of condominium or cooperative documents adopted
22 pursuant to this subsection, need only generally describe the
23 developer's phasing plan and the land which may become part of
24 the condominium or cooperative, and, in conjunction therewith,
25 the developer may also reserve all rights to vary his or her
26 phasing plan as to phase boundaries, plot plans and floor
27 plans, timeshare unit types, timeshare unit sizes and
28 timeshare unit type mixes, numbers of timeshare units, ~~and~~
29 ~~recreational areas~~ and facilities with respect to each
30 subsequent phase. There shall be no time limit during which a
31 developer of a timeshare condominium or timeshare cooperative

1 must complete his or her phasing plan, and the developer shall
2 not be required to notify owners of existing timeshare estates
3 of his or her decision not to add one or more proposed phases.

4 (s)~~(u)~~ A description of the material restrictions, if
5 any, to be imposed on timeshare interests ~~periods~~ concerning
6 the use of any of the accommodations or facilities, including
7 statements as to whether there are restrictions upon children
8 and pets or a reference to, ~~and references to the volumes and~~
9 ~~pages of the timeshare plan documents where such restrictions~~
10 ~~are found; or, if such restrictions are contained elsewhere,~~
11 ~~then~~ a copy of the documents containing the restrictions which
12 shall be attached as an exhibit. If there are no
13 restrictions, there shall be a statement of such fact.

14 (t)~~(v)~~ If there is any land that is offered by the
15 developer for use by the purchasers and which is neither owned
16 by them nor leased to them, the association, or any entity
17 controlled by the purchasers, a statement describing the land,
18 how it will serve the timeshare plan, and the nature and term
19 of service. ~~Immediately following this statement, the~~
20 ~~location in the disclosure materials where the declaration or~~
21 ~~other instrument creating such servitude is found shall be~~
22 ~~stated.~~

23 ~~(w)~~ ~~A description of the manner in which utility and~~
24 ~~other services, including, but not limited to, sewage and~~
25 ~~waste disposal, water supply, and storm drainage, will be~~
26 ~~provided and the names of the persons or entities furnishing~~
27 ~~them.~~

28 (u)~~(x)~~ An estimated operating budget for the timeshare
29 plan and a schedule of the purchaser's expenses ~~expense~~ shall
30 be attached as an exhibit and shall contain the following
31 information:

- 1 1. The estimated annual expenses of the timeshare plan
2 collectible from purchasers by assessments. The estimated
3 payments by the purchaser for assessments shall also be stated
4 in the estimated amounts for the times when they will be due.
5 Expenses shall also be shown for the shortest timeshare period
6 offered for sale by the developer. If the timeshare plan
7 provides for the offer and sale of units to be used on a
8 nontimeshare basis, the estimated monthly and annual expenses
9 of such units shall be set forth in a separate schedule.
- 10 2. The estimated weekly, monthly, and annual expenses
11 of the purchaser of each timeshare interest period, other than
12 assessments payable to the managing entity. Expenses which
13 are personal to purchasers that are not uniformly incurred by
14 all purchasers or that are not provided for or contemplated by
15 the timeshare plan documents may be excluded from this
16 estimate.
- 17 3. The estimated items of expenses of the timeshare
18 plan and the managing entity, except as excluded under
19 subparagraph 2., including, but not limited to, if applicable,
20 the following items, which shall be stated either as
21 management expenses collectible by assessments or as expenses
22 of the purchaser payable to persons other than the managing
23 entity:
- 24 a. Expenses for the managing entity:
- 25 (I) Administration of the managing entity.
26 (II) Management fees.
27 (III) Maintenance.
28 (IV) Rent for ~~recreational and other commonly used~~
29 facilities.
30 (V) Taxes upon timeshare property.
31 (VI) Taxes upon leased areas.

- 1 (VII) Insurance.
- 2 (VIII) Security provisions.
- 3 (IX) Other expenses.
- 4 (X) Operating capital.
- 5 (XI) Reserves for deferred maintenance and reserves
6 for capital expenditures. All reserves for any accommodations
7 and facilities located in this state shall be calculated by a
8 formula which is based upon estimated life and replacement
9 cost of each reserve item. Reserves for deferred maintenance
10 for such accommodations and facilities shall include accounts
11 for roof replacement, building painting, pavement resurfacing,
12 replacement of timeshare unit furnishings and equipment, and
13 any other component, the useful life of which is less than the
14 useful life of the overall structure. For any accommodations
15 and facilities located outside of this state, the developer
16 shall disclose the amount of reserves for deferred maintenance
17 or capital expenditures required by the law of the situs
18 state, if applicable, and maintained for such accommodations
19 and facilities.
- 20 (XII) Fees payable to the division.
- 21 b. Expenses for a purchaser:
- 22 (I) Rent for the timeshare unit, if subject to a
23 lease.
- 24 (II) Rent payable by the purchaser directly to the
25 lessor or agent under any ~~recreational lease~~ or lease for the
26 use of ~~commonly used~~ facilities, which use and payment is a
27 mandatory condition of ownership and is not included in the
28 common expenses ~~expense~~ or assessments for common maintenance
29 paid by the purchasers to the managing entity ~~association~~.
- 30 4. The estimated amounts shall be stated for a period
31 of at least 12 months and may distinguish between the period

1 prior to the time that purchasers elect a majority of the
2 board of administration and the period after that date.

3 5. If the developer intends to guarantee the level of
4 assessments, such guarantee must be based upon a good faith
5 estimate of the revenues and expenses of the timeshare plan.
6 The guarantee must include a description of the following:

7 a. The specific time period measured in one or more
8 calendar or fiscal years during which the guarantee will be in
9 effect.

10 b. A statement that the developer will pay all common
11 expenses incurred in excess of the total revenues of the
12 timeshare plan pursuant to s. 721.15(2) if the developer has
13 excused himself or herself from the payment of assessments
14 during the guarantee period.

15 c. The level, expressed in total dollars, at which the
16 developer guarantees the budget. If the developer has
17 reserved the right to extend or increase the guarantee level
18 pursuant to s. 721.15(2), a disclosure must be included to
19 that effect.

20 6. If the developer intends to provide a trust fund to
21 defer or reduce the payment of annual assessments, a copy of
22 the trust instrument shall be attached as an exhibit and shall
23 include a description of such arrangement, including, but not
24 limited to:

25 a. The specific amount of such trust funds and the
26 source of the funds.

27 b. The name and address of the trustee.

28 c. The investment methods permitted by the trust
29 agreement.

30 d. A statement in conspicuous type that the funds from
31 the trust account may not cover all assessments and that there

1 is no guarantee that purchasers will not have to pay
2 assessments in the future.

3 7. The budget shall be based either on the number of
4 timeshare interests declared as part of the timeshare plan as
5 of the beginning of the calendar year for which the budget is
6 promulgated or on the number of timeshare interests estimated
7 to be declared as part of the timeshare plan during the
8 calendar year for which that budget is promulgated. In any
9 event the budget shall contain a note identifying the number
10 of timeshare interests covered by the budget and indicating
11 the number of timeshare interests estimated to be declared as
12 part of the timeshare plan during that calendar year, if any.

13 (v)(y) A schedule of estimated closing expenses to be
14 paid by a purchaser or lessee of a timeshare interest period
15 and a statement as to whether a title opinion or title
16 insurance policy is available to the purchaser and, if so, at
17 whose expense.

18 (w)(z) The identity of the developer and the chief
19 operating officer or principal directing the creation and sale
20 of the timeshare plan and a statement of the experience of
21 each in this field or, if no experience, a statement of that
22 fact.

23 ~~(aa) A statement of any service, maintenance, or~~
24 ~~recreation contracts or leases that may be canceled by the~~
25 ~~purchasers.~~

26 (x)(bb) A statement of the total financial obligation
27 of the purchaser, including the purchase price and any
28 additional charges to which the purchaser may be subject.

29 (y)(cc) The name of any person who will or may have
30 the right to alter, amend, or add to the charges to which the
31 purchaser may be subject and the terms and conditions under

1 which such alterations, amendments, or additions may be
2 imposed.

3 (z)~~(dd)~~ A statement ~~An explanation~~ of the purchaser's
4 right of cancellation of the purchase contract.

5 (aa)~~(ee)~~ A description of the insurance coverage
6 provided for the timeshare plan ~~benefit of the purchasers~~.

7 (bb)~~(ff)~~ A statement as to whether the timeshare plan
8 is participating in an exchange program and, if so, the name
9 and address of the exchange company offering the exchange
10 program.

11 (cc) The existence of rules and regulations regarding
12 any reservation features governing a purchaser's ability to
13 make reservations for a timeshare period, including, if
14 applicable, a conspicuous type disclaimer in substantially the
15 following form:

16
17 The right to reserve a timeshare period is subject to rules
18 and regulations of the timeshare plan reservation system.

19
20 (dd) If a developer is filing a timeshare plan that
21 includes a timeshare instrument or component site document
22 that was in conformance with the laws and rules in existence
23 at the time the timeshare plan was created but does not
24 conform to existing laws and rules that govern the timeshare
25 plan and the developer does not have the authority or power to
26 amend or change the timeshare instrument or component site
27 document to conform to such existing laws or rules as directed
28 by the division, a brief explanation of current law and the
29 conflict with the timeshare instrument or component site
30 document, preceded by disclaimer in conspicuous type in
31 substantially the following form:

1
2 Florida law has been amended and certain provisions in [insert
3 appropriate reference to timeshare instrument or component
4 site document] that were in conformance with Florida law as it
5 existed at the time the timeshare plan was created are not in
6 conformance with current Florida law. These documents may only
7 be amended by [insert appropriate reference to person or
8 entity that has the right to amend or change the timeshare
9 instrument or component site document]. The developer does not
10 warrant that such documents are in technical compliance with
11 all applicable Florida laws and regulations. All questions
12 regarding amendment of these documents should be directed to
13 [insert appropriate reference to person or entity that has the
14 right to amend or change the timeshare instrument or component
15 site document].

16
17 ~~(ee)~~(gg) Any other information that a ~~the~~ seller, with
18 the approval of the division, desires to include in the public
19 offering statement.

20 ~~(ff)~~(hh) Copies of the following documents and plans,
21 to the extent they are applicable, shall be included as
22 exhibits to the registered public offering statement provided,
23 if the timeshare plan has not been declared at the time of the
24 filing, the developer may provide proposed documents:

- 25 1. The declaration of condominium, ~~or the proposed~~
26 ~~declaration if the declaration has not been recorded.~~
27 2. The cooperative documents, ~~or the proposed~~
28 ~~cooperative documents if the documents have not been recorded.~~
29 3. The declaration of covenants and restrictions, ~~or~~
30 ~~proposed declaration if the declaration has not been recorded.~~
31

- 1 4. The articles of incorporation creating the
2 association.
- 3 5. The bylaws of the association.
- 4 6. The ground lease or other underlying lease of the
5 real property on which the timeshare plan is situated.
- 6 7. The management agreement and all maintenance and
7 other contracts regarding the management and operation of the
8 timeshare property which have terms in excess of 1 year.
- 9 8. The estimated operating budget for the timeshare
10 plan and the required schedule of purchasers' expenses.
- 11 9. The floor plan of each type of accommodation and
12 the plot plan showing the location of all accommodations and
13 facilities declared as part of the timeshare plan and filed
14 with the division.
- 15 10. The lease for any facilities.~~The lease of~~
16 ~~recreational facilities and other facilities which will be~~
17 ~~used only by purchasers of the timeshare plan.~~
- 18 11. ~~The lease of facilities used by purchasers and~~
19 ~~others.~~
- 20 12. ~~The form of timeshare period lease, if the offer~~
21 ~~is of a leasehold.~~
- 22 11.13. A declaration of servitude of properties
23 serving the accommodations and ~~or~~ facilities, but not owned by
24 purchasers or leased to them or the association.
- 25 12.14. Any documents required by s. 721.03(3)(e) as
26 the result of the inclusion of a timeshare plan in the
27 conversion of building ~~The statement of condition of the~~
28 ~~existing building or buildings, if the offering is of~~
29 ~~timeshare periods in an operation being converted to~~
30 condominium or cooperative ownership.
- 31

1 ~~15. The statement of inspection for termite damage and~~
2 ~~treatment of the existing improvements, if the timeshare~~
3 ~~property is a conversion.~~
4 ~~13.16.~~ The form of agreement for sale or lease of
5 timeshare interests ~~periods~~.
6 ~~14.17.~~ The executed agreement for escrow of payments
7 made to the developer prior to closing and the form of any
8 agreement for escrow of ad valorem tax escrow payments to be
9 made into an ad valorem tax escrow account pursuant to s.
10 192.037(6).
11 ~~15.18.~~ The documents containing any restrictions on
12 use of the property required by paragraph (s) ~~(u)~~.
13 ~~16.19.~~ Any other documents or instruments creating
14 the timeshare plan.
15 ~~20. Any contract or lease to be signed by the~~
16 ~~purchasers.~~
17 ~~(gg)(ii)~~ Such other information as is necessary to
18 fairly, meaningfully, and effectively disclose all aspects of
19 the timeshare plan, including, but not limited to, any
20 disclosures made necessary by the operation of s.
21 ~~721.03(8)(9)~~. However, if a developer has, in good faith,
22 attempted to comply with the requirements of this section, and
23 if, in fact, he or she has substantially complied with the
24 disclosure requirements of this chapter, nonmaterial errors or
25 omissions shall not be actionable.
26 ~~(hh)(jj)~~ Notwithstanding the provisions of this
27 subsection, the registered public offering statement for a
28 component site of a multisite timeshare plan filed pursuant to
29 this subsection may contain cross-references to information
30 contained in the related multisite timeshare plan registered
31

1 public offering statement filed pursuant to s. 721.55 in lieu
2 of repeating such information.

3 (6) The division is authorized to prescribe by rule
4 the form of the approved purchaser public offering statement
5 that must be furnished by the developer to each purchaser.
6 The form of the purchaser public offering statement that is
7 furnished to purchasers must provide fair, meaningful, and
8 effective disclosure of all aspects of the timeshare plan. For
9 timeshare plans filed pursuant to this part, the developer
10 shall furnish each purchaser with the following:

11 (a) A copy of the purchaser public offering statement
12 text in the form approved by the division for delivery to
13 purchasers.

14 (b) Copies of the exhibits required to be filed with
15 the division pursuant to subparagraphs (5)~~(ff)(hh)~~1., 2., 4.,
16 5., 8., and 16 ~~19~~.

17 (c) A receipt for timeshare plan documents and a list
18 describing any exhibit to the registered public offering
19 statement filed with the division which is not delivered to
20 the purchaser. The division is authorized to prescribe by
21 rule the form of the receipt for timeshare plan documents and
22 the description of exhibits list that must be furnished to the
23 purchaser. The description of documents list utilized by a
24 developer shall be filed with the division for review as part
25 of the registered public offering statement ~~filing~~ pursuant to
26 this section. The developer shall be required to provide the
27 managing entity with a copy of the approved registered public
28 offering statement ~~text and exhibits filed with the division~~
29 and any approved amendments thereto to be maintained by the
30 managing entity as part of the books and records of the
31 timeshare plan pursuant to s. 721.13(3)(d).

1 (d) Any other exhibit which the developer includes as
2 part of the purchaser public offering statement, provided that
3 the developer first files the exhibit with the division.

4 (e) An executed copy of any document which the
5 purchaser signs.

6 ~~(7) For purposes of this section, descriptions shall~~
7 ~~include locations, areas, capacities, numbers, volumes, or~~
8 ~~sizes and may be stated as approximations or minimums.~~

9 Section 6. Section 721.075, Florida Statutes, is
10 amended to read:

11 721.075 Incidental benefits.--Incidental benefits
12 shall be offered only as provided in this section.

13 (1) Accommodations, facilities, products, services,
14 discounts, or other benefits which satisfy the requirements of
15 this subsection shall be subject to the provisions of this
16 section and exempt from the other provisions of this chapter
17 ~~part~~ which would otherwise apply to such accommodations or ~~and~~
18 facilities if and only if:

19 (a) The use of or participation in the incidental
20 benefit by the prospective purchaser is completely voluntary,
21 and payment of any fee or other cost associated with the
22 incidental benefit is required only upon such use or
23 participation.

24 (b) No costs of acquisition, operation, maintenance,
25 or repair of the incidental benefit are passed on to
26 purchasers of the timeshare plan as common expenses of the
27 timeshare plan or as common expenses of a component site of a
28 multisite timeshare plan.

29 (c) The continued availability of the incidental
30 benefit is not necessary in order for any accommodation or
31 facility of the timeshare plan to be available for use by

1 purchasers of the timeshare plan in a manner consistent in all
2 material respects with the manner portrayed by any promotional
3 material, advertising, or purchaser public offering statement.

4 (d) The continued availability to purchasers of
5 timeshare plan accommodations on no greater than a one-to-one
6 purchaser to accommodation ratio is not dependent upon
7 continued availability of the incidental benefit.

8 (e) The incidental benefit will continue to be
9 available in the manner represented to prospective purchasers
10 for ~~no less than 6 months but less than 3 years~~ or less after
11 the first date that the timeshare plan is available for use by
12 the purchaser. ~~The developer shall not be required to make~~
13 ~~the incidental benefit available for longer than 18 months~~
14 ~~after the date of purchase.~~ Nothing herein shall prevent the
15 renewal or extension of the availability of an incidental
16 benefit.

17 (f) The aggregate represented value of all incidental
18 benefits offered by a developer to a purchaser may not exceed
19 15 percent of the purchase price paid by the purchaser for his
20 or her timeshare interest period.

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

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

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

1 (b) A statement that use of or participation in the
2 incidental benefit by the prospective purchaser is completely
3 voluntary, and that payment of any fee or other cost
4 associated with the incidental benefit is required only upon
5 such use or participation.

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

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

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

24
25 The acknowledgment and disclosure statement for any ~~each~~
26 incidental benefit shall be filed with the division prior to
27 use. Each purchaser shall receive a copy of his or her
28 executed acknowledgment and disclosure statement as a document
29 required to be provided to him or her pursuant to s.
30 721.10(1)(b).

31

1 (3)(a) In the event that an incidental benefit becomes
2 unavailable to purchasers in the manner represented by the
3 developer in the acknowledgment and disclosure statement, the
4 developer shall pay the purchaser the greater of twice the
5 verifiable retail value or twice the represented value of the
6 unavailable incidental benefit in cash within 30 days of the
7 date that the unavailability of the incidental benefit was
8 made known to the developer unless the developer has reserved
9 a substitution right pursuant to paragraph (b) ~~by making the~~
10 ~~required disclosure in the acknowledgment and disclosure~~
11 ~~statement~~ and timely makes the substitution as required by
12 paragraph (b). The developer shall promptly notify the
13 division upon learning of the unavailability of any incidental
14 benefit.

15 (b) If an incidental benefit becomes unavailable as a
16 result of events beyond the control of the developer, the
17 developer may reserve the right to substitute a replacement
18 incidental benefit of a type, quality, value, and term
19 reasonably similar to the unavailable incidental benefit. If
20 the developer reserves the right to substitute, the
21 acknowledgement and disclosure statement required pursuant to
22 paragraph (2)(a) shall contain the following conspicuous
23 disclosure by including the following language in the
24 disclosure required by paragraph (2)(d):

25
26 In the event any~~describe~~ incidental benefit described
27 in this statement ~~benefit~~ becomes unavailable as a result of
28 events beyond the control of the developer, the developer
29 reserves the right to substitute a replacement incidental
30 benefit of a type, quality, value, and term reasonably similar
31 to the unavailable incidental benefit.

1
2 The substituted incidental benefit shall be delivered to the
3 purchaser within 30 days after the date that the
4 unavailability of the incidental benefit was made known to the
5 developer.

6 (4) All purchaser remedies pursuant to s. 721.21 shall
7 be available for any violation of the provisions of this
8 section.

9 Section 7. Section 721.08, Florida Statutes, is
10 amended to read:

11 721.08 Escrow accounts; nondisturbance instruments;
12 alternate security arrangements.--

13 (1) Prior to the filing of a registered public
14 offering statement with the division, all developers shall
15 establish an escrow account with an escrow agent for the
16 purpose of protecting the funds or other property of
17 purchasers required to be escrowed by this section. An escrow
18 agent shall maintain the accounts called for in this section
19 only in such a manner as to be under the direct supervision
20 and control of the escrow agent. The escrow agent shall have
21 a fiduciary duty to each purchaser to maintain the escrow
22 accounts in accordance with good accounting practices and to
23 release the purchaser's funds or other property from escrow
24 only in accordance with this chapter. The escrow agent shall
25 retain all affidavits received pursuant to this section for a
26 period of 5 years. Should the escrow agent receive
27 conflicting demands for funds or property held in escrow, the
28 escrow agent shall immediately notify the division of the
29 dispute and either promptly submit the matter to arbitration
30 or, by interpleader or otherwise, seek an adjudication of the
31 matter by court.

1 (2) One hundred percent of all funds or other property
2 which is received from or on behalf of purchasers of the
3 timeshare plan or timeshare interest ~~period~~ prior to the
4 occurrence of events required in this subsection shall be
5 deposited pursuant to an escrow agreement approved by the
6 division. The escrow agreement shall provide that the funds
7 or property may be released from escrow only as follows:
8 (a) Cancellation.--In the event a purchaser gives a
9 valid notice of cancellation pursuant to s. 721.10 or is
10 otherwise entitled to cancel the sale, the funds or property
11 received from or on behalf of the purchaser, or the proceeds
12 thereof, shall be returned to the purchaser. Such refund
13 shall be made within 20 days of demand therefor by the
14 purchaser or within 5 days after receipt of funds from the
15 purchaser's cleared check, whichever is later. If the
16 purchaser has received benefits under the contract prior to
17 the effective date of the cancellation, the funds or property
18 to be returned to the purchaser may be reduced by the
19 proportion of contract benefits actually received.
20 (b) Purchaser's default.--Following expiration of the
21 10-day cancellation period, if the purchaser defaults in the
22 performance of her or his obligations under the terms of the
23 contract to purchase or such other agreement by which a ~~the~~
24 seller sells the timeshare interest ~~period~~, the developer
25 shall provide an affidavit to the escrow agent requesting
26 release of the escrowed funds or property and shall provide a
27 copy of such affidavit to the purchaser who has defaulted.
28 The developer's affidavit, as required herein, shall include:
29 1. A statement that the purchaser has defaulted and
30 that the developer has not defaulted;
31

- 1 2. A brief explanation of the nature of the default
2 and the date of its occurrence;
- 3 3. A statement that pursuant to the terms of the
4 contract the developer is entitled to the funds held by the
5 escrow agent; and
- 6 4. A statement that the developer has not received
7 from the purchaser any written notice of a dispute between the
8 purchaser and developer or a claim by the purchaser to the
9 escrow.
- 10 (c) Compliance with conditions.--
- 11 1. If the timeshare plan is one in which timeshare
12 licenses are to be sold and no cancellation or default has
13 occurred, the escrow agent may release the escrowed funds or
14 property upon presentation of:
- 15 a. An affidavit by the developer that all of the
16 following conditions have been met:
- 17 (I) Expiration of the cancellation period.
18 (II) Completion of construction.
19 (III) Closing.
20 (IV) Execution and recordation by each interestholder
21 of the nondisturbance and notice to creditors instrument, as
22 described in this section.
- 23 b. A certified copy of the recorded nondisturbance and
24 notice to creditors instrument that complies with subsection
25 (3).
- 26 c. One of the following:
- 27 (I) A copy of a memorandum of agreement, as defined in
28 s. 721.05(21), together with satisfactory evidence that the
29 original memorandum of agreement has been irretrievably
30 delivered for recording to the appropriate official
31 responsible for maintaining the public records in the county

1 in which the subject accommodations and ~~or~~ facilities are
2 located. The original memorandum of agreement must be
3 recorded within 180 days after the date on which the purchaser
4 executed her or his purchase agreement.

5 (II) A notice delivered for recording to the
6 appropriate official responsible for maintaining the public
7 records in each county in which the subject accommodations and
8 facilities are located notifying all persons of the identity
9 of an independent escrow agent that shall maintain separate
10 books and records, in accordance with good accounting
11 practices, for the timeshare plan in which timeshare licenses
12 are to be sold. The books and records shall indicate each
13 accommodation and facility that is subject to such a timeshare
14 plan and each purchaser of a timeshare license in the
15 timeshare plan.

16 2. If the timeshare plan is one in which timeshare
17 estates are to be sold, other than timeshare estates in a
18 trust pursuant to subparagraph 3., and no cancellation or
19 default has occurred, the escrow agent may release the
20 escrowed funds or property upon presentation of:

21 a. An affidavit by the developer that all of the
22 following conditions have been met:

23 (I) Expiration of the cancellation period.

24 (II) Completion of construction.

25 (III) Closing.

26 b. If the timeshare estate is sold by agreement for
27 deed, a certified copy of the recorded nondisturbance and
28 notice to creditors instrument, as described in this section.

29 c. Evidence that the timeshare estate is free and
30 clear of the claims of any interestholders, other than the
31 claims of interestholders that, through a recorded instrument,

1 are irrevocably made subject to the timeshare instrument and
2 the use rights of purchasers made available through the
3 timeshare instrument, or that are the subject of a recorded
4 nondisturbance and notice to creditors instrument that
5 complies with subsection (3).

6 3. If the timeshare plan is one in which timeshare
7 estates are to be sold in a trust that complies in all
8 respects with the provisions of sub-subparagraph b., and no
9 cancellation or default has occurred, the escrow agent may
10 release the escrowed funds or property upon presentation of:

11 a. An affidavit by the developer that all of the
12 following conditions have been met:

13 (I) Expiration of the cancellation period.

14 (II) Completion of construction.

15 (III) Transfer of the subject accommodations and
16 facilities, or all use rights therein, to the trust.

17 (IV) Closing.

18 b. Prior to the transfer by each interestholder of the
19 subject accommodations, facilities, or all use rights therein
20 to a trust, any lien or other encumbrance against such
21 accommodations, facilities, or use rights shall be made
22 subject to a nondisturbance and notice to creditors instrument
23 as described in this section. The trustee of such trust shall
24 also constitute an interestholder and record a nondisturbance
25 and notice to creditors instrument with respect to all
26 accommodations, facilities, and use rights transferred to the
27 trust. No transfer pursuant to this sub-subparagraph shall
28 become effective until the trustee accepts such transfer and
29 the responsibilities set forth herein. A trust established
30 pursuant to this sub-subparagraph shall comply with the
31 following provisions:

1 (I) The trustee shall be an individual or a business
2 entity authorized and qualified to conduct trust business in
3 this state. Any corporation authorized to do business in this
4 state may act as trustee in connection with a timeshare plan
5 pursuant to this chapter. The trustee must be independent from
6 any developer or managing entity of the timeshare plan or any
7 interestholder of any accommodation or facility of such plan.

8 (II) The trust shall be irrevocable so long as any
9 purchaser has a right to occupy any portion of the timeshare
10 property.

11 (III) The trustee shall not convey, hypothecate,
12 mortgage, assign, or otherwise transfer or encumber in any
13 fashion any portion of the timeshare property with respect to
14 which any purchaser has a right of use or occupancy unless the
15 timeshare plan is terminated pursuant to the timeshare
16 instrument.

17 (IV) All purchasers of the timeshare plan and the
18 managing entity of the timeshare plan shall be express
19 beneficiaries of the trust. The trustee shall act as a
20 fiduciary to the beneficiaries of the trust. The personal
21 liability of the trustee shall be governed by s. 737.306. All
22 expenses reasonably incurred by the trustee in the performance
23 of its duties, together with any reasonable compensation of
24 the trustee, shall be common expenses of the timeshare plan.

25 (V) The trustee shall not resign upon less than 30
26 days' prior written notice to the managing entity and the
27 division. No resignation shall become effective until a
28 substitute trustee, approved by the division, is appointed by
29 the managing entity and accepts the appointment.

30 (VI) The documents establishing the trust arrangement
31 shall constitute a part of the timeshare instrument.

1 4. If the developer has previously provided a
2 certified copy of any document required by this paragraph
3 ~~section~~, she or he may for all subsequent disbursements
4 substitute a true and correct copy of the certified copy,
5 provided no changes to the document have been made or are
6 required to be made.

7 (3) The nondisturbance and notice to creditors
8 instrument, when required, shall be executed by each
9 interestholder. The instrument shall state that:

10 (a) If the party seeking enforcement is not in default
11 of its obligations, the instrument may be enforced by both the
12 seller and any purchaser of the timeshare plan;

13 (b) The instrument shall be effective as between the
14 timeshare purchaser and interestholder despite any rejection
15 or cancellation of the contract between the timeshare
16 purchaser and developer as a result of bankruptcy proceedings
17 of the developer; and

18 (c) So long as the interestholder has any interest in
19 the accommodations, facilities, or plan, the interestholder
20 will fully honor all the rights of the timeshare purchasers in
21 and to the timeshare plan, will honor the purchasers' right to
22 cancel their contracts and receive appropriate refunds, and
23 will comply with all other requirements of this chapter and
24 rules promulgated hereunder.

25
26 The instrument shall contain language sufficient to provide
27 subsequent creditors of the developer and interestholders with
28 notice of the existence of the timeshare plan and of the
29 rights of purchasers and shall serve to protect the interest
30 of the timeshare purchasers from any claims of subsequent
31 creditors. A copy of the recorded nondisturbance and notice

1 to creditors instrument, when required, shall be provided to
2 each timeshare purchaser at the time the purchase contract is
3 executed.

4 (4) In lieu of any escrow provisions required by this
5 act, the director of the division shall have the discretion to
6 permit deposit of the funds or other property in an escrow
7 account as required by the jurisdiction in which the sale took
8 place.

9 (5)(a) In lieu of any escrows required by this
10 section, the director of the division shall have the
11 discretion to accept other assurances, including, but not
12 limited to, a surety bond issued by a company authorized and
13 licensed to do business in this state as surety or an
14 irrevocable letter of credit in an amount equal to the escrow
15 requirements of this section.

16 (b) Notwithstanding anything in chapter 718 or chapter
17 719 to the contrary, the director of the division shall have
18 the discretion to accept other assurances pursuant to
19 paragraph (a) in lieu of any requirement that completion of
20 construction of one or more accommodations or facilities of a
21 timeshare plan be accomplished prior to closing.

22 (6) An escrow agent holding funds escrowed pursuant to
23 this section may invest such escrowed funds in securities of
24 the United States Government, or any agency thereof, or in
25 savings or time deposits in institutions insured by an agency
26 of the United States Government. The right to receive the
27 interest generated by any such investments shall be paid to
28 the party to whom the escrowed funds or property are paid
29 unless otherwise specified by contract.

30 (7) Each escrow agent shall maintain separate books
31 and records for each timeshare plan and shall maintain such

1 books and records in accordance with good accounting
2 practices.

3 (8) An escrow agent holding escrowed funds pursuant to
4 this chapter that have not been claimed for a period of 5
5 years after the date of deposit shall make at least one
6 reasonable attempt to deliver such unclaimed funds to the
7 purchaser who submitted such funds to escrow. In making such
8 attempt, an escrow agent is entitled to rely on a purchaser's
9 last known address as set forth in the books and records of
10 the escrow agent and is not required to conduct any further
11 search for the purchaser. If an escrow agent's attempt to
12 deliver unclaimed funds to any purchaser is unsuccessful, the
13 escrow agent may deliver such unclaimed funds to the division
14 and the division shall deposit such unclaimed funds in the
15 Division of Florida Land Sales, Condominiums, and Mobile Homes
16 Trust Fund, 30 days after giving notice in a publication of
17 general circulation in the county in which the timeshare
18 property containing the purchaser's timeshare interest is
19 located. The purchaser may claim the same at any time prior to
20 the delivery of such funds to the division. After delivery of
21 such funds to the division, the purchaser shall have no more
22 rights to the unclaimed funds. The escrow agent shall not be
23 liable for any claims from any party arising out of the escrow
24 agent's delivery of the unclaimed funds to the division
25 pursuant to this section.

26 (9) For each transfer of the legal title to a
27 timeshare estate, the developer shall deliver an instrument
28 evidencing such transfer to the purchaser or to the clerk of
29 the court for recording.

30 (10)~~(8)~~ Any developer, seller, or escrow agent who
31 intentionally fails to comply with the provisions of this

1 section concerning the establishment of an escrow account,
2 deposits of funds into escrow, and withdrawal therefrom is
3 guilty of a felony of the third degree, punishable as provided
4 in s. 775.082, s. 775.083, or s. 775.084, or the successor
5 thereof. The failure to establish an escrow account or to
6 place funds therein as required in this section is prima facie
7 evidence of an intentional and purposeful violation of this
8 section.

9 Section 8. Section 721.09, Florida Statutes, is
10 amended to read:

11 721.09 Reservation agreements; escrows.--

12 (1)(a) Prior to filing the registered public offering
13 statement with the division, a seller shall not offer a
14 timeshare plan for sale but may accept reservation deposits
15 and advertise the reservation deposit program upon approval by
16 the division of a fully executed escrow agreement and
17 reservation agreement properly filed with the division.

18 (b) Reservations shall not be taken on a timeshare
19 plan unless the seller has an ownership interest, ~~or~~ leasehold
20 interest, or legal option to purchase or lease of a duration
21 at least equal to the duration of the proposed timeshare plan,
22 in the land upon which the timeshare plan is to be developed.

23 (c) If the timeshare plan subject to the reservation
24 agreement has not been filed with the division under s.
25 721.07(5) or s. 721.55 within 90 days after the date the
26 division approves the reservation agreement filing, the seller
27 must immediately cancel all outstanding reservation
28 agreements, refund all escrowed funds to prospective
29 purchasers, and discontinue accepting reservation deposits or
30 advertising the availability of reservation agreements.

31

1 (d) A seller who has filed a reservation agreement and
2 an escrow agreement under this section may advertise the
3 reservation agreement program if the advertising material
4 meets the following requirements:

5 1. The seller complies with the provisions of s.
6 721.11 with respect to such advertising material.

7 2. The advertising material is limited to a general
8 description of the proposed timeshare plan, including, but not
9 limited to, a general description of the type, number, and
10 size of accommodations and facilities and the name of the
11 proposed timeshare plan.

12 3. The advertising material contains a statement that
13 the advertising material is being distributed in connection
14 with an approved reservation agreement filing only and that
15 the seller cannot offer an interest in the timeshare plan for
16 sale until a registered public offering statement has been
17 filed with the division under this chapter.

18 (2) Each executed reservation agreement shall be
19 signed by the developer and shall contain the following:

20 (a) A statement that the escrow agent will grant a
21 prospective purchaser an immediate, unqualified refund of the
22 reservation deposit upon the written request of either the
23 purchaser or the seller directed to the escrow agent.

24 (b) A statement that the escrow agent may not
25 otherwise release moneys unless a contract is signed by the
26 purchaser, authorizing the transfer of the escrowed
27 reservation deposit as a deposit on the purchase price. Such
28 deposit shall then be subject to the requirements of s.
29 721.08.

30
31

1 (c) A statement of the obligation of the developer to
2 file a registered public offering statement with the division
3 prior to entering into binding contracts.

4 (d) A statement of the right of the purchaser to
5 receive the purchaser public offering statement required by
6 this chapter.

7 (e) The name and address of the escrow agent and a
8 statement that the escrow agent will provide a receipt.

9 (f) A statement that the seller assures that the
10 purchase price represented in or pursuant to the reservation
11 agreement will be the price in the contract for the purchase
12 or that the price represented may be exceeded within a stated
13 amount or percentage or a statement that no assurance is given
14 as to the price in the contract for purchase.

15 (3)(a) The total amount paid for a reservation shall
16 be deposited into a reservation escrow account.

17 (b) An escrow agent shall maintain the accounts called
18 for in this section only in such a manner as to be under the
19 direct supervision and control of the escrow agent.

20 (c) The escrow agent may invest the escrowed funds in
21 securities of the United States Government, or any agency
22 thereof, or in savings or time deposits in institutions
23 insured by an agency of the United States Government. The
24 interest generated by any such investments shall be payable to
25 the party entitled to receive the escrowed funds or property.

26 (d) The escrowed funds shall at all reasonable times
27 be available for withdrawal in full by the escrow agent.

28 (e) Each escrow agent shall maintain separate books
29 and records for each timeshare plan and shall maintain such
30 books and records in accordance with good accounting
31 practices.

1 (f) Any seller or escrow agent who intentionally fails
2 to comply with the provisions of this section regarding
3 deposit of funds in escrow and withdrawal therefrom is guilty
4 of a felony of the third degree, punishable as provided in s.
5 775.082, s. 775.083, or s. 775.084, or the successor of any of
6 such sections. The failure to establish an escrow account or
7 to place funds therein as required in this section is prima
8 facie evidence of an intentional and purposeful violation of
9 this section.

10 Section 9. Section 721.10, Florida Statutes, is
11 amended to read:

12 721.10 Cancellation.--

13 (1) A purchaser has the right to cancel the contract
14 until midnight of the 10th calendar day following whichever of
15 the following days occurs later:

16 (a) The execution date; or

17 (b) The day on which the purchaser received the last
18 of all documents required to be provided to him or her,
19 including the notice required by s. 721.07(2)(d)2., if
20 applicable.

21
22 This right of cancellation may not be waived by any purchaser
23 or by any other person on behalf of the purchaser.
24 Furthermore, no closing may occur until the cancellation
25 period of the timeshare purchaser has expired. Any attempt to
26 obtain a waiver of the cancellation right of the timeshare
27 purchaser, or to hold a closing prior to the expiration of the
28 cancellation period, is unlawful and such closing is voidable
29 at the option of the purchaser for a period of 1 year after
30 the expiration of the cancellation period. However, nothing
31 in this section precludes the execution of documents in

1 advance of closing for delivery after expiration of the
2 cancellation period.

3 (2) Any notice of cancellation shall be considered
4 given on the date postmarked if mailed, or when transmitted
5 from the place of origin if telegraphed, so long as the notice
6 is actually received by the developer or escrow agent. If
7 given by means of a writing transmitted other than by mail or
8 telegraph, the notice of cancellation shall be considered
9 given at the time of delivery at the place of business of the
10 developer.

11 (3) In the event of a timely preclosing cancellation,
12 ~~or in the event the plan is one in which timeshare licenses~~
13 ~~are sold and at any time the accommodations or facilities are~~
14 ~~no longer available,~~ the developer shall honor the right of
15 any purchaser to cancel the contract which granted the
16 timeshare purchaser rights in and to the plan. Upon such
17 cancellation, the developer shall refund to the purchaser the
18 total amount of all payments made by the purchaser under the
19 contract, reduced by the proportion of any contract benefits
20 the purchaser has actually received under the contract prior
21 to the effective date of the cancellation, as required by s.
22 721.06 ~~which exceed the proportionate amount of benefits made~~
23 ~~available under the plan, using the number of years of the~~
24 ~~plan as portrayed in the timeshare instrument as the base for~~
25 ~~plans of specific and limited duration, or using the fair~~
26 ~~market rental value of such benefits for plans without~~
27 ~~specific or limited duration.~~ Such refund shall be made within
28 20 days of demand therefor by the purchaser or within 5 days
29 after receipt of funds from the purchaser's cleared check,
30 whichever is later. ~~For purposes of this subsection, the term~~
31 ~~"benefits made available under the plan"~~ shall not include

1 ~~public offering statements or other documentation or materials~~
2 ~~that must be furnished to a purchaser pursuant to statute or~~
3 ~~rule.~~

4 Section 10. Section 721.11, Florida Statutes, is
5 amended to read:

6 721.11 Advertising materials; oral statements.--

7 (1)(a) All ~~Any~~ advertising material must ~~relating to a~~
8 ~~timeshare plan, including prize and gift promotional offers,~~
9 ~~shall~~ be filed with the division by the developer ~~10 days~~
10 prior to use. At the request of the developer, the division
11 shall review the advertising material and notify the developer
12 of any deficiencies within 10 days after the filing. If the
13 developer corrects the deficiencies or if there are no
14 deficiencies, the division shall notify the developer of its
15 approval of the advertising materials. Notwithstanding
16 anything to the contrary contained in this subsection, so long
17 as the developer uses advertising materials approved by the
18 division, following the developer's request for a review, the
19 developer shall not be liable for any violation of this
20 section or s. 721.111 with respect to such advertising
21 materials.

22 (b) All ~~such~~ advertising materials must be
23 substantially in compliance with this chapter and in full
24 compliance with the mandatory provisions of this chapter. In
25 the event that any such material is not in substantial
26 compliance with this chapter, the division may file
27 administrative charges and an injunction against the developer
28 and exact such penalties or remedies as provided in s. 721.26,
29 or may require the developer to correct ~~any~~ the deficiency in
30 the materials by notifying the developer of the deficiency.†
31 ~~and,~~ If the developer fails to correct the deficiency after

1 such notification, the division may file administrative
2 charges against the developer and exact such penalties or
3 remedies as provided in s. 721.26.

4 ~~(b) The director of the division shall have the~~
5 ~~discretion to accept other assurances from the developer to~~
6 ~~assure the developer will comply with the provisions of this~~
7 ~~chapter regarding all advertising materials, including prize~~
8 ~~and gift promotional offers, used by the developer. Such~~
9 ~~assurances shall include, but not be limited to, a surety bond~~
10 ~~issued by a company authorized and licensed to do business in~~
11 ~~this state as surety or an irrevocable letter of credit in the~~
12 ~~amount of \$10,000. Upon the acceptance by the director of~~
13 ~~such assurances from the developer, the developer shall be~~
14 ~~entitled to file and use advertising materials, including~~
15 ~~prize and gift promotional offers, in accordance with~~
16 ~~paragraph (c). In the event the developer intends to file and~~
17 ~~use any lodging or vacation certificates as advertising~~
18 ~~material pursuant to paragraph (c), the director shall have~~
19 ~~the discretion to increase the assurances to an amount deemed~~
20 ~~sufficient by the director to fully secure the performance of~~
21 ~~the certificate promoter, or to provide refunds to~~
22 ~~certificateholders in the event of nonperformance by the~~
23 ~~certificate promoter. The purpose of such other assurances,~~
24 ~~if accepted by the director, shall be to provide the division~~
25 ~~with a source of funds to secure the developer's promise in~~
26 ~~any prize and gift promotional offer to deliver the prize or~~
27 ~~gift represented in such offer to any prospective purchaser~~
28 ~~not receiving the represented prize or gift.~~

29 ~~(c) A developer from whom other assurances have been~~
30 ~~accepted by the director of the division pursuant to paragraph~~
31 ~~(b) shall file all advertising material, including prize and~~

1 ~~gift promotional offers with the division at the time of use.~~
2 ~~All such advertising materials must be substantially in~~
3 ~~compliance with this chapter and in full compliance with the~~
4 ~~mandatory provisions of this chapter. In the event that any~~
5 ~~such material is not in compliance with this chapter, the~~
6 ~~division may require the developer to correct the deficiency~~
7 ~~by notifying the developer of the deficiency; and, if the~~
8 ~~developer fails to correct the deficiency after receiving such~~
9 ~~notice, the division may file administrative charges against~~
10 ~~the developer and exact such penalties or remedies as provided~~
11 ~~in s. 721.26. So long as the developer prepares and~~
12 ~~disseminates the advertising material in good faith, the~~
13 ~~division shall not penalize the developer for any deficiencies~~
14 ~~which the division determines to exist in any advertising~~
15 ~~material which the developer uses prior to receipt of a notice~~
16 ~~of deficiency from the division regarding the advertising~~
17 ~~material. For purposes of this section, "good faith" shall~~
18 ~~mean that the developer has reasonably attempted to comply~~
19 ~~with the provisions of this chapter relating to advertising~~
20 ~~material, and that any deficiency determined to exist by the~~
21 ~~division is not material and adverse to a prospective~~
22 ~~purchaser.~~

23 (2) The term "advertising material" includes:

24 (a) Any promotional brochure, pamphlet, advertisement,
25 or other material to be disseminated to the public in
26 connection with the sale of a timeshare plan.

27 (b) ~~A transcript of~~ Any radio or television
28 advertisement.

29 (c) Any lodging or vacation certificate.

30 (d) ~~A transcript of~~ Any standard oral sales
31 presentation.

1 (e) Any billboard or other sign posted on or off the
2 premises, except that such billboard or sign shall not be
3 required to contain the disclosure set forth in paragraph
4 (5)(a) or paragraph (5)(b), unless it relates to a prize and
5 gift promotional offer. For purposes of this section, a
6 "sign" shall mean advertising which is affixed to real or
7 personal property and which is not disseminated by other than
8 visual means to prospective purchasers.

9 (f) Any photograph, drawing, or artist's
10 representation of accommodations or facilities of a timeshare
11 plan which exists or which will or may exist.

12 (g) Any paid publication relating to a timeshare plan
13 which exists or which will or may exist.

14 (h) Any other promotional device used, or statement
15 related to a timeshare plan, including any prize and gift
16 promotional offer as described in s. 721.111.

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

18 (a) Any stockholder communication such as an annual
19 report or interim financial report, proxy material,
20 registration statement, securities prospectus, registration,
21 property report, or other material required to be delivered to
22 a prospective purchaser by an agency of any other state or the
23 Federal Government.

24 (b) Any communication addressed to and relating to the
25 account of any person who has previously executed a contract
26 for the sale and purchase of a timeshare interest ~~period~~ in
27 the timeshare plan to which the communication relates, except
28 when directed to the sale of timeshare interests in a
29 different timeshare plan or in a different component site of a
30 multisite timeshare plan subject to part II ~~additional~~
31 ~~timeshare periods~~.

1 (c) Any audio, written, or visual publication or
2 material relating to an exchange company or exchange program.

3 (d) Any audio, written, or visual publication or
4 material relating to the promotion of the availability of any
5 accommodations or facilities, or both, for transient rental,
6 including any arrangement governed by part XI of chapter 559,
7 so long as a mandatory tour of a timeshare plan or attendance
8 at a mandatory sales presentation is not a term or condition
9 of the availability of such accommodations or facilities, or
10 both, and so long as the failure of any transient renter to
11 take a tour of a timeshare plan or attend a sales presentation
12 does not result in the transient renter receiving less than
13 what was promised to the transient renter in such materials
14 ~~any reduction in the level of services which would otherwise~~
15 ~~be available to such transient renter.~~

16 (e) Any oral or written statement disseminated by a
17 developer to broadcast or print media, other than paid
18 advertising or promotional material, regarding plans for the
19 acquisition or development of timeshare property, including
20 possible accommodations or facilities of a timeshare plan
21 pursuant to subsection (7) or subsection (8), or possible
22 component sites of a multisite timeshare plan pursuant to
23 subsection (9)s. 721.553(1). However, any rebroadcast or any
24 other dissemination of such oral statements to a prospective
25 purchaser by a seller in any manner, or any distribution of
26 copies of newspaper or magazine articles, press releases, or
27 any other dissemination of such written statements to a
28 prospective purchaser by a seller in any manner, shall
29 constitute advertising material.

30 (f) Any promotional materials relating to a timeshare
31 plan that are not directed specifically at residents of this

1 state, regardless of whether such materials relate to
2 accommodations or facilities located in this state, provided
3 that such materials do not contain any statements that would
4 be in violation of subsection (4). For purposes of this
5 paragraph, a rebuttable presumption shall exist that
6 promotional materials are not directed specifically at
7 residents of this state if the materials include a disclaimer
8 in substantially the following form:

9
10 This offer is not directed to residents in any state [or the
11 offer is void in any states] in which a registration of the
12 timeshare plan is required but in which registration
13 requirements have not yet been met.

14
15 (g) Any materials delivered to a purchaser after the
16 purchase contract is executed that are not delivered for the
17 purpose of soliciting the sale of a timeshare interest in a
18 different timeshare plan or a different component site in a
19 multisite timeshare plan subject to part II.

20 (h) Any materials shown, displayed, or presented in a
21 sales center or during a sales presentation provided that any
22 description of any facility that is not required to be built
23 or that has not been completed shall be conspicuously labeled
24 as "NEED NOT BE BUILT," "PROPOSED," or "UNDER CONSTRUCTION."
25 If the facility is labeled "NEED NOT BE BUILT" or "PROPOSED,"
26 the seller may indicate the estimated date that such facility
27 will be made part of the timeshare plan. If the facility is
28 labeled "UNDER CONSTRUCTION," the estimated date of completion
29 must be included.

30 (4) No advertising or oral statement made by any
31 seller shall:

- 1 (a) Misrepresent a fact or create a false or
2 misleading impression regarding the timeshare plan or
3 promotion thereof.
- 4 (b) Make a prediction of specific or immediate
5 increases in the price or value of timeshare interests
6 periods.
- 7 (c) Contain a statement concerning future price
8 increases by a ~~the~~ seller which are nonspecific or not bona
9 fide.
- 10 (d) Contain any asterisk or other reference symbol as
11 a means of contradicting or substantially changing any
12 previously made statement or as a means of obscuring a
13 material fact.
- 14 (e) Describe any facility improvement ~~improvement to the timeshare~~
15 ~~plan~~ that is not required to be built or that is uncompleted
16 unless the improvement is conspicuously labeled as "NEED NOT
17 BE BUILT," "PROPOSED," or "UNDER CONSTRUCTION." If the
18 facility is labeled "NEED NOT BE BUILT" or "PROPOSED," the
19 seller may indicate the estimated date that such facility will
20 be made part of the timeshare plan. If the facility is labeled
21 "UNDER CONSTRUCTION," the estimated date of completion must be
22 included with the date of promised completion clearly
23 indicated.
- 24 (f) Misrepresent the size, nature, extent, qualities,
25 or characteristics of the offered accommodations or
26 facilities.
- 27 (g) Misrepresent the amount or period of time during
28 which the accommodations or facilities will be available to
29 any purchaser.
- 30 (h) Misrepresent the nature or extent of any
31 incidental benefit.

- 1 (i) Make any misleading or deceptive representation
2 with respect to the contents of the public offering statement
3 and the contract or the rights, privileges, benefits, or
4 obligations of the purchaser under the contract or this
5 chapter.
- 6 (j) Misrepresent the conditions under which a
7 purchaser may exchange the right to use accommodations or
8 facilities in one location for the right to use accommodations
9 or facilities in another location.
- 10 (k) Misrepresent the availability of a resale or
11 rental program offered by or on behalf of the developer.
- 12 (l) Contain an offer or inducement to purchase which
13 purports to be limited as to quantity or restricted as to time
14 unless the numerical quantity or time limit applicable to the
15 offer or inducement is clearly stated.
- 16 (m) Imply that a facility is available for the
17 exclusive use of purchasers if the facility will actually be
18 shared by others or by the general public.
- 19 (n) Purport to have resulted from a referral unless
20 the name of the person making the referral can be produced
21 upon demand of the division.
- 22 (o) Misrepresent the source of the advertising or
23 statement by leading a prospective purchaser to believe that
24 the advertising material is mailed by a governmental or
25 official agency, credit bureau, bank, or attorney, if that is
26 not the case.
- 27 (p) Misrepresent the value of any prize, gift, or
28 other item to be awarded in connection with any prize and gift
29 promotional offer, as described in s. 721.111, or any
30 incidental benefit.
31

1 (5)(a) No written advertising material, including any
2 lodging certificate, gift award, premium, discount, or display
3 booth, may be utilized without each prospective purchaser
4 being provided a disclosure ~~one of the following disclosures~~
5 in conspicuous type in substantially the following form: This
6 advertising material is being used for the purpose of
7 soliciting sales of timeshare interests ~~periods~~; or This
8 advertising material is being used for the purpose of
9 soliciting sales of a vacation (or vacation membership or
10 vacation ownership) plan. The division shall have the
11 discretion to approve the use of an alternate disclosure. The
12 conspicuous disclosure required in this subsection shall only
13 be required to be given to each prospective purchaser on one
14 piece of advertising for each advertising promotion or
15 marketing campaign, provided that if the promotion or campaign
16 contains terms and conditions, the conspicuous disclosure
17 required in this subsection shall be included on any piece
18 containing such terms and conditions. The conspicuous
19 disclosure required in this subsection shall be provided
20 before the purchaser is required to take any affirmative
21 action pursuant to the promotion. If the advertising material
22 containing the conspicuous disclosure is a display booth, the
23 disclosure required by this subsection must be conspicuously
24 displayed on or within the display booth.~~If a filing of a~~
25 ~~timeshare plan containing accommodations and facilities~~
26 ~~located outside of this state has been approved by the situs~~
27 ~~jurisdiction and by the division, an alternate disclosure~~
28 ~~consistent with that required by the situs jurisdiction, or by~~
29 ~~such other jurisdiction or jurisdictions where the advertising~~
30 ~~material will be used, may be utilized with the prior approval~~
31 ~~of the director of the division so long as the alternate~~

1 ~~disclosure is substantially similar to that required by this~~
2 ~~paragraph.~~

3 (b) This subsection does not apply to any advertising
4 material which involves a project or development which
5 includes sales of real estate or other commodities or services
6 in addition to timeshare interests ~~periods~~, including, but not
7 limited to, lot sales, condominium or home sales, or the
8 rental of resort accommodations. However, if the sale of
9 timeshare interests ~~periods~~, as compared with such other sales
10 or rentals, is the primary purpose of the advertising
11 material, a disclosure shall be made in conspicuous type that:
12 This advertising material is being used for the purpose of
13 soliciting the sale of ...(Disclosure shall include timeshare
14 interests ~~periods~~ and may include other types of sales)....
15 Factors which the division may consider in determining whether
16 the primary purpose of the advertising material is the sale of
17 timeshare interests ~~periods~~ include:

18 1. The retail value of the timeshare interests ~~periods~~
19 compared to the retail value of the other real estate,
20 commodities, or services being offered in the advertising
21 material.

22 2. The amount of space devoted to the timeshare
23 portion of the project in the advertising material compared to
24 the amount of space devoted to other portions of the project,
25 including, but not limited to, printed material, photographs,
26 or drawings.

27 (6) Failure to provide cancellation rights or
28 disclosures as required by this subsection in connection with
29 the sale of a regulated short-term product constitutes
30 misrepresentation in accordance with paragraph (4)(a). Any
31 agreement relating to the sale of a regulated short-term

1 product must be regulated as advertising material and is
2 subject to the following:

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

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

23 (c) An agreement for purchase of a regulated
24 short-term product must contain substantially the following
25 statements, given at the time the agreement is made:

26 1. A statement that if the purchaser of a regulated
27 short-term product cancels the agreement during the 10-day
28 cancellation period, the seller will refund to the prospective
29 purchaser the total amount of all payments made by the
30 prospective purchaser under the agreement, reduced by the
31 proportion of any benefits the prospective purchaser has

1 actually received under the agreement prior to the effective
2 date of the cancellation; and
3 2. A statement that the specific value for each
4 benefit received by the prospective purchaser under the
5 agreement will be as agreed to between the prospective
6 purchaser and the seller.
7 (d) An agreement for purchase of a regulated
8 short-term product must contain substantially the following
9 statements in conspicuous type immediately above the space
10 reserved in the agreement for the signature of the prospective
11 purchaser:
12
13 You may cancel this agreement without any penalty or
14 obligation within 10 calendar days [or specify a longer time
15 period represented to the purchaser] after the date you sign
16 this agreement. If you decide to cancel this agreement, you
17 must notify the seller in writing of your intent to cancel.
18 Your notice of cancellation is effective upon the date sent
19 and must be sent to ...(Name of Seller)... at ...(Address of
20 Seller).... Any attempt to obtain a waiver of your
21 cancellation right is unlawful.
22 If you execute a purchase contract for a timeshare
23 interest ~~period~~, section 721.08, Florida Statutes (escrow
24 accounts), will apply to any funds or other property received
25 from you or on your behalf. Section 721.10, Florida Statutes
26 (cancellation), will apply to the purchase and you will not be
27 entitled to a cancellation refund of the short-term product
28 [or specify an alternate refund policy under these
29 circumstances].
30
31

1 (e) If the seller provides the purchaser with the
2 right to cancel the purchase of a regulated short-term product
3 at any time up to 7 days prior to the purchaser's reserved use
4 of the accommodations, but in no event less than 10 days, and
5 if the seller refunds the total amount of all payments made by
6 the purchaser reduced by the proportion of any benefits the
7 purchaser has actually received prior to the effective date of
8 the cancellation, the specific value of which has been agreed
9 to between the purchaser and the seller, the short-term
10 product offer shall be exempt from the requirements of
11 paragraphs (b), (c), and (d). An agreement relating to the
12 sale of the regulated short-term product made pursuant to this
13 paragraph must contain a statement setting forth the
14 cancellation and refund rights of the prospective purchaser in
15 a manner that is consistent with this section and s. 721.10,
16 including a description of the length of the cancellation
17 right, a statement that the purchaser's intent to cancel must
18 be in writing and sent to the seller at a specified address, a
19 statement that the notice of cancellation is effective upon
20 the date sent, and a statement that any attempt to waive the
21 cancellation right is unlawful. The right of cancellation
22 provided to the purchaser pursuant to this paragraph may not
23 be waived by the prospective purchaser or by any other person
24 on behalf of the prospective purchaser. Notice of cancellation
25 must be given in the same manner prescribed for giving notice
26 of cancellation pursuant to s. 721.10(2). If the prospective
27 purchaser gives a valid notice of cancellation, or is
28 otherwise entitled to cancel the sale, the funds or property
29 received from or on behalf of the prospective purchaser, or
30 the proceeds thereof, shall be returned to the prospective
31

1 purchaser. Such refund shall be made in the manner prescribed
2 for refunds under s. 721.10.

3 (7) Notwithstanding the provisions of s. 721.05(6)(b),
4 a seller may portray possible accommodations or facilities to
5 prospective purchasers in advertising material, or a purchaser
6 public offering statement, without such accommodations or
7 facilities being available for use by purchasers so long as
8 the advertising material or purchaser public offering
9 statement complies with the provisions of subsection (4).

10 (8) Notwithstanding the provisions of s. 721.05(6)(b),
11 a developer may portray possible accommodations or facilities
12 to prospective purchasers by disseminating oral or written
13 statements regarding same to broadcast or print media with no
14 obligation on the developer's part to actually construct such
15 accommodations or facilities or to file such accommodations or
16 facilities with the division, but only so long as such oral or
17 written statements are not considered advertising material
18 pursuant to paragraph (3)(e).

19 (9) Notwithstanding the provisions of s. 721.05(6)(b),
20 a seller of a multisite timeshare plan may portray a possible
21 component site to prospective purchasers with no
22 accommodations or facilities located at such component site
23 being available for use by purchasers so long as the seller
24 satisfies the following requirements:

25 (a) A developer of a multisite timeshare plan may
26 disseminate oral or written statements to broadcast or print
27 media describing a possible component site with no obligation
28 on the developer's part to actually add such component site to
29 the multisite timeshare plan or to amend the developer's
30 filing with the division, but only so long as such oral or
31

1 written statements are not considered advertising material
2 pursuant to paragraph (3)(e).

3 (b) A seller may make representations to purchasers in
4 advertising material or in a purchaser public offering
5 statement regarding the possible accommodations and facilities
6 of a possible component site without such accommodations or
7 facilities being available for use by purchasers so long as
8 the advertising material or purchaser public offering
9 statement complies with the provisions of subsection (4).

10 (c) In the event a seller makes any of the
11 representations permitted by paragraph (b), the purchase
12 agreement must contain the following conspicuous disclosure
13 unless and until such time as the developer has committed
14 itself in the timeshare instrument to adding the possible
15 component site to the multisite timeshare plan, at which time
16 the seller may portray the component site pursuant to the
17 timeshare instrument without restriction:

18
19 [Description of possible component site] is only a possible
20 component site which may never be added to the multisite
21 timeshare plan (or multisite vacation ownership plan or
22 multisite vacation plan or vacation club). Do not purchase an
23 interest in the multisite timeshare plan (or multisite
24 vacation ownership plan or multisite vacation plan or vacation
25 club) in reliance upon the addition of this component site.

26
27 (d) Notwithstanding anything contained in this chapter
28 to the contrary, a developer or managing entity may
29 communicate with existing purchasers regarding possible
30 component sites without restriction, so long as all oral and
31

1 written statements made to existing purchasers pursuant to
2 this subsection comply with the provisions of subsection (4).

3 (e) Any violation of this section by a developer,
4 seller, or managing entity shall constitute a violation of
5 this chapter. Any violation of this section with respect to a
6 purchaser whose purchase has not yet closed shall be deemed to
7 provide that purchaser with a new 10-day voidability period.

8 Section 11. Section 721.111, Florida Statutes, is
9 amended to read:

10 721.111 Prize and gift promotional offers.--

11 (1) As used herein, the term "prize and gift
12 promotional offer" means any advertising material wherein a
13 prospective purchaser may receive goods or services other than
14 the timeshare plan itself, either free or at a discount,
15 including, but not limited to, the use of any prize, gift,
16 award, premium, or lodging or vacation certificate.

17 (2) A game promotion, such as a contest of chance,
18 gift enterprise, or sweepstakes, in which the elements of
19 chance and prize are present may not be used in connection
20 with the offering or sale of timeshare interests ~~periods~~,
21 except for drawings, as that term is defined in s.
22 849.0935(1)(a), in which no more than 10 prizes are promoted
23 and in which all promoted prizes are actually awarded. All
24 such drawings must meet all requirements of this chapter and
25 of ss. 849.092 and 849.094(1), (2), and (7).

26 (3) Any prize, gift, or other item offered pursuant to
27 a prize and gift promotional offer must be delivered to the
28 prospective purchaser on the day she or he appears to claim
29 it, whether or not she or he purchases a timeshare interest
30 period.

31

1 (4) A separate filing for each prize and gift
2 promotional offer to be used in the sale of timeshare
3 interests ~~periods~~ shall be made with the division if required
4 by and pursuant to s. 721.11(1). One item of each prize or
5 gift, except cash, must be made available for inspection by
6 the division.

7 (5) Each filing of a prize and gift promotional offer
8 with the division shall include, when applicable:

9 (a) A copy of all advertising material to be used in
10 connection with the prize and gift promotional offer.

11 (b) The name, address, and telephone number (including
12 area code) of the supplier or manufacturer from whom each type
13 or variety of prize, gift, or other item is obtained.

14 (c) The manufacturer's model number or other
15 description of such item.

16 (d) The information on which the developer relies in
17 determining the verifiable retail value, if the value is in
18 excess of \$50.

19 (e) The name, address, and telephone number (including
20 area code) of the promotional entity responsible for
21 overseeing and operating the prize and gift promotional offer.

22 (f) The name and address of the registered agent in
23 this state of the promotional entity for service of process
24 purposes.

25 ~~(g) The number of anticipated recipients of each item~~
26 ~~of advertising material related to the prize and gift~~
27 ~~promotional offer.~~

28 (g)(h) Full disclosure of all pertinent information
29 concerning the use of lodging or vacation certificates,
30 including the terms and conditions of the campaign and the
31 fact and extent of participation in such campaign by the

1 developer. The developer shall provide to the division, upon
2 the request of the division, an affidavit, certification, or
3 other reasonable assurance ~~division may require reasonable~~
4 ~~assurances~~ that the obligation incurred by a seller or the
5 seller's agent in a lodging certificate program can be met.

6 ~~(6) Each developer shall pay to the division a fee of~~
7 ~~\$100 for the filing of each prize and gift promotional offer,~~
8 ~~at the time of filing. Those developers utilizing game~~
9 ~~promotions in which the elements of chance and prize are~~
10 ~~present shall pay an additional \$400 fee at the time of filing~~
11 ~~of the prize and gift promotional offer. No additional fee~~
12 ~~may be charged for the submission of corrected advertising~~
13 ~~material related to a prize and gift promotional offer or for~~
14 ~~the submission of additional material related to a prize and~~
15 ~~gift promotional offer for which a prior filing has been made.~~

16 ~~(6)(7)~~ All advertising material to be distributed in
17 connection with a prize and gift promotional offer shall
18 contain, in addition to the information required pursuant to
19 the provisions of s. 721.11, the following disclosures:

20 (a) A description of the prize, gift, or other item
21 that the prospective purchaser will actually receive,
22 including, if the price is in excess of \$50, the
23 manufacturer's suggested retail price or, if none is
24 available, the verifiable retail value. If the value is \$50 or
25 less, the description shall contain a statement of such.

26 (b) All rules, terms, requirements, and preconditions
27 which must be fulfilled or met before a prospective purchaser
28 may claim any prize, gift, or other item involved in the prize
29 and gift promotional plan, including whether the prospective
30 purchaser is required to attend a sales presentation in order
31 to receive the prize, gift, or other item.

1 (c) The date upon which the offer expires.

2 (d) If the number of prizes, gifts, or other items to
3 be awarded is limited, a statement of the number of items that
4 will be awarded.

5 (e) The method by which prizes, gifts, or other items
6 are to be awarded.

7 ~~(8) All developers shall file with the division by~~
8 ~~March 1st of each year the following information regarding~~
9 ~~each prize and gift promotional offer used during the prior~~
10 ~~calendar year:~~

11 ~~(a) The total number of each prize, gift, or other~~
12 ~~item actually awarded or given away.~~

13 ~~(b) The name and address of each person who actually~~
14 ~~received a prize, gift, or other item which had a verifiable~~
15 ~~retail value or manufacturer's suggested retail price in~~
16 ~~excess of \$200. This regulation does not apply to recipients~~
17 ~~of lodging or vacation certificates.~~

18 (7)~~(9)~~ All prizes, gifts, or other items represented
19 by the developer to be awarded in connection with any prize
20 and gift promotional offer shall be awarded by the date
21 referenced in the advertising material used in connection with
22 such offer.

23 Section 12. Subsection (1) of section 721.12, Florida
24 Statutes, is amended to read:

25 721.12 Recordkeeping by seller.--Each seller of a
26 timeshare plan shall maintain among its business records the
27 following:

28 (1) A copy of each contract for the sale of a
29 timeshare interest period, which contract has not been
30 canceled. If a timeshare estate is being sold, the seller is
31 required to retain a copy of the contract only until a deed of

1 conveyance, agreement for deed, or lease is recorded in the
2 office of the clerk of the circuit court in the county wherein
3 the plan is located.

4 Section 13. Section 721.13, Florida Statutes, is
5 amended to read:

6 721.13 Management.--

7 (1)(a) For each ~~Before the first sale of a~~ timeshare
8 plan period, the developer shall ~~create or~~ provide for a
9 managing entity, which shall be either the developer, a
10 separate manager or management firm, or the board of
11 ~~administration of an owners' association, or some combination~~
12 ~~thereof.~~ The owners' association shall be created prior to the
13 recording of the timeshare instrument.

14 (b)1. With respect to a timeshare plan which is also
15 regulated under chapter 718 or chapter 719, or which contains
16 a mandatory owners' association, the board of administration
17 of the association shall be considered the managing entity of
18 the timeshare plan.

19 2. During any period of time in which such association
20 has entered into a contract with a manager or management firm
21 to provide some or all of the management services to the
22 timeshare plan, both the board of administration and the
23 manager or management firm shall be considered the managing
24 entity of the timeshare plan and shall be jointly and
25 severally responsible for the faithful discharge of the duties
26 of the managing entity.

27 (c) With respect to any timeshare plan other than one
28 described in paragraph (b), any developer shall be considered
29 the managing entity of the timeshare plan unless and until
30 such developer clearly provides in the timeshare instrument
31 that a different party will serve as managing entity, which

1 party has acknowledged in writing that it has accepted the
2 duties and obligations of serving as managing entity. In the
3 event such other party subsequently resigns or otherwise
4 ceases to perform its duties as managing entity, any developer
5 shall again be considered the managing entity until the
6 developer arranges for a new managing entity pursuant to this
7 paragraph.

8 (d) In the event no one described in paragraph (b) or
9 paragraph (c) is operating and maintaining the timeshare plan,
10 anyone who operates or maintains the timeshare plan shall be
11 considered the managing entity of the timeshare plan.

12 (e) Any managing entity performing community
13 association management must comply with part VIII of chapter
14 468.

15 (2)(a) The managing entity shall act in the capacity
16 of a fiduciary to the purchasers of the timeshare plan. No
17 penalty imposed by the division pursuant to s. 721.26 against
18 any managing entity for breach of fiduciary duty shall be
19 assessed as a common expense of any timeshare plan.

20 (b) The managing entity shall invest the operating and
21 reserve funds of the timeshare plan in accordance with s.
22 518.11(1); however, the managing entity shall give safety of
23 capital greater weight than production of income. In no event
24 shall the managing entity invest timeshare plan funds with a
25 developer or with any entity that is not independent of any
26 developer or any managing entity within the meaning of s.
27 721.05(18), and in no event shall the managing entity invest
28 timeshare plan funds in notes and mortgages related in any way
29 to the timeshare plan.

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

1 (a) Management and maintenance of all accommodations
2 and facilities constituting the timeshare plan.
3 (b) Collection of all assessments for common expenses.
4 (c)1. Providing each year to all purchasers an
5 itemized annual budget which shall include all estimated
6 revenues and expenses. The budget shall be in the form
7 required by s. 721.07(5)(u)~~(x)~~ and shall be the final budget
8 adopted by the managing entity for the current fiscal year.
9 The budget shall contain, as a footnote or otherwise, any
10 related party transaction disclosures or notes which appear in
11 the audited financial statements of the managing entity for
12 the previous budget year as required by paragraph (e). A copy
13 of the final budget shall be filed with the division within 30
14 days after the beginning of each fiscal year ~~its adoption by~~
15 ~~the managing entity~~ together with a statement of the number of
16 periods of 7-day annual use availability that exist within the
17 timeshare plan, including those periods filed for sale by the
18 developer but not yet committed to the timeshare plan, for
19 which annual fees are required to be paid to the division
20 under s. 721.27.
21 2. Notwithstanding anything contained in chapter 718
22 or chapter 719 to the contrary, the board of administration of
23 an owners' association which serves as the managing entity may
24 from time to time reallocate reserves for deferred maintenance
25 and capital expenditures required by s.
26 721.07(5)(u)~~(x)~~3.a.(XI) from any deferred maintenance or
27 capital expenditure reserve account to any other deferred
28 maintenance or capital expenditure reserve account or accounts
29 in its discretion without the consent of purchasers of the
30 timeshare plan. Funds in any deferred maintenance or capital
31 expenditure reserve account may not be transferred to any

1 operating account without the consent of a majority of the
2 purchasers of the timeshare plan. The managing entity may from
3 time to time transfer excess funds in any operating account to
4 any deferred maintenance or capital expenditure reserve
5 account without the vote or approval of purchasers of the
6 timeshare plan.

7 (d)1. Maintenance of all books and records concerning
8 the timeshare plan so that all such books and records are
9 reasonably available for inspection by any purchaser or the
10 authorized agent of such purchaser. For purposes of this
11 subparagraph, the books and records of the timeshare plan
12 shall be considered "reasonably available" if copies of the
13 requested portions are delivered to the purchaser or the
14 purchaser's agent within 7 days of the date the managing
15 entity receives a written request for the records signed by
16 the purchaser. The managing entity may charge the purchaser a
17 reasonable fee for copying the requested information not to
18 exceed 25 cents per page. However, any purchaser or agent of
19 such purchaser shall be permitted to personally inspect and
20 examine the books and records wherever located at any
21 reasonable time, under reasonable conditions, and under the
22 supervision of the custodian of those records. The custodian
23 shall supply copies of the records where requested and upon
24 payment of the copying fee. No fees other than those set forth
25 in this section may be charged for the providing of,
26 inspection, or examination of books and records. All books and
27 financial records of the timeshare plan must be maintained in
28 accordance with generally accepted accounting practices.

29 2. If the books and records of the timeshare plan are
30 not maintained on the premises of the accommodations and
31 facilities of the timeshare plan, the managing entity shall

1 inform the division in writing of the location of the books
2 and records and the name and address of the person who acts as
3 custodian of the books and records at that location. In the
4 event that the location of the books and records changes, the
5 managing entity shall notify the division of the change in
6 location and the name and address of the new custodian within
7 30 days of the date the books and records are moved. The
8 purchasers shall be notified of the location of the books and
9 records and the name and address of the custodian in the copy
10 of the annual budget provided to them pursuant to paragraph
11 (c).

12 3. The division is authorized to adopt rules which
13 specify those items and matters that shall be included in the
14 books and records of the timeshare plan and which specify
15 procedures to be followed in requesting and delivering copies
16 of the books and records.

17 4. Notwithstanding any provision of chapter 718 or
18 chapter 719 to the contrary, the managing entity may not
19 furnish the name or address of any purchaser to any other
20 purchaser or authorized agent thereof unless the purchaser
21 whose name and address are requested first approves the
22 disclosure in writing.

23 (e) Arranging for an annual audit of the financial
24 statements of the timeshare plan by a certified public
25 accountant licensed by the Board of Accountancy of the
26 Department of Business and Professional Regulation, in
27 accordance with generally accepted auditing standards as
28 defined by the rules of the Board of Accountancy of the
29 Department of Business and Professional Regulation. The
30 financial statements required by this section must be prepared
31 on an accrual basis using fund accounting, and must be

1 presented in accordance with generally accepted accounting
2 principles. A copy of the audited financial statements must be
3 filed with the division and forwarded to the board of
4 directors and officers of the owners' association, if one
5 exists, no later than 5 calendar months after the end of the
6 timeshare plan's fiscal year. If no owners' association
7 exists, each purchaser must be notified, no later than 5
8 months after the end of the timeshare plan's fiscal year, that
9 a copy of the audited financial statements is available upon
10 request to the managing entity. Notwithstanding any
11 requirement of s. 718.111(13) or (14) or s. 719.104(4), the
12 audited financial statements required by this section are the
13 only annual financial reporting requirements for timeshare
14 condominiums.

15 (f) Making available for inspection by the division
16 any books and records of the timeshare plan upon the request
17 of the division. The division may enforce this paragraph by
18 making direct application to the circuit court.

19 (g) Scheduling occupancy of the timeshare units, when
20 purchasers are not entitled to use specific timeshare periods,
21 so that all purchasers will be provided the use and possession
22 of the accommodations and facilities of the timeshare plan
23 which they have purchased.

24 (h) Performing any other functions and duties which
25 are necessary and proper to maintain the accommodations or
26 facilities, as provided in the contract and as advertised.

27 (i) 1. Entering into an ad valorem tax escrow agreement
28 prior to the receipt of any ad valorem tax escrow payments
29 into the ad valorem tax escrow account, as long as an
30 independent escrow agent is required by s. 192.037(6)(e).

31

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

13 (j) Notwithstanding anything contained in chapter 718
14 or chapter 719 to the contrary, purchasers shall not have the
15 power to cancel contracts entered into by the managing entity
16 relating to a master or community antenna television system, a
17 franchised cable television service, or any similar paid
18 television programming service or bulk rate services
19 agreement.

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

1 listed on the owner's list upon the written request of any
2 purchaser if the purpose of the mailing is to advance
3 legitimate owners' association business, including, but not
4 limited to, such as a proxy solicitation for any purpose,
5 communications relating to including the recall of one or more
6 board members, communications relating to or the discharge of
7 the manager or management firm, communications relating to the
8 performance of the board of administration or the manager or
9 management firm, and other communications with purchasers of
10 timeshare interests in the timeshare plan relating to the
11 timeshare plan, provided that such communications are not
12 intended for the commercial benefit of any purchaser or any
13 entity other than the association or managing entity. The use
14 of any proxies solicited in this manner must comply with the
15 provisions of the timeshare instrument and this chapter. The
16 board of administration of the association shall be
17 responsible for determining the appropriateness of any mailing
18 requested pursuant to this subsection, and it shall be a
19 violation of this chapter and of part VIII of chapter 468 for
20 the board of administration or and/or the manager or
21 management firm to refuse to initiate any mailing requested
22 for the purpose of advancing legitimate owners' association
23 business. The purchaser who requests the mailing must
24 reimburse the owners' association in advance for the owners'
25 association's actual costs in performing the mailing.

26 (5) Any managing entity, or individual officer,
27 director, employee, or agent thereof, who willfully
28 misappropriates the property or funds of a timeshare plan
29 commits a felony of the third degree, punishable as provided
30 in s. 775.082, s. 775.083, or s. 775.084, or the successor
31 thereof.

1 (6)(a) The managing entity of any timeshare plan
2 located in this state, including, but not limited to, those
3 plans created with respect to a condominium pursuant to
4 chapter 718 or a cooperative pursuant to chapter 719, may deny
5 the use of the accommodations and facilities of the timeshare
6 plan, including the denial of the right to make a reservation
7 or the cancellation of a confirmed reservation for timeshare
8 periods in a floating reservation timeshare plan,to any
9 purchaser who is delinquent in the payment of any assessments
10 made by the managing entity against such purchaser for common
11 expenses or for ad valorem real estate taxes pursuant to this
12 chapter or pursuant to s. 192.037. Such denial of use shall
13 also extend to those parties claiming under the delinquent
14 purchaser described in paragraphs (b) and (c). For purposes
15 of this subsection, a purchaser shall be considered delinquent
16 in the payment of a given assessment only upon the expiration
17 of 60 days after the date the assessment is billed to the
18 purchaser or upon the expiration of 60 days after the date the
19 assessment is due, whichever is later. For purposes of this
20 subsection, an affiliated exchange program shall be any
21 exchange program which has a contractual relationship with the
22 creating developer or the managing entity of the timeshare
23 plan, or any exchange program that notifies the managing
24 entity in writing that it has members that are purchasers of
25 the timeshare plan, and the exchange companies operating such
26 affiliated exchange programs shall be affiliated exchange
27 companies. Any denial of use for failure to pay assessments
28 shall be implemented only pursuant to this subsection.
29 (b) A managing entity desiring to deny the use of the
30 accommodations and facilities of the timeshare plan to a
31 delinquent purchaser and to those claiming under the

1 purchaser, including his or her guests, lessees, and third
2 parties receiving use rights in the timeshare period in
3 question through a nonaffiliated exchange program, shall, no
4 less than 30 days after the date the assessment is due in
5 accordance with the timeshare instrument ~~prior to the first~~
6 ~~day of the purchaser's use period~~, notify the purchaser in
7 writing of the total amount of any delinquency which then
8 exists ~~or which will exist as of the first day of such use~~
9 ~~period~~, including any accrued interest and late charges
10 permitted to be imposed under the terms of ~~the public offering~~
11 ~~statement for~~ the timeshare plan or by law and including a per
12 diem amount, if any, to account for further accrual of
13 interest and late charges between the stated effective date of
14 the notice and the first date of use. The notice shall also
15 clearly state that the purchaser will not be permitted to use
16 his or her timeshare period, that the purchaser will not be
17 permitted to make a reservation in a floating reservation
18 system, or that any confirmed reservation may be cancelled, as
19 applicable, until the total amount of such delinquency is
20 satisfied in full or until the purchaser produces satisfactory
21 evidence that the delinquency does not exist. The notice
22 shall be mailed to the purchaser at his or her last known
23 address as recorded in the books and records of the timeshare
24 plan, and the notice shall be effective to bar the use of the
25 purchaser and those claiming use rights under the purchaser,
26 including his or her guests, lessees, and third parties
27 receiving use rights in the timeshare period in question
28 through a nonaffiliated exchange program, until such time as
29 the purchaser is no longer delinquent. The notice shall not be
30 effective to bar the use of third parties receiving use rights
31 in the timeshare period in question through an affiliated

1 exchange program without the additional notice to the
2 affiliated exchange program required by paragraph (c).
3 (c) In addition to giving notice to the delinquent
4 purchaser as required by paragraph (b), a managing entity
5 desiring to deny the use of the accommodations and facilities
6 of the timeshare plan to third parties receiving use rights in
7 the delinquent purchaser's timeshare period through any
8 affiliated exchange program shall notify the affiliated
9 exchange company in writing of the denial of use. The receipt
10 of such written notice by the affiliated exchange company
11 shall be effective to bar the use of all third parties
12 claiming through the affiliated exchange program, and such
13 notice shall be binding upon the affiliated exchange company
14 and all third parties claiming through the affiliated exchange
15 program until such time as the affiliated exchange company
16 receives notice from the managing entity that the purchaser is
17 no longer delinquent. However, any third party claiming
18 through the affiliated exchange program who has received a
19 confirmed assignment of the delinquent purchaser's use rights
20 from the affiliated exchange company prior to the expiration
21 of 48 hours after the receipt by the affiliated exchange
22 company of such written notice from the managing entity shall
23 be permitted by the managing entity to use the accommodations
24 and facilities of the timeshare plan to the same extent that
25 he or she would be allowed to use such accommodations and
26 facilities if the delinquent purchaser were not delinquent.
27 (d) Any costs reasonably incurred by the managing
28 entity in connection with its compliance with the requirements
29 of paragraphs (b) and (c), together with any costs reasonably
30 incurred by an affiliated exchange company in connection with
31 its compliance with the requirements of paragraph (c), may be

1 assessed by the managing entity against the delinquent
2 purchaser and collected in the same manner as if such costs
3 were common expenses of the timeshare plan allocable solely to
4 the delinquent purchaser. The costs incurred by the affiliated
5 exchange company shall be collected by the managing entity as
6 the agent for the affiliated exchange company. In no event
7 shall the total costs to be assessed against the delinquent
8 purchaser pursuant to this paragraph at any one time exceed 5
9 percent of the total amount of delinquency contained in the
10 notice given to the delinquent purchaser pursuant to paragraph
11 (b) per timeshare period or \$15 per timeshare period,
12 whichever is less.

13 (e) An exchange company may elect to deny exchange
14 privileges to any member whose use of the accommodations and
15 facilities of the member's timeshare plan is denied pursuant
16 to paragraph (b), and no exchange program or exchange company
17 shall be liable to any of its members or third parties on
18 account of any such denial of exchange privileges.

19 (f)1. Provided that the managing entity has properly
20 and timely given notice to a delinquent purchaser pursuant to
21 paragraph (b) and to any affiliated exchange program pursuant
22 to paragraph (c), the managing entity may give further notice
23 to the delinquent purchaser that it may ~~intends to~~ rent the
24 delinquent purchaser's timeshare period, or any use rights
25 appurtenant thereto, and will ~~to~~ apply the proceeds of such
26 rental, net of any rental commissions, cleaning charges,
27 travel agent commissions, or any other commercially reasonable
28 charges reasonably and usually incurred by the managing entity
29 in securing rentals, to the delinquent purchaser's account.
30 Such further notice of intent to rent must be given at least
31 30 days prior to the first day of the purchaser's use period,

1 and must be delivered to the purchaser in the manner required
2 for notices under paragraph (b).

3 2. The notice of intent to rent, which may be included
4 in the notice required by paragraph (b), must state in
5 conspicuous type that:

6 a. The managing entity's efforts to secure a rental
7 will not commence on a date ~~certain, which date may not be~~
8 earlier than 10 days after the date of the notice of intent to
9 rent.

10 b. Unless the purchaser satisfies the delinquency in
11 full, or unless the purchaser produces satisfactory evidence
12 that the delinquency does not exist pursuant to paragraph (b),
13 ~~prior to the date designated in the notice for commencement of~~
14 ~~rental solicitation by the managing entity~~, the purchaser will
15 be bound by the terms of any rental contract entered into by
16 the managing entity with respect to the purchaser's timeshare
17 period or appurtenant use rights.

18 c. The purchaser will remain liable for any difference
19 between the amount of the delinquency and the net amount
20 produced by the rental contract and applied against the
21 delinquency pursuant to this paragraph, and the managing
22 entity shall not be required to provide any further notice to
23 the purchaser regarding any residual delinquency pursuant to
24 this paragraph.

25 3. In securing a rental pursuant to this paragraph,
26 the managing entity shall not be required to obtain the
27 highest nightly rental rate available, nor any particular
28 rental rate, and the managing entity shall not be required to
29 rent the entire timeshare period; however, the managing entity
30 must use reasonable efforts to secure a rental that is
31

1 commensurate with other rentals of similar timeshare periods
2 or use rights generally secured at that time.

3 (g) A managing entity shall have breached its
4 fiduciary duty described in subsection (2) in the event it
5 enforces the denial of use pursuant to paragraph (b) against
6 any one purchaser or group of purchasers without similarly
7 enforcing it against all purchasers, including all developers
8 and owners of the underlying fee; however, a managing entity
9 shall not be required to solicit rentals pursuant to paragraph
10 (f) for every delinquent purchaser. A managing entity shall
11 also have breached its fiduciary duty in the event an error in
12 the books and records of the timeshare plan results in a
13 denial of use pursuant to this subsection of any purchaser who
14 is not, in fact, delinquent. In addition to any remedies
15 otherwise available to purchasers of the timeshare plan
16 arising from such breaches of fiduciary duty, such breach
17 shall also constitute a violation of this chapter. In
18 addition, any purchaser receiving a notice of delinquency
19 pursuant to paragraph (b), or any third party claiming under
20 such purchaser pursuant to paragraph (b), may immediately
21 bring an action for injunctive or declaratory relief against
22 the managing entity seeking to have the notice invalidated on
23 the grounds that the purchaser is not, in fact, delinquent,
24 that the managing entity failed to follow the procedures
25 prescribed by this section, or on any other available grounds.
26 The prevailing party in any such action shall be entitled to
27 recover his or her reasonable attorney's fees from the losing
28 party.

29 (7) Unless the articles of incorporation, the bylaws,
30 or the provisions of this chapter provide for a higher quorum
31 requirement, the percentage of voting interests required to

1 make decisions and to constitute a quorum at a meeting of the
2 members of a timeshare condominium or owners' association
3 shall be 15 percent of the voting interests. If a quorum is
4 not present at any meeting of the owners' association at which
5 members of the board of administration are to be elected, the
6 meeting may be adjourned and reconvened within 90 days for the
7 sole purpose of electing members of the board of
8 administration, and the quorum for such adjourned meeting
9 shall be 15 percent of the voting interests. This provision
10 shall apply notwithstanding any provision of chapter 718 or
11 chapter 719 to the contrary.

12 (8) Notwithstanding anything to the contrary contained
13 in s. 718.110, s. 718.113, s. 718.114, or s. 719.1055, the
14 board of administration of the owners' association shall have
15 the power to make material alterations or substantial
16 additions to the accommodations or facilities of the timeshare
17 plan, without a vote of the members of the owners'
18 association. Unless otherwise provided in the timeshare
19 instrument as originally recorded, no such amendment may
20 change the configuration or size of any accommodation in any
21 material fashion, or change the proportion or percentage by
22 which the owner of a timeshare interest shares the common
23 expenses, unless the record owner of the affected timeshare
24 interests and all record owners of liens on the affected
25 timeshare interests join in the execution of the amendment.

26 (9)~~(8)~~ Any failure of the managing entity to
27 faithfully discharge the fiduciary duty to purchasers imposed
28 by this section or to otherwise comply with the provisions of
29 this section shall be a violation of this chapter and of part
30 VIII of chapter 468.

31

1 Section 14. Subsection (2) of section 721.14, Florida
2 Statutes, is amended to read:

3 721.14 Discharge of managing entity.--

4 (2) In the event the manager or management firm is
5 discharged, the board of administration of the owners'
6 association shall remain responsible for operating and
7 maintaining the timeshare plan pursuant to the timeshare
8 instrument and s. 721.13(1). If the board of administration
9 fails to do so, any timeshare owner may apply to the circuit
10 court within the jurisdiction of which the accommodations and
11 facilities lie for the appointment of a receiver to manage the
12 affairs of the owners'association and the timeshare plan. At
13 least 30 days before applying to the circuit court, the
14 timeshare owner shall mail to the owners'association and post
15 in a conspicuous place on the timeshare property a notice
16 describing the intended action. If a receiver is appointed,
17 the owners'association shall be responsible as a common
18 expense of the timeshare plan, for payment of the salary and
19 expenses of the receiver, relating to the discharge of her or
20 his duties and obligations as receiver, together with the
21 receiver's court costs, and reasonable attorney's fees. The
22 receiver shall have all powers and duties of a duly
23 constituted board of administration and shall serve until
24 discharged by the circuit court.

25 Section 15. Section 721.15, Florida Statutes, is
26 amended to read:

27 721.15 Assessments for common expenses.--

28 (1)(a) Until a managing entity is created or provided
29 pursuant to s. 721.13, the developer shall pay all common
30 expenses. The timeshare instrument shall provide for the
31 allocation of common expenses among all timeshare units or

1 timeshare interests ~~periods~~ on a reasonable basis, including
2 timeshare interests ~~periods~~ owned or not yet sold by the
3 developer. The timeshare instrument may provide that the
4 common expenses allocated may differ between those timeshare
5 units that are part of the timeshare plan and those units that
6 are not part of the timeshare plan; however, the different
7 proportion of expenses must be based upon reasonable
8 differences in the benefit provided to each. The timeshare
9 instrument shall allocate common expenses to timeshare
10 interests ~~periods~~ owned or not yet sold by the developer on
11 the same basis that common expenses are allocated to similar
12 or equivalent timeshare interests ~~periods~~ sold to purchasers.

13 (b) Notwithstanding any provision of chapter 718 or
14 chapter 719 to the contrary, the allocation of total common
15 expenses for a condominium or a cooperative timeshare plan may
16 vary on any reasonable basis, including, but not limited to,
17 timeshare unit size, timeshare unit type, timeshare unit
18 location, specific identification, or a combination of these
19 factors, ~~if the percentage interest in the common elements~~
20 ~~attributable to each timeshare condominium parcel or timeshare~~
21 ~~cooperative parcel equals the share of the total common~~
22 ~~expenses allocable to that parcel.~~ The share of a timeshare
23 interest in the common expenses allocable to the timeshare
24 condominium parcel or the timeshare cooperative parcel
25 containing such interest may vary on any reasonable basis,
26 provided that the allocation of common expenses to timeshare
27 interests owned or not yet sold by the developer is made on
28 the same basis that common expenses are allocated to similar
29 or equivalent timeshare interests sold to purchasers ~~if the~~
30 ~~timeshare interest's share of its parcel's common expense~~
31 ~~allocation is equal to that timeshare interest's share of the~~

1 ~~percentage interest in common elements attributable to such~~
2 ~~parcel.~~

3 (2)(a) After the creation or provision of a managing
4 entity, the managing entity shall make an annual assessment
5 against each purchaser for the payment of common expenses,
6 based on the projected annual budget, in the amount specified
7 by the contract between the seller and the purchaser or in the
8 timeshare instrument.

9 (b) No owner of a timeshare interests ~~period~~ may be
10 excused from the payment of her or his share of the common
11 expenses unless all owners are likewise excused from payment,
12 except that the developer may be excused from the payment of
13 her or his share of the common expenses which would have been
14 assessed against her or his timeshare interests ~~periods~~ during
15 a stated period of time during which the developer has
16 guaranteed to each purchaser in the timeshare instrument, or
17 by agreement between the developer and a majority of the
18 owners of timeshare interests ~~periods~~ other than the
19 developer, that the assessment for common expenses imposed
20 upon the owners would not increase over a stated dollar
21 amount. In the event of such a guarantee, the developer is
22 obligated to pay all common expenses incurred during the
23 guarantee period in excess of the total revenues of the
24 timeshare plan. Notwithstanding this limitation, if a
25 developer-controlled owners' association has maintained all
26 insurance coverages required by s. 721.165, the common
27 expenses incurred during the guarantee period resulting from a
28 natural disaster or an act of God, which are not covered by
29 insurance proceeds from the insurance maintained by the
30 owners' association, may be assessed against all purchasers
31 owning timeshare interests on the date of such natural

1 disaster or act of God, and their successors and assigns,
2 including the developer with respect to timeshare interests
3 owned by the developer. In the event of such an assessment,
4 all timeshare interests shall be assessed in accordance with
5 their ownership interest in the common elements as required by
6 paragraph (1)(a).

7 (c) For the purpose of calculating the obligation of a
8 developer under a guarantee pursuant to paragraph (b),
9 depreciation expenses related to real property shall be
10 excluded from common expenses incurred during the guarantee
11 period.

12 (d) A guarantee pursuant to paragraph (b) may provide
13 that the developer may extend or increase the guarantee for
14 one or more additional stated periods.

15 (3) Delinquent assessments may bear interest at the
16 highest rate permitted by law or at some lesser rate
17 established by the managing entity. In addition to such
18 interest, the managing entity may charge an administrative
19 late fee in an amount not to exceed \$25 for each delinquent
20 assessment. Provided that a purchaser has been advised in
21 writing at least 60 days prior to turning the matter over to a
22 collection agency that the purchaser may be liable for the
23 fees of the collection agency and a lien may result therefrom,
24 any costs of collection, including reasonable collection
25 agency fees and reasonable attorney's fees, incurred in the
26 collection of a delinquent assessment shall be paid by the
27 purchaser and shall be secured by a lien in favor of the
28 managing entity upon the timeshare interest ~~period~~ with
29 respect to which the delinquent assessment has been incurred.

30 (4) Unless otherwise specified in the contract between
31 the seller and the purchaser, any common expenses benefiting

1 fewer than all purchasers shall be assessed only against those
2 purchasers benefited.

3 (5) Any assessments for common expenses which have not
4 been spent for common expenses during the year for which such
5 assessments were made shall be shown as an item on the annual
6 budget.

7 (6) Notwithstanding any contrary requirements of s.
8 718.112(2)(g) or s. 719.106(1)(g), for timeshare plans subject
9 to this chapter, assessments against purchasers need not be
10 made more frequently than annually.

11 (7) A purchaser, regardless of how her or his
12 timeshare estate or timeshare license has been acquired,
13 including a purchaser at a judicial sale, is personally liable
14 for all assessments for common expenses which come due while
15 the purchaser is the owner of such interest. A successor in
16 interest is jointly and severally liable with her or his
17 predecessor in interest for all unpaid assessments against
18 such predecessor up to the time of transfer of the timeshare
19 interest to such successor without prejudice to any right a
20 successor in interest may have to recover from her or his
21 predecessor in interest any amounts assessed against such
22 predecessor and paid by such successor. The predecessor in
23 interest shall provide the managing entity with a copy of the
24 recorded deed of conveyance if the interest is a timeshare
25 estate or a copy of the instrument of transfer if the interest
26 is a timeshare license, containing the name and mailing
27 address of the successor in interest within 15 days after the
28 date of transfer. The managing entity shall not be liable to
29 any person for any inaccuracy in the books and records of the
30 timeshare plan arising from the failure of the predecessor in
31 interest to timely and correctly notify the managing entity of

1 the name and mailing address of the successor in interest.
2 ~~Nothing in this subsection shall be construed to impair the~~
3 ~~operation of s. 718.116 for timeshare condominiums.~~

4 (8) Notwithstanding the provisions of subsection (7),
5 a first mortgagee or its successor or assignee who acquires
6 title to a timeshare interest as a result of the foreclosure
7 of the mortgage or by deed in lieu of foreclosure of the
8 mortgage shall be exempt from liability for all unpaid
9 assessments attributable to the timeshare interest or
10 chargeable to the previous owner which came due prior to
11 acquisition of title by the first mortgage.

12 (9)(8)(a) Anything contained in chapter 718 or chapter
13 719 to the contrary notwithstanding, the managing entity of a
14 timeshare plan shall not commingle operating funds with
15 reserve funds; however, the managing entity may maintain
16 operating and reserve funds within a single account for a
17 period not to exceed 30 days after the date on which the
18 managing entity received payment of such funds.

19 (b) Anything contained in chapter 718 or chapter 719
20 to the contrary notwithstanding, a managing entity which
21 serves as managing entity of more than one timeshare plan, or
22 of more than one component site pursuant to part II, shall not
23 commingle the common expense funds of any one timeshare plan
24 or component site with the common expense funds of any other
25 timeshare plan or component site. However, the managing
26 entity may maintain common expense funds of multiple timeshare
27 plans or multiple component sites within a single account for
28 a period not to exceed 30 days after the date on which the
29 managing entity received payment of such funds.

30 Section 16. Section 721.16, Florida Statutes, is
31 amended to read:

1 721.16 Liens for overdue assessments; liens for labor
2 performed on, or materials furnished to, a timeshare unit.--

3 (1) The managing entity has a lien on a timeshare
4 interest period for any assessment levied against that
5 timeshare interest period from the date such assessment
6 becomes due.

7 (2) The managing entity may bring an action in its
8 name to foreclose a lien for assessments in the manner a
9 mortgage of real property is foreclosed and may also bring an
10 action to recover a money judgment for the unpaid assessments
11 without waiving any claim of lien. ~~However, in the case of a~~
12 ~~timeshare plan in which no interest in real property is~~
13 ~~conveyed, the managing entity may bring an action under the~~
14 ~~Uniform Commercial Code.~~

15 (3) The lien is effective from the date of recording a
16 claim of lien in the public records of the county or counties
17 in which the accommodations and ~~or~~ facilities constituting the
18 timeshare plan are located. The claim of lien shall state the
19 name of the timeshare plan and identify the timeshare interest
20 period for which the lien is effective, state the name of the
21 purchaser, state the assessment amount due, and state the due
22 dates. Notwithstanding any provision of s. 718.116(5)(a) or s.
23 719.108(4) to the contrary, the lien is effective until
24 satisfied or until 5 years have expired after the date the
25 claim of lien is recorded unless, within that time, an action
26 to enforce the lien is commenced pursuant to subsection (2).
27 The claim of lien may include only assessments which are due
28 when the claim is recorded. A claim of lien shall be signed
29 and acknowledged by an officer or agent of the managing
30 entity. Upon full payment, the person making the payment is
31 entitled to receive a satisfaction of the lien.

1 (4) A judgment in any action or suit brought under
2 this section shall include costs and reasonable attorney's
3 fees for the prevailing party.

4 (5) Labor performed on a timeshare unit, or materials
5 furnished to a timeshare unit, shall not be the basis for the
6 filing of a lien pursuant to part I of chapter 713, the
7 Construction Lien Law, against the timeshare unit of any
8 timeshare-period owner not expressly consenting to or
9 requesting the labor or materials.

10 (6) The managing entity has a lien on a timeshare
11 interest of any owner for the cost of any maintenance,
12 repairs, or replacement resulting from an act of such owner or
13 owner's guest that results in damage to the timeshare property
14 or facilities made available to the purchasers.

15 Section 17. Section 721.17, Florida Statutes, is
16 amended to read:

17 721.17 Transfer of interest.--Except in the case of a
18 timeshare plan subject to the provisions of chapter 718 or
19 chapter 719, no developer or owner of the underlying fee shall
20 sell, lease, assign, mortgage, or otherwise transfer his or
21 her interest in the accommodations and ~~or~~ facilities of the
22 timeshare plan except by an instrument evidencing the transfer
23 recorded in the public records of the county in which such ~~the~~
24 accommodations and ~~or~~ facilities are located. The instrument
25 shall be executed by both the transferor and transferee and
26 shall state:

27 (1) That its provisions are intended to protect the
28 rights of all purchasers of the plan.

29 (2) That its terms may be enforced by any prior or
30 subsequent timeshare purchaser so long as that purchaser is
31 not in default of his or her obligations.

1 (3) That the transferee will fully honor the rights of
2 the purchasers to occupy and use the accommodations and
3 facilities as provided in their original contracts and the
4 timeshare instruments.

5 ~~(4) That the transferee will fully honor all rights of~~
6 ~~timeshare purchasers to cancel their contracts and receive~~
7 ~~appropriate refunds.~~

8 (4)~~(5)~~ That the obligations of the transferee under
9 such instrument will continue to exist despite any
10 cancellation or rejection of the contracts between the
11 developer and purchaser arising out of bankruptcy proceedings.

12
13 Should any transfer of the interest of the developer or owner
14 of the underlying fee occur in a manner which is not in
15 compliance with this section, the terms set forth in this
16 section shall be presumed to be a part of the transfer and
17 shall be deemed to be included in the instrument of transfer.
18 Notice shall be mailed to each purchaser of record within 30
19 days of the transfer unless such transfer does not affect the
20 purchaser's rights in or use of the timeshare plan. Persons
21 who hold mortgages on the property constituting a timeshare
22 plan before the filed public offering statement of such plan
23 is approved by the division shall not be considered
24 transferees for the purposes of this section.

25 Section 18. Section 721.18, Florida Statutes, is
26 amended to read:

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

30 (1) If a purchaser is offered the opportunity to
31 subscribe to an exchange program, the seller shall deliver to

1 the purchaser, together with the purchaser public offering
2 statement, and prior to the offering or execution of any
3 contract between the purchaser and the company offering the
4 exchange program, written information regarding such exchange
5 program; or, if the exchange company is dealing directly with
6 the purchaser, the exchange company shall deliver to the
7 purchaser, prior to the initial offering or execution of any
8 contract between the purchaser and the company offering the
9 exchange program, written information regarding such exchange
10 program. In either case, the purchaser shall certify in
11 writing to the receipt of such information. Such information
12 shall include, but is not limited to, the following
13 information, the form and substance of which shall first be
14 approved by the division in accordance with subsection (2):
15 (a) The name and address of the exchange company.
16 (b) The names of all officers, directors, and
17 shareholders of the exchange company.
18 (c) Whether the exchange company or any of its
19 officers or directors has any legal or beneficial interest in
20 any developer, seller, or managing entity for any timeshare
21 plan participating in the exchange program and, if so, the
22 name and location of the timeshare plan and the nature of the
23 interest.
24 (d) Unless otherwise stated, a statement that the
25 purchaser's contract with the exchange company is a contract
26 separate and distinct from the purchaser's contract with the
27 seller of the timeshare plan.
28 (e) Whether the purchaser's participation in the
29 exchange program is dependent upon the continued affiliation
30 of the timeshare plan with the exchange program.
31

1 (f) A statement that the purchaser's participation in
2 the exchange program is voluntary.

3 (g) A complete and accurate description of the terms
4 and conditions of the purchaser's contractual relationship
5 with the exchange program and the procedure by which changes
6 thereto may be made.

7 (h) A complete and accurate description of the
8 procedure to qualify for and effectuate exchanges.

9 (i) A complete and accurate description of all
10 limitations, restrictions, or priorities employed in the
11 operation of the exchange program, including, but not limited
12 to, limitations on exchanges based on seasonality, timeshare
13 unit size, or levels of occupancy, expressed in boldfaced
14 type, and, in the event that such limitations, restrictions,
15 or priorities are not uniformly applied by the exchange
16 program, a clear description of the manner in which they are
17 applied.

18 (j) Whether exchanges are arranged on a
19 space-available basis and whether any guarantees of
20 fulfillment of specific requests for exchanges are made by the
21 exchange program.

22 (k) Whether and under what circumstances a purchaser,
23 in dealing with the exchange program, may lose the use and
24 occupancy of her or his timeshare period in any properly
25 applied for exchange without her or his being provided with
26 substitute accommodations by the exchange program.

27 (l) The fees or range of fees for participation by
28 purchasers in the exchange program, a statement whether any
29 such fees may be altered by the exchange company, and the
30 circumstances under which alterations may be made.

31

1 (m) The name and address of the site of each
2 accommodation or facility included in the timeshare plans
3 participating in the exchange program.

4 (n) The number of the timeshare units in each
5 timeshare plan which are available for occupancy and which
6 qualify for participation in the exchange program, expressed
7 within the following numerical groupings: 1-5; 6-10; 11-20;
8 21-50; and 51 and over.

9 (o) The number of currently enrolled purchasers for
10 each timeshare plan participating in the exchange program,
11 expressed within the following numerical groupings: 1-100;
12 101-249; 250-499; 500-999; and 1,000 and over; and a statement
13 of the criteria used to determine those purchasers who are
14 currently enrolled with the exchange program.

15 (p) The disposition made by the exchange company of
16 timeshare periods deposited with the exchange program by
17 purchasers enrolled in the exchange program and not used by
18 the exchange company in effecting exchanges.

19 (q) The following information, which shall be
20 independently audited by a certified public accountant or
21 accounting firm in accordance with the standards of the
22 Accounting Standards Board of the American Institute of
23 Certified Public Accountants and reported annually beginning
24 no later than July 1, 1982:

25 1. The number of purchasers currently enrolled in the
26 exchange program.

27 2. The number of accommodations and facilities that
28 have current affiliation agreements with the exchange program.

29 3. The percentage of confirmed exchanges, which is the
30 number of exchanges confirmed by the exchange program divided
31 by the number of exchanges properly applied for, together with

1 a complete and accurate statement of the criteria used to
2 determine whether an exchange request was properly applied
3 for.

4 4. The number of timeshare periods for which the
5 exchange program has an outstanding obligation to provide an
6 exchange to a purchaser who relinquished a timeshare period
7 during the year in exchange for a timeshare period in any
8 future year.

9 5. The number of exchanges confirmed by the exchange
10 program during the year.

11 (r) A statement in boldfaced type to the effect that
12 the percentage described in subparagraph (q)3. is a summary of
13 the exchange requests entered with the exchange program in the
14 period reported and that the percentage does not indicate the
15 probabilities of a purchaser's being confirmed to any specific
16 choice or range of choices.

17 (2) Each exchange company offering an exchange program
18 to purchasers in this state shall file the information
19 specified in subsection (1) and the audit specified in
20 subsection (1) on or before June 1 of each year. However, an
21 exchange company shall make its initial filing at least 20
22 days prior to offering an exchange program to any purchaser in
23 this state. Each filing shall be accompanied by an annual
24 filing fee of \$500. Within 20 days of receipt of such filing,
25 the division shall determine whether the filing is adequate to
26 meet the requirements of this section and shall notify the
27 exchange company in writing that the division has either
28 approved the filing or found specified deficiencies in the
29 filing. If the division fails to respond within 20 days, the
30 filing shall be deemed approved. The exchange company may
31 correct the deficiencies; and, within 10 days after receipt of

1 corrections from the exchange company, the division shall
2 notify the exchange company in writing that the division has
3 either approved the filing or found additional specified
4 deficiencies in the filing. If at any time the division
5 determines that any of such information supplied by an
6 exchange company fails to meet the requirements of this
7 section, the division may undertake enforcement action against
8 the exchange company in accordance with the provision of s.
9 721.26.

10 (3) No developer shall have any liability with respect
11 to any violation of this chapter arising out of the
12 publication by the developer of information provided to it by
13 an exchange company pursuant to this section. No exchange
14 company shall have any liability with respect to any violation
15 of this chapter arising out of the use by a developer of
16 information relating to an exchange program other than that
17 provided to the developer by the exchange company.

18 ~~(4) Audio, written, or visual publications or~~
19 ~~materials relating to an exchange company or an exchange~~
20 ~~program shall be filed with the division within 3 days of~~
21 ~~their use.~~

22 (4)~~(5)~~ The failure of an exchange company to observe
23 the requirements of this section, or the use of any unfair or
24 deceptive act or practice in connection with the operation of
25 an exchange program, is a violation of this chapter.

26 Section 19. Section 721.19, Florida Statutes, is
27 amended to read:

28 721.19 Provisions requiring purchase or lease of
29 timeshare property by owners' association or purchasers ~~unit~~
30 ~~owners~~; validity.--In any timeshare plan in which timeshare
31 estates are sold, no grant or reservation made by a

1 declaration, lease, or other document, nor any contract made
2 by the developer, managing entity, or owners' association,
3 which requires the owners' association or purchasers unit
4 ~~owners~~ to purchase or lease any portion of the timeshare
5 property shall be valid unless approved by a majority of the
6 purchasers other than the developer, after more than 50
7 percent of the timeshare periods have been sold.

8 Section 20. Section 721.20, Florida Statutes, is
9 amended to read:

10 721.20 Licensing requirements; suspension or
11 revocation of license; exceptions to applicability; collection
12 of advance fees for listings unlawful.--

13 (1) Any seller of a timeshare plan must be a licensed
14 real estate salesperson, broker, or broker-salesperson as
15 defined in s. 475.01, except as provided in s. 475.011.

16 (2) Solicitors licensed under the provisions of
17 ~~paragraph (2)(a) who engage only in the solicitation of~~
18 ~~prospective purchasers, and purchasers engaging in~~
19 ~~solicitation activities as described in paragraph (2)(e), and~~
20 any purchaser who refers no more than 20 people to a developer
21 per year or who otherwise provides testimonials on behalf of a
22 developer are exempt from the provisions of chapter 475.

23 ~~(2)(a) Pursuant to rules adopted by the division, each~~
24 ~~off-premises solicitor or other person who engages in the~~
25 ~~solicitation of prospective purchasers of units in a timeshare~~
26 ~~plan must purchase a timeshare occupational license for a fee~~
27 ~~of \$100. The license shall be issued to the solicitor for a~~
28 ~~2-year period and shall expire on the second anniversary of~~
29 ~~the date of issuance. Sellers of a timeshare plan who are~~
30 ~~licensed and in good standing under chapter 475 shall be~~
31 ~~exempt from licensure under this subsection upon filing proof~~

1 ~~of such licensure and good standing with the division prior to~~
2 ~~engaging in any solicitation activity. However, the division~~
3 ~~may deny, suspend, or revoke the exemption of such seller when~~
4 ~~the license issued under chapter 475 has been suspended or~~
5 ~~revoked.~~

6 ~~(b) It is unlawful for any person to solicit~~
7 ~~prospective purchasers of a timeshare plan without first~~
8 ~~having secured a timeshare occupational license and having~~
9 ~~paid the occupational license fee; however, an applicant who~~
10 ~~has completed and filed an application for a timeshare~~
11 ~~occupational license and who has paid the required~~
12 ~~occupational license fee may solicit prospective purchasers of~~
13 ~~a timeshare plan pursuant to this section pending approval or~~
14 ~~denial of his or her application by the division.~~

15 ~~(c) Prior to issuing an occupational license to an~~
16 ~~applicant, the division shall receive an application, on forms~~
17 ~~designed by the division, containing such pertinent background~~
18 ~~information as is necessary to properly identify the~~
19 ~~applicant; however, the fingerprinting of applicants is not~~
20 ~~required.~~

21 ~~(d) The division may deny, suspend, or revoke any~~
22 ~~occupational license when the applicant or holder thereof~~

23 (3) A solicitor who has violated the provisions of
24 chapter 468, chapter 718, chapter 719, this chapter, or the
25 rules of the division governing timesharing, or when the
26 holder of a license issued pursuant to chapter 475 has had his
27 or her license suspended or revoked. If any occupational
28 license expires by division rule while administrative charges
29 are pending against the license, the proceedings against the
30 license shall continue to conclusion as if the license were
31 still in effect. In addition to those remedies available

1 ~~against the developer, the division may impose against an~~
2 ~~applicant or licensed solicitor a civil fine of up to \$500 in~~
3 ~~addition to, or in lieu of, a suspension or revocation~~
4 ~~provided for in this section for violation of the rules of the~~
5 ~~division.~~

6 ~~(e) Any purchaser who refers no more than 20 people to~~
7 ~~a developer per year or who otherwise provides testimonials on~~
8 ~~behalf of a developer shall not shall be subject to licensure~~
9 ~~under the provisions of paragraph (a).s. 721.26. Any~~
10 ~~developer or other person who supervises, directs, or engages~~
11 ~~the services of a solicitor shall be liable for any violation~~
12 ~~committed by such solicitor.~~

13 ~~(f) The division may require up to 2 hours of~~
14 ~~continuing education annually as a condition of renewal of an~~
15 ~~occupational license.~~

16 ~~(4)(3)~~ This section does not apply to those
17 individuals who offer for sale only timeshare interests
18 ~~periods~~ in timeshare property located outside this state and
19 who do not engage in any sales activity within this state or
20 to timeshare plans which are registered with the Securities
21 and Exchange Commission. For the purposes of this section,
22 both timeshare licenses and timeshare estates are considered
23 to be interests in real property.

24 ~~(5)(4)~~ Notwithstanding the provisions of s. 475.452,
25 it is unlawful for any broker, salesperson, or
26 broker-salesperson to collect any advance fee for the listing
27 of any timeshare estate or timeshare license.

28 Section 21. Section 721.21, Florida Statutes, is
29 amended to read:

30 721.21 Purchasers' remedies.--An action for damages or
31 for injunctive or declaratory relief for a violation of this

1 chapter may be brought by any purchaser or owners'association
2 ~~of purchasers~~ against the developer, a seller, an escrow
3 agent, or the managing entity. The prevailing party in any
4 such action, or in any action in which the purchaser claims a
5 right of voidability based upon either a closing before the
6 expiration of the cancellation period or an amendment which
7 materially alters or modifies the offering in a manner adverse
8 to the purchaser, may be entitled to reasonable attorney's
9 fees. Relief under this section does not exclude other
10 remedies provided by law.

11 Section 22. Paragraph (a) of subsection (1) and
12 subsection (2) of section 721.24, Florida Statutes, are
13 amended to read:

14 721.24 Firesafety.--

15 (1) Any:

16 (a) Facility or accommodation of a timeshare plan, as
17 defined in this chapter, ~~and~~ chapter 718, or chapter 719,
18 which is of three stories or more and for which the
19 construction contract has been let after September 30, 1983,
20 with interior corridors which do not have direct access from
21 the timeshare unit to exterior means of egress, or

22
23 shall be equipped with an automatic sprinkler system installed
24 in compliance with the provisions prescribed in the National
25 Fire Protection Association publication NFPA No. 13 (1985),
26 "Standards for the Installation of Sprinkler Systems." The
27 sprinkler installation may be omitted in closets which are not
28 over 24 square feet in area and in bathrooms which are not
29 over 55 square feet in area, which closets and bathrooms are
30 located in timeshare units. Each timeshare unit shall be
31 equipped with an approved listed single-station smoke detector

1 meeting the minimum requirements of NFPA-74 (1984), "Standards
2 for the Installation, Maintenance and Use of Household Fire
3 Warning Equipment," powered from the building electrical
4 service, notwithstanding the number of stories in the
5 structure, if the contract for construction is let after
6 September 30, 1983. Single-station smoke detection is not
7 required when a timeshare unit's smoke detectors are connected
8 to a central alarm system which also alarms locally.

9 (2) Any timeshare unit of a timeshare plan, as defined
10 in this chapter, ~~and~~ chapter 718, or chapter 719 which is of
11 three stories or more and for which the construction contract
12 was let before October 1, 1983, shall be equipped with:

13 (a) A system which complies with subsection (1); or

14 (b) An approved sprinkler system for all interior
15 corridors, public areas, storage rooms, closets, kitchen
16 areas, and laundry rooms, less individual timeshare units, if
17 the following conditions are met:

18 1. There is a minimum 1-hour separation between each
19 timeshare unit and between each timeshare unit and a corridor.

20 2. The building is constructed of noncombustible
21 materials.

22 3. The egress conditions meet the requirements of s.
23 5-3 of the Life Safety Code, NFPA 101 (1985).

24 4. The building has a complete automatic fire
25 detection system which meets the requirements of NFPA-72A
26 (1987) and NFPA-72E (1984), including smoke detectors in each
27 timeshare unit individually annunciating to a panel at a
28 supervised location.

29 Section 23. Paragraphs (a), (d), and (e) of subsection
30 (5) of section 721.26, Florida Statutes, are amended to read:

31

1 721.26 Regulation by division.--The division has the
2 power to enforce and ensure compliance with the provisions of
3 this chapter, except for parts III and IV, using the powers
4 provided in this chapter, as well as the powers prescribed in
5 chapters 498, 718, and 719. In performing its duties, the
6 division shall have the following powers and duties:

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

14 (a)1. "Regulated party," for purposes of this section,
15 means any developer, exchange company, seller, managing
16 entity, owners'association, owners'association director,
17 owners'association officer, manager,management firm, escrow
18 agent, trustee, any respective assignees or agents, or any
19 other person having duties or obligations pursuant to this
20 chapter.

21 2. Any person who materially participates in any offer
22 or disposition of any interest in, or the management or
23 operation of, a timeshare plan in violation of this chapter or
24 relevant rules involving fraud, deception, false pretenses,
25 misrepresentation, or false advertising or the disbursement,
26 concealment, or diversion of any funds or assets, which
27 conduct adversely affects the interests of a purchaser, and
28 which person directly or indirectly controls a regulated party
29 or is a general partner, officer, director, agent, or employee
30 of such regulated party, shall be jointly and severally liable
31 under this subsection with such regulated party, unless such

1 person did not know, and in the exercise of reasonable care
2 could not have known, of the existence of the facts giving
3 rise to the violation of this chapter. A right of
4 contribution shall exist among jointly and severally liable
5 persons pursuant to this paragraph.

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

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

16 a. Damage to or destruction of any of the
17 accommodations or facilities of a timeshare plan, where the
18 managing entity has failed to repair or reconstruct same.

19 b. A breach of fiduciary duty by the managing entity,
20 including, but not limited to, undisclosed self-dealing or
21 failure to timely assess, collect, or disburse the common
22 expenses of the timeshare plan.

23 c. Failure of the managing entity to operate the
24 timeshare plan in accordance with the timeshare instrument and
25 this chapter.

26
27 If, under the circumstances, it appears that the events giving
28 rise to the petition for receivership cannot be reasonably and
29 timely corrected in a cost-effective manner consistent with
30 the timeshare instrument, the receiver may petition the
31 circuit court to implement such amendments or revisions to the

1 timeshare instrument as may be necessary to enable the
2 managing entity to resume effective operation of the timeshare
3 plan, or to enter an order terminating the timeshare plan, or
4 to enter such further orders regarding the disposition of the
5 timeshare property as the court deems appropriate including
6 the disposition and sale of the timeshare property held by the
7 association or the purchasers. In the event of a receiver's
8 sale, all rights, title, and interest held by the association
9 or any purchaser shall be extinguished and title shall vest in
10 the buyer. This provision applies to timeshare estates and
11 timeshare licenses. All reasonable costs and fees of the
12 receiver relating to the receivership shall become common
13 expenses of the timeshare 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 owners'association or managing entity fails
2 to pay a civil penalty, the division may pursue enforcement in
3 a court of competent jurisdiction.

4 Section 24. Section 721.27, Florida Statutes, is
5 amended to read:

6 721.27 Annual fee for each timeshare unit period in
7 plan.--On January 1 of each year, each managing entity of a
8 timeshare plan located in this state shall collect as a common
9 expense and pay to the division an annual fee equal to the
10 aggregate filing fee calculated pursuant to s. 721.07(4)(a) or
11 s. 721.58, whichever is applicable, based upon the total
12 number of timeshare units or timeshare interests located in
13 this state ~~periods of 7-day annual use availability~~ that exist
14 within the timeshare plan at that time. ~~Each developer of a~~
15 ~~phased timeshare plan shall remit to the managing entity that~~
16 ~~portion of the annual fee that relates to those timeshare~~
17 ~~units filed for sale by the developer but not yet declared as~~
18 ~~part of the condominium or cooperative regime or otherwise~~
19 ~~committed to the timeshare plan before January 1.~~ If any
20 portion of the annual fee is not paid by March 1, the managing
21 entity may be assessed a penalty pursuant to s. 721.26 ~~shall~~
22 ~~be assessed a late fee of 10 percent of the amount due or~~
23 ~~\$250, whichever is greater.~~

24 Section 25. Section 721.29, Florida Statutes, is
25 created to read:

26 721.29 Recording.--If any timeshare plan
27 accommodations or facilities are located in any jurisdiction
28 that does not have recording laws or will not record any
29 document or instrument required to be recorded pursuant to
30 this chapter, the director shall have the discretion to accept
31

1 an alternative method of protecting purchasers' rights that
2 will be effective under the laws of the other jurisdiction.

3 Section 26. Section 721.51, Florida Statutes, is
4 amended to read:

5 721.51 Legislative purpose; scope.--

6 (1) The purpose of this part is to advance the
7 purposes of this chapter as set forth in s. 721.02 with
8 respect to multisite vacation and timeshare plans, also known
9 as vacation clubs.

10 (2) All multisite timeshare plans shall be governed by
11 both part I and this part except where otherwise provided in
12 this part. In the event of a conflict between the provisions
13 of part I and this part, the provisions of this part shall
14 prevail.

15 ~~(3)(a) A multisite timeshare plan which includes~~
16 ~~accommodations located in this state, but which is offered~~
17 ~~exclusively outside of the jurisdictional limits of the United~~
18 ~~States shall be exempt from all other requirements of this~~
19 ~~part if it complies with paragraph (b).~~

20 ~~(b) In order to claim exemption from regulation under~~
21 ~~this part pursuant to paragraph (a), the person claiming~~
22 ~~exemption shall register the following minimum information~~
23 ~~with the division pertaining to the multisite timeshare plan:~~

24 1. ~~The name and address of the multisite timeshare~~
25 ~~plan;~~

26 2. ~~The name and address of the developer or seller;~~

27 3. ~~The location and a brief description of the~~
28 ~~accommodations and facilities of the multisite timeshare plan;~~

29 4. ~~The number of timeshare periods to be offered;~~

30 5. ~~The term of the multisite timeshare plan; and~~

31

1 ~~6. A copy of the form purchase contract to be utilized~~
2 ~~in offering the multisite timeshare plan, which contract must~~
3 ~~contain the disclosure required by paragraph (c).~~

4
5 ~~The division is authorized to adopt rules requiring additional~~
6 ~~information to be furnished to the division or in the purchase~~
7 ~~contract in connection with the registration for exemption.~~

8 ~~The initial exemption registration fee shall be \$100; however,~~
9 ~~the division may provide by rule for an exemption registration~~
10 ~~fee of up to \$500. No person shall be entitled to claim~~
11 ~~exemption pursuant to paragraph (a) until that person has~~
12 ~~fully registered pursuant to this paragraph.~~

13 ~~(c) Each purchase contract utilized in offering a~~
14 ~~multisite timeshare plan for which an exemption is claimed~~
15 ~~pursuant to this subsection shall contain the following~~
16 ~~disclosure in conspicuous type immediately above the space~~
17 ~~provided for the purchaser's signature:~~

18
19 ~~The offering of this timeshare plan outside the~~
20 ~~jurisdictional limits of the United States of America is~~
21 ~~exempt from regulation under Florida law, and any purchase~~
22 ~~resulting from such an offer is not protected by the State of~~
23 ~~Florida. However, the management and operation of any~~
24 ~~accommodations or facilities located in Florida is subject to~~
25 ~~Florida law and may give rise to enforcement action regardless~~
26 ~~of the location of any offer.~~

27 Section 27. Paragraph (a) of subsection (4) of section
28 721.52, Florida Statutes, is amended to read:

29 721.52 Definitions.--As used in this part, the term:

30 (4) "Multisite timeshare plan" means any method,
31 arrangement, or procedure with respect to which a purchaser

1 obtains, by any means, a recurring right to use and occupy
2 accommodations or facilities of more than one component site,
3 only through use of a reservation system, whether or not the
4 purchaser is able to elect to cease participating in the plan.
5 However, the term "multisite timeshare plan" shall not include
6 any method, arrangement, or procedure wherein:

7 (a) The contractually specified maximum total
8 financial obligation on the purchaser's part is \$3,000 or
9 less, during the entire term of the plan ~~\$1,500 or less,~~
10 ~~excluding the aggregate amount of any common expense~~
11 ~~assessments and special assessments levied by an owners'~~
12 ~~association or other person who is not an affiliate of the~~
13 ~~seller or the developer, provided that any such assessment~~
14 ~~obligations are fully described as accurately as possible in~~
15 ~~the purchaser's purchase contract, but including all other~~
16 ~~amounts paid by such purchaser for any purpose whatsoever,~~
17 ~~regardless of the term of such use and occupancy rights; or~~
18

19 Multisite timeshare plan does not mean an exchange program as
20 defined in s. 721.05. Timeshare estates may only be offered
21 in a multisite timeshare plan pursuant to s. 721.57.

22 Section 28. Paragraph (e) is added to subsection (1)
23 of section 721.53, Florida Statutes, to read:

24 721.53 Subordination instruments; alternate security
25 arrangements.--

26 (1) With respect to each accommodation or facility of
27 a multisite timeshare plan, the developer shall provide the
28 division with satisfactory evidence that one of the following
29 has occurred with respect to each interestholder prior to
30 offering the accommodation or facility as a part of the
31 multisite timeshare plan:

1 (e) The interestholder has transferred the subject
2 accommodation or facility or all use rights therein to a trust
3 that complies with this paragraph. Prior to such transfer, any
4 lien or other encumbrance against such accommodation or
5 facility shall be made subject to a nondisturbance and notice
6 to creditors instrument pursuant to paragraph (a) or a
7 subordination and notice to creditors instrument pursuant to
8 paragraph (b). No transfer pursuant to this paragraph shall
9 become effective until the trust accepts such transfer and the
10 responsibilities set forth herein. A trust established
11 pursuant to this paragraph shall comply with the following
12 provisions:

13 1. The trustee shall be an individual or a business
14 entity authorized and qualified to conduct trust business in
15 this state. Any corporation authorized to do business in this
16 state may act as trustee in connection with a timeshare plan
17 pursuant to this chapter. The trustee must be independent from
18 any developer or managing entity of the timeshare plan or any
19 interestholder of any accommodation or facility of such plan.

20 2. The trust shall be irrevocable so long as any
21 purchaser has a right to occupy any portion of the timeshare
22 property.

23 3. The trustee shall not convey, hypothecate,
24 mortgage, assign, or otherwise transfer or encumber in any
25 fashion any portion of the timeshare property with respect to
26 which any purchaser has a right of use or occupancy unless the
27 timeshare plan is terminated pursuant to the timeshare
28 instrument, or the timeshare property held in trust is deleted
29 from a multisite timeshare plan pursuant to s. 721.552(3), or
30 a majority of the total purchasers of the timeshare plan
31

1 approved such conveyance, hypothecation, mortgage, assignment,
2 transfer, or encumbrance.

3 4. All purchasers of the timeshare plan and the
4 managing entity of the timeshare plan shall be express
5 beneficiaries of the trust. The trustee shall act as a
6 fiduciary to the beneficiaries of the trust. The personal
7 liability of the trustee shall be governed by s. 737.306. All
8 expenses reasonably incurred by the trustee in the performance
9 of its duties, together with any reasonable compensation of
10 the trustee, shall be common expenses of the timeshare plan.

11 5. The trustee shall not resign upon less than 30
12 days' prior written notice to the managing entity and the
13 division. No resignation shall become effective until a
14 substitute trustee, approved by the division, is appointed by
15 the managing entity and accepts the appointment.

16 6. The documents establishing the trust arrangement
17 shall constitute a part of the timeshare instrument.

18 7. The trustee shall constitute an interestholder.

19 Section 29. Section 721.55, Florida Statutes, is
20 amended to read:

21 721.55 Multisite timeshare plan public offering
22 statement.--Each filed public offering statement ~~filed with~~
23 ~~the division~~ for a multisite timeshare plan shall contain the
24 information required by this section and shall comply with the
25 provisions of s. 721.07. The division is authorized to
26 provide by rule the method by which a developer must provide
27 such information to the division. Each multisite timeshare
28 plan filed public offering statement shall contain the
29 following information and disclosures:

- 30 (1) A cover page containing:
31 (a) The name of the multisite timeshare plan.

1 (b) The following statement in conspicuous type:
2

3 This public offering statement contains important
4 matters to be considered in acquiring an interest in a
5 multisite timeshare plan (or multisite vacation ownership plan
6 or multisite vacation plan or vacation club). The statements
7 contained herein are only summary in nature. A prospective
8 purchaser should refer to all references, accompanying
9 exhibits ~~hereto~~, contract documents, and sales materials. The
10 prospective purchaser should not rely upon oral
11 representations as being correct and should refer to this
12 document and accompanying exhibits for correct
13 representations.
14

15 (2) A summary containing all statements required to be
16 in conspicuous type in the public offering statement and in
17 all exhibits thereto.

18 (3) A separate index for the contents and exhibits of
19 the public offering statement.

20 (4) A text, which shall include, where applicable, the
21 information and disclosures set forth in paragraphs (a)-(1)
22 ~~below together with cross-references to the location in the~~
23 ~~public offering statement of each exhibit, if applicable.~~

24 (a) A description of the multisite timeshare plan,
25 including its term, legal structure, and form of ownership.
26 For multisite timeshare plans in which the purchaser will
27 receive a timeshare estate pursuant to s. 721.57 or a specific
28 timeshare license as defined in s. 721.552(4), the description
29 must also include the term of each component site within the
30 multisite timeshare plan.
31

1 (b) A description of the structure and ownership of
2 the reservation system together with a disclosure of the
3 entity responsible for the operation of the reservation
4 system. The description shall include the financial terms of
5 any lease of the reservation system, if applicable. The
6 developer shall not be required to disclose the financial
7 terms of any such lease if such lease is prepaid in full for
8 the term of the multisite timeshare plan or to any extent that
9 neither purchasers nor the managing entity will be required to
10 make payments for the continued use of the system following
11 default by the developer or termination of the managing
12 entity.

13 (c)1. A description of the manner in which the
14 reservation system operates. The description shall include a
15 disclosure in compliance with the demand balancing standard
16 set forth in s. 721.56(6) and shall describe the developer's
17 efforts to comply with same in creating the reservation
18 system. The description shall also include a summary of the
19 rules and regulations governing access to and use of the
20 reservation system.

21 2. In lieu of describing the rules and regulations of
22 the reservation system in the public offering statement text,
23 the developer may attach the rules and regulations as a
24 separate public offering statement exhibit, together with a
25 cross-reference in the public offering statement text to such
26 exhibit.

27 ~~3. For each component site for which occupancy~~
28 ~~information is available, the developer shall disclose the~~
29 ~~average level of occupancy calculated by category of quarter~~
30 ~~or season for the calendar year including the date 2 years~~
31 ~~prior to the date on which the multisite timeshare plan is~~

1 ~~first offered. Every 2 years such averages must be revised~~
2 ~~and updated. In lieu of providing such information in the~~
3 ~~public offering statement text, the developer may provide the~~
4 ~~information in a public offering statement exhibit, together~~
5 ~~with a cross-reference in the public offering statement text~~
6 ~~to such exhibit.~~

7 (d) The existence of and an explanation regarding any
8 priority reservation features that affect a purchaser's
9 ability to make reservations for the use of a given
10 accommodation or facility on a first come, first served basis,
11 including, if applicable, the following statement in
12 conspicuous type:

13
14 Component sites contained in the multisite timeshare
15 plan (or multisite vacation ownership plan or multisite
16 vacation plan or vacation club) are subject to priority
17 reservation features which may affect your ability to obtain a
18 reservation.

19
20 (e) A summary of the material rules and regulations,
21 if any, other than the reservation system rules and
22 regulations, affecting the purchaser's use of each
23 accommodation and facility at each component site.

24 (f) If the provisions of s. 721.552 and the timeshare
25 instrument permit additions, substitutions, or deletions of
26 accommodations or facilities, the public offering statement
27 must include substantially the following information:

28 1. Additions.--

29 a. A description of the basis upon which new
30 accommodations and facilities may be added to the multisite
31 timeshare plan; by whom additions may be made; and the

1 anticipated effect of the addition of new accommodations and
2 facilities upon the reservation system, its priorities, its
3 rules and regulations, and the availability of existing
4 accommodations and facilities.

5 b. The developer must disclose the existence of any
6 cap on annual increases in common expenses of the multisite
7 timeshare plan that would apply in the event that additional
8 accommodations and facilities are made a part of the plan.

9 c. The developer shall also disclose any extent to
10 which the purchasers of the multisite timeshare plan will have
11 the right to consent to any proposed additions; if the
12 purchasers do not have the right to consent, the developer
13 must include the following disclosure in conspicuous type:

14
15 Accommodations and facilities may be added to this
16 multisite timeshare plan (or multisite vacation ownership plan
17 or multisite vacation plan or vacation club) without the
18 consent of the purchasers. The addition of accommodations and
19 facilities to the plan may result in the addition of new
20 purchasers who will compete with existing purchasers in making
21 reservations for the use of available accommodations and
22 facilities within the plan, and may also result in an increase
23 in the annual assessment against purchasers for common
24 expenses.

25

26 2. Substitutions.--

27 a. A description of the basis upon which new
28 accommodations and facilities may be substituted for existing
29 accommodations and facilities of the multisite timeshare plan;
30 by whom substitutions may be made; the basis upon which the
31 determination may be made to cause such substitutions to

1 occur; and any limitations upon the ability to cause
2 substitutions to occur.

3 b. The developer shall also disclose any extent to
4 which purchasers will have the right to consent to any
5 proposed substitutions; if the purchasers do not have the
6 right to consent, the developer must include the following
7 disclosure in conspicuous type:

8
9 New accommodations and facilities may be substituted
10 for existing accommodations and facilities of this multisite
11 timeshare plan (or multisite vacation ownership plan or
12 multisite vacation plan or vacation club) without the consent
13 of the purchasers. The replacement accommodations and
14 facilities may be located at a different place or may be of a
15 different type or quality than the replaced accommodations and
16 facilities. The substitution of accommodations and facilities
17 may also result in an increase in the annual assessment
18 against purchasers for common expenses.

19
20 3. Deletions.--A description of any provision of the
21 timeshare instrument governing deletion of accommodations or
22 ~~and~~ facilities from the multisite timeshare plan. If the
23 timeshare instrument does not provide for business
24 interruption insurance in the event of a casualty, or if it is
25 unavailable, or if the instrument permits the developer, the
26 managing entity, or the purchasers to elect not to reconstruct
27 after casualty under certain circumstances or to secure
28 replacement accommodations or facilities in lieu of
29 reconstruction, the public offering statement must contain a
30 disclosure that during the reconstruction, replacement, or
31 acquisition period, or as a result of a decision not to

1 reconstruct, purchasers of the plan may temporarily compete
2 for available accommodations on a greater than one-to-one
3 purchaser to accommodation ratio.

4 (g) A description of the developer and the managing
5 entity of the multisite timeshare plan, including:

6 1. The identity of the developer; the developer's
7 business address; the number of years of experience the
8 developer has in the timeshare, hotel, motel, travel, resort,
9 or leisure industries; and a description of any pending
10 lawsuit or judgment against the developer which is material to
11 the plan. If there are no such pending lawsuits or judgments,
12 there shall be a statement to that effect.

13 2. The identity of the managing entity of the
14 multisite timeshare plan; the managing entity's business
15 address; the number of years of experience the managing entity
16 has in the timeshare, hotel, motel, travel, resort, or leisure
17 industries; and a description of any lawsuit or judgment
18 against the managing entity which is material to the plan. If
19 there are no pending lawsuits or judgments, there shall be a
20 statement to that effect. The description of the managing
21 entity shall also include a description of the relationship
22 among the managing entity of the multisite timeshare plan and
23 the various component site managing entities.

24 (h) A description of the purchaser's liability for
25 common expenses of the multisite timeshare plan, including the
26 following:

27 1. A description of the common expenses of the plan,
28 including the method of allocation and assessment of such
29 common expenses, whether component site common expenses and
30 real estate taxes are included within the total common expense
31 assessment of the multisite timeshare plan, and, if not, the

1 manner in which timely payment of component site common
2 expenses and real estate taxes shall be accomplished.

3 2. A description of any cap imposed upon the level of
4 common expenses payable by the purchaser. In no event shall
5 the total common expense assessment for the multisite
6 timeshare plan in a given calendar year exceed 125 percent of
7 the total common expense assessment for the plan in the
8 previous calendar year.

9 3. A description of the entity responsible for the
10 determination of the common expenses of the multisite
11 timeshare plan, as well as any entity which may increase the
12 level of common expenses assessed against the purchaser at the
13 multisite timeshare plan level.

14 4. A description of the method used to collect common
15 expenses, including the entity responsible for such
16 collections, and the lien rights of any entity for nonpayment
17 of common expenses. If the common expenses of any component
18 site are collected by the managing entity of the multisite
19 timeshare plan, a statement to that effect together with the
20 identity and address of the escrow agent required by s.
21 721.56(3).

22 5. If the purchaser will receive a nonspecific
23 timeshare license as defined in s. 721.552(4), a statement
24 that a multisite timeshare plan budget is attached to the
25 public offering statement as an exhibit pursuant to paragraph
26 (7)(c). The multisite timeshare plan budget shall comply with
27 the provisions of s. 721.07(5)(u)~~(x)~~.

28 6. If the developer intends to guarantee the level of
29 assessments for the multisite timeshare plan, such guarantee
30 must be based upon a good faith estimate of the revenues and
31

1 expenses of the multisite timeshare plan. The guarantee must
2 include a description of the following:

3 a. The specific time period, measured in one or more
4 calendar or fiscal years, during which the guarantee will be
5 in effect.

6 b. A statement that the developer will pay all common
7 expenses incurred in excess of the total revenues of the
8 multisite timeshare plan, if the developer is to be excused
9 from the payment of assessments during the guarantee period.

10 c. The level, expressed in total dollars, at which the
11 developer guarantees the assessments. If the developer has
12 reserved the right to extend or increase the guarantee level,
13 a disclosure must be included to that effect.

14 7. If ~~As~~ required under applicable law, the developer
15 shall also disclose the following matters for each component
16 site:

17 a. Any limitation upon annual increases in common
18 expenses;

19 b. The existence of any bad debt or working capital
20 reserve; and

21 c. The existence of any replacement or deferred
22 maintenance reserve.

23 (i) If there are any restrictions upon the sale,
24 transfer, conveyance, or leasing of an interest in a multisite
25 timeshare plan, a description of the restrictions together
26 with a statement in conspicuous type in substantially the
27 following form:

28

29 The sale, lease, or transfer of interests in this
30 multisite timeshare plan is restricted or controlled.
31

1 (j) The following statement in conspicuous type in
2 substantially the following form:

3
4 The purchase of an interest in a multisite timeshare
5 plan (or multisite vacation ownership plan or multisite
6 vacation plan or vacation club) should be based upon its value
7 as a vacation experience or for spending leisure time, and not
8 considered for purposes of acquiring an appreciating
9 investment or with an expectation that the interest may be
10 resold.

11
12 (k) If the multisite timeshare plan provides
13 purchasers with the opportunity to participate in an exchange
14 program, a description of the name and address of the exchange
15 company and the method by which a purchaser accesses the
16 exchange program. In lieu of this requirement, the public
17 offering statement text may contain a cross-reference to other
18 provisions in the public offering statement or in an exhibit
19 containing this information.

20 (1) A description of each component site, which
21 description may be disclosed in a written, graphic, tabular,
22 or other form approved by the division. The description of
23 each component site shall include the following information:

- 24 1. The name and address of each component site.
25 2. The number of accommodations, timeshare interests,
26 and timeshare periods, expressed in periods of 7-day use
27 availability, committed to the multisite timeshare plan and
28 available for use by purchasers.
29 3. Each type of accommodation in terms of the number
30 of bedrooms, bathrooms, sleeping capacity, and whether or not
31 the accommodation contains a full kitchen. For purposes of

1 this description, a full kitchen shall mean a kitchen having a
2 minimum of a dishwasher, range, sink, oven, and refrigerator.

3 4. A description of facilities available for use by
4 the purchaser at each component site, including the following:

5 a. The intended use of the facility, if not apparent
6 from the description.

7 ~~b. The capacity of the facility in terms of the number~~
8 ~~of people who can use it at any one time.~~

9 ~~c. If the facility is a swimming pool, a statement as~~
10 ~~to whether or not the pool is heated.~~

11 ~~b.d.~~ Any user fees associated with a purchaser's use
12 of the facility.

13 5. A cross-reference to the location in the public
14 offering statement of the description of any priority
15 reservation features which may affect a purchaser's ability to
16 obtain a reservation in the component site.

17 (5) Such other information as the division determines
18 is necessary to fairly, meaningfully, and effectively disclose
19 all aspects of the multisite timeshare plan, including, but
20 not limited to, any disclosures made necessary by the
21 operation of s. 721.03(8)~~(9)~~. However, if a developer has, in
22 good faith, attempted to comply with the requirements of this
23 section, and if, in fact, the developer has substantially
24 complied with the disclosure requirements of this chapter,
25 nonmaterial errors or omissions shall not be actionable.

26 (6) Any other information that the developer, with the
27 approval of the division, desires to include in the public
28 offering statement text.

29 (7) The following documents shall be included as
30 exhibits to the filed public offering statement ~~filed with the~~
31 ~~division~~, if applicable:

- 1 (a) The timeshare instrument.
- 2 (b) The reservation system rules and regulations.
- 3 (c) The multisite timeshare plan budget pursuant to
4 subparagraph (4)(h)5.
- 5 (d) Any document containing the material rules and
6 regulations described in paragraph (4)(e).
- 7 (e) Any contract, agreement, or other document through
8 which component sites are affiliated with the multisite
9 timeshare plan.
- 10 (f) Any escrow agreement required pursuant to s.
11 721.08 or s. 721.56(3).
- 12 (g) The form agreement for sale or lease of an
13 interest in the multisite timeshare plan.
- 14 (h) The form receipt for multisite timeshare plan
15 documents required to be given to the purchaser pursuant to s.
16 721.551(2)(b).
- 17 (i) The description of documents list required to be
18 given to the purchaser by s. 721.551(2)(b).
- 19 (j) The component site managing entity affidavit or
20 statement required by s. 721.56(1).
- 21 (k) Any subordination instrument required by s.
22 721.53.
- 23 (l)1. If the multisite timeshare plan contains any
24 component sites located in this state, the information
25 required by s. 721.07(5) pertaining to each such component
26 site unless exempt pursuant to s. 721.03.
- 27 2. If the purchaser will receive a timeshare estate
28 pursuant to s. 721.57 or a specific timeshare license as
29 defined in s. 721.552(4) in a component site located outside
30 of this state but which is offered in this state, the
31 information required by s. 721.07(5) pertaining to that

1 component site provided, however, that the provisions of s.
2 721.07(5)(u) shall only require disclosure of information
3 related to the estimated budget for the timeshare plan and
4 purchaser's expenses as required by the jurisdiction in which
5 the component site is located.

6 (8)(a) A timeshare plan containing only one component
7 site must be filed with the division as a multisite timeshare
8 plan if the timeshare instrument reserves the right for the
9 developer to add future component sites. However, if the
10 developer fails to add at least one additional component site
11 to a timeshare plan described in this paragraph within 3 years
12 after the date the plan is initially filed with the division,
13 the multisite filing for such plan shall thereupon terminate,
14 and the developer may not thereafter offer any further
15 interests in such plan unless and until he or she refiles such
16 plan with the division pursuant to this chapter.

17 (b) The public offering statement for any timeshare
18 plan described in paragraph (a) must include the following
19 disclosure in conspicuous type:

20
21 This timeshare plan has been filed as a multisite
22 timeshare plan (or multisite vacation ownership plan or
23 multisite vacation plan or vacation club); however, this plan
24 currently contains only one component site. The developer is
25 not required to add any additional component sites to the
26 plan. Do not purchase an interest in this plan in reliance
27 upon the addition of any other component sites.

28 Section 30. Subsection (2) of section 721.551, Florida
29 Statutes, is amended to read:

30 721.551 Delivery of multisite timeshare plan public
31 offering statement.--

1 (2) The developer shall furnish each purchaser with
2 the following:
3 (a) A copy of the approved multisite timeshare plan
4 public offering statement text ~~filed with the division~~
5 containing the information required by s. 721.55(1)-(6).
6 (b) A receipt for multisite timeshare plan documents
7 and a list describing any exhibit to the filed public offering
8 statement ~~filed with the division~~ which is not delivered to
9 the purchaser. The division is authorized to prescribe by rule
10 the form of the receipt for multisite timeshare plan documents
11 and the description of exhibits list that must be furnished to
12 the purchaser pursuant to this section.
13 (c) If the purchaser will receive a timeshare estate
14 pursuant to s. 721.57 or a specific timeshare license as
15 defined in s. 721.552(4) in a component site located in this
16 state, the developer shall also furnish the purchaser with the
17 information required to be delivered pursuant to s.
18 721.07(6)(a) and (b) for the component site in which the
19 purchaser will receive an estate or license.
20 (d) Any other exhibit that the developer elects to
21 include as part of the purchasers public offering statement ~~to~~
22 ~~be furnished to purchasers~~, provided that the developer first
23 files the exhibit with the division.
24 (e) An executed copy of any document which the
25 purchaser signs.
26 (f) The developer shall be required to provide the
27 managing entity of the multisite timeshare plan with a copy of
28 the approved filed public offering statement ~~text and exhibits~~
29 ~~filed with the division~~ and any approved amendments thereto to
30 be maintained by the managing entity as part of the books and
31 records of the timeshare plan pursuant to s. 721.13(3)(d).

1 Section 31. Paragraph (a) of subsection (3) of section
2 721.552, Florida Statutes, is amended to read:

3 721.552 Additions, substitutions, or deletions of
4 component site accommodations or facilities; purchaser
5 remedies for violations.--Additions, substitutions, or
6 deletions of component site accommodations or facilities may
7 be made only in accordance with the following:

8 (3) DELETIONS.--

9 (a) Deletion by casualty.--

10 1. Pursuant to s. 721.165, the timeshare instrument
11 creating the multisite timeshare plan must provide for
12 casualty insurance for the accommodations and facilities of
13 the multisite timeshare plan in an amount equal to the
14 replacement cost of such ~~the~~ accommodations or facilities.
15 The timeshare instrument must also provide that in the event
16 of a casualty that results in accommodations or facilities
17 being unavailable for use by purchasers, the managing entity
18 shall notify all affected purchasers of such unavailability of
19 use within 30 days after the event of casualty.

20 2. The timeshare instrument must also provide for the
21 application of any insurance proceeds arising from a casualty
22 to either the replacement or acquisition of additional similar
23 accommodations or facilities or to the removal of purchasers
24 from the multisite timeshare plan so that purchasers will not
25 be competing for available accommodations on a greater than
26 one-to-one purchaser to accommodation ratio.

27 3. If the timeshare instrument does not provide for
28 business interruption insurance, or if it is unavailable, or
29 if the instrument permits the developer, the managing entity,
30 or the purchasers to elect not to reconstruct after casualty
31 under certain circumstances or to secure replacement

1 accommodations or facilities in lieu of reconstruction,
2 purchasers of the plan may temporarily compete for available
3 accommodations on a greater than one-to-one purchaser to
4 accommodation ratio. The decision whether or not to
5 reconstruct shall be made as promptly as possible under the
6 circumstances.

7 4. Any replacement of accommodations or facilities
8 pursuant to this paragraph shall be made upon the same basis
9 as required for substitution as set forth in subparagraph
10 (2)(b)2.

11 Section 32. Subsection (2) and paragraphs (a) and (c)
12 of subsection (5) of section 721.56, Florida Statutes, are
13 amended to read:

14 721.56 Management of multisite timeshare plans;
15 reservation systems; demand balancing.--

16 (2) In the event that the developer files an affidavit
17 or other evidence with the division pursuant to subsection (1)
18 and subsequently determines that the status of the component
19 site has materially changed such that any portion of the
20 affidavit or other evidence is consequently materially
21 changed, the developer shall immediately notify the division
22 of the change. ~~In any event, the affidavit required by~~
23 ~~subsection (1) shall be renewed at least annually.~~

24 (5)(a)1. The reservation system is a facility of any
25 nonspecific timeshare license multisite timeshare plan as
26 defined in s. 721.552(4). The reservation system is not a
27 facility of any specific timeshare license multisite timeshare
28 plan as defined in s. 721.552(4), nor is it a facility of any
29 multisite timeshare plan in which timeshare estates are
30 offered pursuant to s. 721.57.

31

1 2. The reservation system of any multisite timeshare
2 plan shall include any computer software and hardware employed
3 for the purpose of enabling or facilitating the operation of
4 the reservation system. Nothing contained in this part shall
5 preclude a manager or management firm ~~company that is serving~~
6 ~~as managing entity~~ of a multisite timeshare plan from
7 providing in its contract with the purchasers or owners'
8 association of the multisite timeshare plan or in the
9 timeshare instrument that the manager or management firm
10 ~~company~~ owns the reservation system and that the managing
11 entity shall continue to own the reservation system in the
12 event the purchasers discharge the managing entity pursuant to
13 s. 721.14.

14 (c) In the event of a termination of a managing entity
15 of a timeshare estate or specific license multisite timeshare
16 plan as defined in s. 721.552(4), which managing entity owns
17 the reservation system, irrespective of whether the
18 termination is voluntary or involuntary and irrespective of
19 the cause of such termination, in addition to any other
20 remedies available to purchasers in this part, the terminated
21 managing entity shall, prior to such termination, promptly
22 transfer to each component site managing entity all relevant
23 data contained in the reservation system with respect to that
24 component site, including, but not limited to:

25 1. The names, addresses, and reservation status of
26 component site accommodations.

27 2. The names and addresses of all purchasers of
28 timeshare interests ~~periods~~ at that component site.

29 3. All outstanding confirmed reservations and
30 reservation requests for that component site.

31

1 4. Such other component site records and information
2 as are necessary, in the reasonable discretion of the
3 component site managing entity, to permit the uninterrupted
4 operation and administration of the component site, provided
5 that a given component site managing entity shall not be
6 entitled to any information regarding other component sites or
7 regarding the terminated multisite timeshare plan managing
8 entity.

9
10 All reasonable costs incurred by the terminated managing
11 entity in effecting the transfer of information required by
12 this paragraph shall be reimbursed to the terminated managing
13 entity on a pro rata basis by each component site, and the
14 amount of such reimbursement shall constitute a common expense
15 of each component site.

16 Section 33. Section 721.58, Florida Statutes, is
17 amended to read:

18 721.58 Filing fee; annual fee.--

19 ~~(1)~~ The developer of the multisite timeshare plan
20 shall pay the filing fee required by s. 721.07(4)(a); however,
21 the maximum amount of such filing fee shall be \$25,000 or the
22 total filing fee due with respect to the timeshare units in
23 the multisite timeshare plan that are located in this state
24 pursuant to s. 721.07(4)(a), whichever is greater.

25 ~~(2) The managing entity of the multisite timeshare~~
26 ~~plan shall pay the annual fee required by s. 721.27; provided,~~
27 ~~however, that the maximum amount of such annual fee shall be~~
28 ~~\$25,000 or the total annual fee due with respect to the~~
29 ~~timeshare units in the multisite timeshare plan that are~~
30 ~~located in this state calculated pursuant to s. 721.07(4)(a),~~
31 ~~whichever is greater.~~

1 Section 34. Subsection (3) of section 721.81, Florida
2 Statutes, is amended to read:

3 721.81 Legislative purpose.--The purposes of this part
4 are to:

5 (3) Recognize the need to assist ~~vacation ownership~~
6 ~~resort~~ owners' associations and mortgagees by simplifying and
7 expediting the process of foreclosure of assessment liens and
8 mortgage liens against timeshare estates.

9 Section 35. Paragraph (a) of subsection (1) of section
10 721.82, Florida Statutes, is amended to read:

11 721.82 Definitions.--As used in this part, the term:

12 (1) "Assessment lien" means:

13 (a) A lien for delinquent assessments as provided in
14 ss. 721.16, ~~and~~ 718.116, and 719.108 as to timeshare
15 condominiums; or

16 Section 36. Paragraph (b) of subsection (5) of section
17 721.84, Florida Statutes, is amended to read:

18 721.84 Appointment of a registered agent; duties.--

19 (5) A registered agent may resign his or her agency
20 appointment for any obligor for which he or she serves as
21 registered agent, provided that:

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

1 association ~~of the timeshare~~ plan as to the assessment lien;
2 and

3 Section 37. Subsection (2) of section 721.85, Florida
4 Statutes, is amended to read:

5 721.85 Service to notice address or on registered
6 agent.--

7 (2) The current owner and the mortgagor of a timeshare
8 estate must promptly notify the owners'association ~~of the~~
9 ~~timeshare plan~~ and the mortgagee of any change of address.

10 Section 38. Subsection (1) of section 721.86, Florida
11 Statutes, is amended to read:

12 721.86 Miscellaneous provisions.--

13 (1) The procedures in this part must be given effect
14 in the context of any foreclosure proceedings against
15 timeshare estates governed by this chapter, chapter 702, ~~or~~
16 chapter 718, or chapter 719.

17 Section 39. Subsection (22) of section 718.103,
18 Florida Statutes, is amended to read:

19 718.103 Definitions.--As used in this chapter, the
20 term:

21 (22) "Residential condominium" means a condominium
22 consisting of condominium units, any of which are intended for
23 use as a private temporary or permanent residence, except that
24 a condominium is not a residential condominium if the use for
25 which the units are intended is primarily commercial or
26 industrial and not more than three units are intended to be
27 used for private residence, and are intended to be used as
28 housing for maintenance, managerial, janitorial, or other
29 operational staff of the condominium. With respect to a
30 condominium that is not a timeshare condominium, a residential
31 unit includes a unit intended as a private temporary or

1 permanent residence as well as a unit not intended for
2 commercial or industrial use. With respect to a timeshare
3 condominium, the timeshare instrument as defined in s.
4 721.05(33)~~(30)~~ shall govern the intended use of each unit in
5 the condominium. If a condominium is a residential condominium
6 but contains units intended to be used for commercial or
7 industrial purposes, then, with respect to those units which
8 are not intended for or used as private residences, the
9 condominium is not a residential condominium. A condominium
10 which contains both commercial and residential units is a
11 mixed-use condominium subject to the requirements of s.
12 718.404.

13 Section 40. If any provision of this act or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the act which can be given effect without the
17 invalid provision or application, and to this end the
18 provisions of this act are declared severable.

19 Section 41. This act shall take effect upon becoming a
20 law; however, all documents filed and approved in accordance
21 with chapter 721, Florida Statutes, prior to the effective
22 date of this act, or any amendments to such documents made
23 subsequent to the date this act becomes a law that are
24 otherwise in compliance with this chapter prior to the
25 effective date of this act, shall be deemed to be in
26 compliance with the filing requirements of this chapter.

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HOUSE SUMMARY

Generally revises the provisions of the Florida Vacation Plan and Timesharing Act, which includes the McAllister Act, the Timeshare Lien Foreclosure Act, and provisions relating to commissioners of deeds. Provides consistent language throughout ch. 721, F.S. See bill for details.