

1                   A bill to be entitled  
2                   An act relating to real property; amending s.  
3                   617.3075, F.S.; prohibiting homeowners'  
4                   associations from prohibiting display of the  
5                   United States flag; amending s. 718.103, F.S.;  
6                   revising definitions; providing an additional  
7                   definition; amending s. 718.104, F.S.;  
8                   providing additional requirements for a  
9                   declaration of condominium; modifying time  
10                  period for filing recorded documents; providing  
11                  for determining the percentage share of  
12                  liability for common expenses and ownership;  
13                  amending s. 718.106, F.S.; providing for the  
14                  right to assign exclusive use; providing for  
15                  the right to seek election; amending s.  
16                  718.110, F.S.; clarifying requirements for  
17                  amending and recording the declaration of  
18                  condominium; providing for determining the  
19                  percentage share of liability for common  
20                  expenses and ownership for purposes of  
21                  condominiums comprising a multicondominium  
22                  development; amending s. 718.111, F.S.;  
23                  clarifying an attorney-client privilege;  
24                  revising requirements for financial reporting;  
25                  authorizing certain financial statements in  
26                  lieu of reports; deleting requirements for  
27                  financial statements; revising certain  
28                  limitations on the commingling of funds  
29                  maintained in the name of a condominium  
30                  association or multicondominium; amending s.  
31                  718.112, F.S.; revising requirements for budget

1 meetings; requiring separate budgets for  
2 condominiums and associations; providing  
3 conditions under which a multicondominium  
4 association may waive or reduce its funding of  
5 reserves; amending s. 718.113, F.S.; providing  
6 certain limitations on making material  
7 alterations or additions to multicondominiums;  
8 providing a procedure for approving an  
9 alteration or addition if not provided for in  
10 the bylaws; revising requirements for  
11 condominium boards with respect to installing  
12 and maintaining hurricane shutters; specifying  
13 expenses that constitute common expenses of a  
14 multicondominium association; providing for an  
15 association's bylaws to allow certain  
16 educational expenses of the officers or  
17 directors to be a permitted common expense;  
18 amending s. 718.115, F.S.; providing for  
19 determining the common surplus owned by a unit  
20 owner of a multicondominium; authorizing  
21 condominium households receiving supplemental  
22 security income or food stamps to discontinue  
23 cable television service without fees,  
24 penalties, or service charges; amending s.  
25 718.116, F.S.; revising circumstances under  
26 which a developer may be excused from paying  
27 certain common expenses and assessments;  
28 providing for the developer's obligation for  
29 such expenses with respect to a  
30 multicondominium association; amending s.  
31 718.117, F.S.; providing that certain

1 requirements governing the termination of a  
2 condominium are inapplicable to the merger of a  
3 condominium with one or more other  
4 condominiums; amending s. 718.403, F.S.;  
5 modifying time period for filing recorded  
6 documents; creating s. 718.405, F.S.; providing  
7 for the creation of multicondominiums;  
8 providing requirements for the declaration of  
9 condominium; providing for the merger or  
10 consolidation of condominium associations;  
11 repealing s. 718.5019, F.S., relating to the  
12 Advisory Council on Condominiums; amending s.  
13 718.504, F.S.; providing requirements for the  
14 prospectus or offering circular for a  
15 condominium that is or may become part of a  
16 multicondominium; amending s. 721.13, F.S.;  
17 conforming a cross-reference; repealing s.  
18 718.501(1)(j), F.S., relating to uniform  
19 accounting principles, policies, and standards  
20 required to be adopted by the Division of  
21 Florida Land Sales, Condominiums, and Mobile  
22 Homes of the Department of Business and  
23 Professional Regulation; amending s. 719.103,  
24 F.S.; providing for governance of a timeshare  
25 cooperative; defining the term "timeshare  
26 estate" for purposes of ch. 719, F.S., the  
27 Cooperative Act; amending s. 719.107, F.S.;  
28 providing for joint and several liability for  
29 payments of assessments and charges with  
30 respect to a timeshare unit; amending s.  
31 719.114, F.S.; providing for assessing

1 timeshare estates for purposes of ad valorem  
 2 taxes and special assessments; amending s.  
 3 719.3026, F.S.; exempting certain contracts  
 4 from provisions governing products and  
 5 services; amending s. 719.401, F.S.; specifying  
 6 the term of the leasehold for a timeshare  
 7 cooperative; amending s. 719.503, F.S.;  
 8 requiring that certain additional disclosures  
 9 be made prior to the sale or transfer of a  
 10 timeshare estate; amending s. 719.504, F.S.;  
 11 requiring that the creation and sale of a  
 12 timeshare estate with respect to a cooperative  
 13 unit be disclosed in the prospectus or offering  
 14 circular; amending s. 721.03, F.S.; revising  
 15 language with respect to the scope of the  
 16 Florida Vacation Plan and Timesharing Act;  
 17 amending s. 721.05, F.S.; providing  
 18 definitions; amending s. 721.06, F.S.; revising  
 19 requirements with respect to contracts for the  
 20 purchase of timeshare interests; amending s.  
 21 721.065, F.S.; providing for resale listings;  
 22 providing legislative intent; providing for the  
 23 deposit of certain advance fees in a trust  
 24 account; providing requirements with respect to  
 25 resale; providing penalties; amending s.  
 26 721.07, F.S.; revising language with respect to  
 27 public offering statements; providing  
 28 conditions for the delivery of a purchaser  
 29 public offering statement which is not yet  
 30 approved by the Division of Florida Land Sales,  
 31 Condominiums, and Mobile Homes of the

1 Department of Business and Professional  
2 Regulation; amending s. 721.075, F.S.; revising  
3 language with respect to incidental benefits;  
4 amending s. 721.08, F.S.; revising language  
5 with respect to escrow accounts; providing  
6 additional criteria with respect to compliance  
7 with certain conditions for the release of  
8 escrow funds; providing requirements with  
9 respect to unclaimed escrow funds; amending s.  
10 721.09, F.S.; revising language with respect to  
11 reservation agreements; amending s. 721.10,  
12 F.S.; revising language with respect to  
13 cancellation; amending s. 721.11, F.S.;  
14 providing a filing fee with respect to  
15 advertising materials filed with the division;  
16 revising language with respect to advertising  
17 materials; providing additional criteria for  
18 advertising materials; amending s. 721.111,  
19 F.S.; revising language with respect to prize  
20 and gift promotional offers; amending s.  
21 721.12, F.S., relating to recordkeeping by a  
22 seller; amending s. 721.13, F.S.; revising  
23 language with respect to management; providing  
24 additional powers of the board of  
25 administration of the owners' association;  
26 amending s. 721.14, F.S., relating to discharge  
27 of the managing entity; amending s. 721.15,  
28 F.S.; revising language with respect to  
29 assessments for common expenses; providing  
30 requirements with respect to insurance;  
31 amending s. 721.16, F.S.; revising language

1 with respect to liens for overdue assessments  
 2 and liens for labor performed on, or materials  
 3 furnished to a timeshare unit; providing a lien  
 4 for certain damages done by a guest; amending  
 5 s. 721.165, F.S.; providing penalties for  
 6 failure to obtain certain insurance; amending  
 7 s. 721.17, F.S.; revising language with respect  
 8 to transfer of interest; amending s. 721.18,  
 9 F.S., relating to exchange programs; amending  
 10 s. 721.19, F.S., relating to provisions  
 11 requiring the purchase or lease of timeshare  
 12 property by owners' associations or purchasers;  
 13 amending s. 721.20, F.S.; revising language  
 14 with respect to licensing requirements;  
 15 amending s. 721.21, F.S., relating to  
 16 purchasers' remedies; amending s. 721.24, F.S.;  
 17 revising language with respect to firesafety;  
 18 amending s. 721.26, F.S.; revising language  
 19 with respect to regulation by the division;  
 20 amending s. 721.27, F.S.; revising language  
 21 with respect to the annual fee for each  
 22 timeshare unit in the plan; creating s. 721.29,  
 23 F.S.; providing for the protection of  
 24 purchasers' rights when recording is not  
 25 available in certain jurisdictions; amending s.  
 26 721.51, F.S.; revising language with respect to  
 27 legislative purpose and scope concerning  
 28 vacation clubs; amending s. 721.52, F.S.;  
 29 revising the definition of the term "multisite  
 30 timeshare plan"; amending s. 721.53, F.S.;  
 31 providing an additional piece of information

1           which the developer may provide to the division  
2           prior to offering an accommodation or facility  
3           as a part of a multisite timeshare plan;  
4           amending s. 721.55, F.S.; revising language  
5           with respect to the public offering statement  
6           for a multisite timeshare plan; amending s.  
7           721.551, F.S., relating to the delivery of a  
8           multisite timeshare plan public offering  
9           statement; amending s. 721.552, F.S., relating  
10          to additions, substitutions, or deletions of  
11          component site accommodations or facilities;  
12          repealing s. 721.553, F.S., relating to the  
13          portrayal of proposed component sites; amending  
14          s. 721.56, F.S.; revising language with respect  
15          to the management of multisite timeshare plans;  
16          amending s. 721.81, F.S.; revising legislative  
17          purpose with respect to the Timeshare Lien  
18          Foreclosure Act; amending s. 721.82, F.S.;  
19          revising the definition of the term "assessment  
20          lien"; amending s. 721.84, F.S., relating to  
21          the appointment of a resident agent; amending  
22          s. 721.85, F.S., relating to service to notice  
23          address or on registered agent; amending s.  
24          721.86, F.S., including a cross reference;  
25          amending s. 718.103, F.S.; correcting a cross  
26          reference; providing severability; providing an  
27          effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:  
30  
31

1           Section 1. Subsection (21) of section 719.103, Florida  
2 Statutes, is amended, and present subsections (23) through  
3 (26) are renumbered as subsections (24) through (27),  
4 respectively, and a new subsection (23) is added to said  
5 section, to read:

6           719.103 Definitions.--As used in this chapter:

7           (21) "Residential cooperative" means a cooperative  
8 consisting of cooperative units, any of which are intended for  
9 use as a private residence. A cooperative is not a residential  
10 cooperative if the use of the units is intended as primarily  
11 commercial or industrial and not more than three units are  
12 intended to be used for private residence, domicile, or  
13 homestead, or if the units are intended to be used as housing  
14 for maintenance, managerial, janitorial, or other operational  
15 staff of the cooperative. If a cooperative is a residential  
16 cooperative under this definition, but has units intended to  
17 be commercial or industrial, then the cooperative is a  
18 residential cooperative with respect to those units intended  
19 for use as a private residence, domicile, or homestead, but  
20 not a residential cooperative with respect to those units  
21 intended for use commercially or industrially. With respect to  
22 a timeshare cooperative, the timeshare instrument as defined  
23 in s. 721.05 shall govern the intended use of each unit in the  
24 cooperative.

25           (23) "Timeshare estate" means any interest in a unit  
26 under which the exclusive right of use, possession, or  
27 occupancy of the unit circulates among the various purchasers  
28 of a timeshare plan pursuant to chapter 721 on a recurring  
29 basis for a period of time.

30           Section 2. Subsection (1) of section 719.107, Florida  
31 Statutes, is amended to read:

1           719.107 Common expenses; assessment.--

2           (1)(a) Common expenses include the expenses of the  
3 operation, maintenance, repair, or replacement of the  
4 cooperative property; costs of carrying out the powers and  
5 duties of the association; and any other expense, whether or  
6 not included in this paragraph, designated as common expense  
7 by this chapter or the cooperative documents.

8           (b) If so provided in the bylaws, the cost of a master  
9 antenna television system or duly franchised cable television  
10 service obtained pursuant to a bulk contract shall be deemed a  
11 common expense, and if not obtained pursuant to a bulk  
12 contract, such cost shall be considered common expense if it  
13 is designated as such in a written contract between the board  
14 of administration and the company providing the master  
15 television antenna system or the cable television service.  
16 The contract shall be for a term of not less than 2 years.

17           1. Any contract made by the board after April 2, 1992,  
18 for a community antenna system or duly franchised cable  
19 television service may be canceled by a majority of the voting  
20 interests present at the next regular or special meeting of  
21 the association. Any member may make a motion to cancel the  
22 contract, but if no motion is made or if such motion fails to  
23 obtain the required majority at the next regular or special  
24 meeting, whichever is sooner, following the making of the  
25 contract, then such contract shall be deemed ratified for the  
26 term therein expressed.

27           2. Any such contract shall provide, and shall be  
28 deemed to provide if not expressly set forth, that any hearing  
29 impaired or legally blind unit owner who does not occupy the  
30 unit with a nonhearing impaired or sighted person may  
31 discontinue the service without incurring disconnect fees,

1 penalties, or subsequent service charges, and as to such  
2 units, the owners shall not be required to pay any common  
3 expenses charge related to such service. If less than all  
4 members of an association share the expenses of cable  
5 television, the expense shall be shared equally by all  
6 participating unit owners. The association may use the  
7 provisions of s. 719.108 to enforce payment of the shares of  
8 such costs by the unit owners receiving cable television.

9 (c) If any unpaid share of common expenses or  
10 assessments is extinguished by foreclosure of a superior lien  
11 or by a deed in lieu of foreclosure thereof, the unpaid share  
12 of common expenses or assessments are common expenses  
13 collectible from all the unit owners in the cooperative in  
14 which the unit is located.

15 (d) With respect to each timeshare unit, each owner of  
16 a timeshare estate therein is jointly and severally liable for  
17 the payment of all assessments and other charges levied  
18 against or with respect to that unit pursuant to the  
19 cooperative documents, except to the extent that the  
20 cooperative documents provide to the contrary. This paragraph  
21 does not apply to any unit that is not committed to a  
22 timeshare plan.

23 Section 3. Subsection (3) is added to section 719.114,  
24 Florida Statutes, to read:

25 719.114 Separate taxation of cooperative parcels;  
26 survival of contractual provisions after tax sale.--

27 (3) Cooperative property divided into timeshare  
28 estates shall be assessed for purposes of ad valorem taxes and  
29 special assessments as provided in s. 192.037.

30 Section 4. Section 719.3026, Florida Statutes, is  
31 amended to read:

1           719.3026 Contracts for products and services; in  
2 writing; bids; exceptions.--Associations with less than 100  
3 units may opt out of the provisions of this section if  
4 two-thirds of the unit owners vote to do so, which opt-out may  
5 be accomplished by a proxy specifically setting forth the  
6 exception from this section.

7           (1) All contracts as further described herein or any  
8 contract that is not to be fully performed within 1 year after  
9 the making thereof, for the purchase, lease, or renting of  
10 materials or equipment to be used by the association in  
11 accomplishing its purposes under this chapter, and all  
12 contracts for the provision of services, shall be in writing.  
13 If a contract for the purchase, lease, or renting of materials  
14 or equipment, or for the provision of services, requires  
15 payment by the association in an amount which in the aggregate  
16 exceeds 5 percent of the association's budget, including  
17 reserves, the association shall obtain competitive bids for  
18 the materials, equipment, or services. Nothing contained  
19 herein shall be construed to require the association to accept  
20 the lowest bid.

21           (2)(a)1. Notwithstanding the foregoing, contracts with  
22 employees of the association, and contracts for attorney,  
23 accountant, architect, community association manager,  
24 timeshare management firm, engineering, and landscape  
25 architect services shall not be subject to the provisions of  
26 this section.

27           2. A contract executed before January 1, 1992, and any  
28 renewal thereof, is not subject to the competitive bid  
29 requirements of this section. If a contract was awarded under  
30 the competitive bid procedures of this section, any renewal of  
31 that contract is not subject to such competitive bid

1 requirements if the contract contains a provision that allows  
2 the board to cancel the contract on 30 days' notice.  
3 Materials, equipment, or services provided to a cooperative  
4 pursuant to a local government franchise agreement by a  
5 franchise holder are not subject to the competitive bid  
6 requirement. A contract with a manager, if made by a  
7 competitive bid, may be made for up to 3 years. A condominium  
8 whose declaration or bylaws provides for competitive bidding  
9 for services may operate under the provisions of that  
10 declaration or bylaws in lieu of this section if those  
11 provisions are not less stringent than the requirements of  
12 this section.

13 (b) This section does not limit the ability of an  
14 association to obtain needed products and services in an  
15 emergency.

16 (c) This section does not apply if the business entity  
17 with which the association desires to enter into a contract is  
18 the only source of supply within the county serving the  
19 association.

20 Section 5. Subsection (1) of section 719.401, Florida  
21 Statutes, is amended to read:

22 719.401 Leaseholds.--

23 (1) A cooperative may be created on lands held under  
24 lease or may include recreational facilities or other common  
25 elements or commonly used facilities on a leasehold, if, on  
26 the date the first unit is conveyed by the developer to a bona  
27 fide purchaser, the lease has an unexpired term of at least 50  
28 years. However, if the cooperative constitutes a timeshare  
29 cooperative created pursuant to chapter 721, the lease must  
30 have an unexpired term of at least 30 years. If rent under the  
31

1 lease is payable by the association or by the unit owners, the  
2 lease shall include the following requirements:

3 (a) The leased land must be identified by a  
4 description that is sufficient to pass title, and the leased  
5 personal property must be identified by a general description  
6 of the items of personal property and the approximate number  
7 of each item of personal property that the developer is  
8 committing to furnish for each room or other facility. In the  
9 alternative, the personal property may be identified by a  
10 representation as to the minimum amount of expenditure that  
11 will be made to purchase the personal property for the  
12 facility. Unless the lease is of a unit, the identification  
13 of the land shall be supplemented by a survey showing the  
14 relation of the leased land to the land included in the common  
15 areas. This provision shall not prohibit adding additional  
16 land or personal property in accordance with the terms of the  
17 lease, provided there is no increase in rent or material  
18 increase in maintenance costs to the individual unit owner.

19 (b) The lease shall not contain a reservation of the  
20 right of possession or control of the leased property by the  
21 lessor or any person other than unit owners or the  
22 association, and shall not create rights to possession or use  
23 of the leased property in any parties other than the  
24 association or unit owners of the cooperative to be served by  
25 the leased property, unless the reservations and rights  
26 created are conspicuously disclosed. Any provision for use of  
27 the leased property by anyone other than unit owners of the  
28 cooperatives to be served by the leased property shall require  
29 the other users to pay a fair and reasonable share of the  
30 maintenance and repair obligations and other exactions due  
31 from users of the leased property.

1           (c) The lease shall state the minimum number of unit  
2 owners that will be required, directly or indirectly, to pay  
3 the rent under the lease and the maximum number of units that  
4 will be served by the leased property. The limitation of the  
5 number of units to be served shall not preclude enlargement of  
6 the facilities leased and an increase in their capacity, if  
7 approved by the association operating the leased property  
8 after unit owners other than the developer have assumed  
9 control of the association. This paragraph does not apply if  
10 the lessor is the Government of the United States or the State  
11 of Florida or any political subdivision thereof or any agency  
12 or any political subdivision thereof.

13           (d)1. In any action by the lessor to enforce a lien  
14 for rent payable or in any action by the association or a unit  
15 owner with respect to the obligations of the lessee or the  
16 lessor under the lease, the unit owner or the association may  
17 raise any issue or interpose any defenses, legal or equitable,  
18 that he or she or it may have with respect to the lessor's  
19 obligations under the lease. If the unit owner or the  
20 association initiates any action or interposes any defense  
21 other than payment of rent under the lease, the unit owner or  
22 the association shall, upon service of process upon the  
23 lessor, pay into the registry of the court any allegedly  
24 accrued rent and the rent which accrues during the pendency of  
25 the proceeding, when due. If the unit owner or the  
26 association fails to pay the rent into the registry of the  
27 court, it shall constitute an absolute waiver of the unit  
28 owner's or association's defenses other than payment, and the  
29 lessor shall be entitled to default. The unit owner or the  
30 association shall notify the lessor of any deposits. When the  
31 unit owner or the association has deposited the required funds

1 into the registry of the court, the lessor may apply to the  
2 court for disbursement of all or part of the funds shown to be  
3 necessary for the payment of taxes, mortgage payments,  
4 maintenance and operating expenses, and other necessary  
5 expenses incident to maintaining and equipping the leased  
6 facilities or necessary for the payment of other expenses  
7 arising out of personal hardship resulting from the loss of  
8 rental income from the leased facilities. The court, after an  
9 evidentiary hearing, may award all or part of the funds on  
10 deposit to the lessor for such purpose. The court shall  
11 require the lessor to post bond or other security, as a  
12 condition to the release of funds from the registry, when the  
13 value of the leased land and improvements, apart from the  
14 lease itself, is inadequate to fully secure the sum of  
15 existing encumbrances on the leased property and the amounts  
16 released from the court registry.

17         2. When the association or unit owners have deposited  
18 funds into the registry of the court pursuant to this  
19 subsection, and the unit owners and association have otherwise  
20 complied with their obligations under the lease or agreement,  
21 other than paying rent into the registry of the court rather  
22 than to the lessor, the lessor cannot hold the association or  
23 unit owners in default on their rental payments nor may the  
24 lessor file liens or initiate foreclosure proceedings against  
25 unit owners. If the lessor, in violation of this subsection,  
26 attempts such liens or foreclosures, then the lessor may be  
27 liable for damages plus attorney's fees and costs which the  
28 association or unit owners incurred in satisfying those liens  
29 or foreclosures.

30         3. Nothing in this paragraph shall affect litigation  
31 commenced prior to October 1, 1979.

1           (e) If the lease is of recreational facilities or  
2 other commonly used facilities that are not completed, rent  
3 shall not commence until some of the facilities are completed.  
4 Until all of the facilities leased are completed, rent shall  
5 be prorated and paid only for the completed facilities in the  
6 proportion that the value of the completed facilities bears to  
7 the estimated value, when completed, of all of the facilities  
8 that are leased. The facilities shall be complete when they  
9 have been constructed, finished, and equipped and are  
10 available for use.

11           (f)1. A lease of recreational or other commonly used  
12 facilities entered into by the association or unit owners  
13 prior to the time the control of the association is turned  
14 over to unit owners other than the developer shall grant to  
15 the lessee an option to purchase the leased property, payable  
16 in cash on any anniversary date of the beginning of the lease  
17 term after the 10th anniversary, at a price then determined by  
18 agreement. If there is no agreement as to the price, then the  
19 price shall be determined by arbitration. This paragraph shall  
20 be applied to contracts entered into on, before, or after  
21 January 1, 1977, regardless of the duration of the lease.

22           2. If the lessor wishes to sell his or her interest  
23 and has received a bona fide offer to purchase it, the lessor  
24 shall send the association and each unit owner a copy of the  
25 executed offer. For 90 days following receipt of the offer by  
26 the association or unit owners, the association or unit owners  
27 have the option to purchase the interest on the terms and  
28 conditions in the offer. The option shall be exercised, if at  
29 all, by notice in writing given to the lessor within the  
30 90-day period. If the association or unit owners do not  
31 exercise the option, the lessor shall have the right, for a

1 period of 60 days after the 90-day period has expired, to  
2 complete the transaction described in the offer to purchase.  
3 If for any reason such transaction is not concluded within the  
4 60 days, the offer shall have been abandoned, and the  
5 provisions of this subsection shall be reimposed.

6           3. The option shall be exercised upon approval by  
7 owners of two-thirds of the units served by the leased  
8 property.

9           4. The provisions of this paragraph shall not apply to  
10 a nonresidential cooperative and shall not apply if the lessor  
11 is the Government of the United States or the State of Florida  
12 or any political subdivision thereof or, in the case of an  
13 underlying land lease, a person or entity which is not the  
14 developer or directly or indirectly owned or controlled by the  
15 developer and did not obtain, directly or indirectly,  
16 ownership of the leased property from the developer.

17           (g) The lease or a subordination agreement executed by  
18 the lessor must provide either:

19           1. That any lien which encumbers a unit for rent or  
20 other moneys or exactions payable is subordinate to any  
21 mortgage held by an institutional lender, or

22           2. That, upon the foreclosure of any mortgage held by  
23 an institutional lender or upon delivery of a deed in lieu of  
24 foreclosure, the lien for the unit owner's share of the rent  
25 or other exactions shall not be extinguished but shall be  
26 foreclosed and unenforceable against the mortgagee with  
27 respect to that unit's share of the rent and other exactions  
28 which mature or become due and payable on or before the date  
29 of the final judgment of foreclosure, in the event of  
30 foreclosure, or on or before the date of delivery of the deed  
31 in lieu of foreclosure. The lien may, however, automatically

1 and by operation of the lease or other instrument, reattach to  
2 the unit and secure the payment of the unit's proportionate  
3 share of the rent or other exactions coming due subsequent to  
4 the date of final decree of foreclosure or the date of  
5 delivery of the deed in lieu of foreclosure.

6  
7 This paragraph does not apply if the lessor is the Government  
8 of the United States or the State of Florida or any political  
9 subdivision thereof or any agency or political subdivision  
10 thereof.

11 Section 6. Paragraph (a) of subsection (1) and  
12 paragraph (b) of subsection (3) of section 719.503, Florida  
13 Statutes, are amended to read:

14 719.503 Disclosure prior to sale.--

15 (1) DEVELOPER DISCLOSURE.--

16 (a) Contents of contracts.--Any contracts for the sale  
17 of a unit or a lease thereof for an unexpired term of more  
18 than 5 years shall contain:

19 1. The following legend in conspicuous type: THIS  
20 AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF  
21 THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE  
22 OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY  
23 BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR  
24 HER BY THE DEVELOPER UNDER SECTION 719.503, FLORIDA STATUTES.  
25 THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN  
26 NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER  
27 THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH  
28 MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS  
29 ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE  
30 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE  
31 TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER

1 THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S  
2 RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

3 2. The following caveat in conspicuous type shall be  
4 placed upon the first page of the contract: ORAL  
5 REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE  
6 REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT  
7 REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND  
8 THE DOCUMENTS REQUIRED BY SECTION 719.503, FLORIDA STATUTES,  
9 TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

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

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

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

20 6. If the contract is for the sale or lease of a unit  
21 that is subject to a lien for rent payable under a lease of a  
22 recreational facility or other common areas, the contract  
23 shall contain within the text the following statement in  
24 conspicuous type: THIS CONTRACT IS FOR THE TRANSFER OF A UNIT  
25 THAT IS SUBJECT TO ALIEN FOR RENT PAYABLE UNDER A LEASE OF  
26 COMMON AREAS. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF  
27 THE LIEN.

28 7. The contract shall state the name and address of  
29 the escrow agent required by s. 719.202 and shall state that  
30 the purchaser may obtain a receipt for his or her deposit from  
31 the escrow agent, upon request.

1           8. If the contract is for the sale or transfer of a  
2 unit in a cooperative in which timeshare estates have been or  
3 may be created, the following text in conspicuous type: UNITS  
4 IN THIS COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES. The  
5 contract for the sale of a timeshare estate must also contain,  
6 in conspicuous type, the following: FOR THE PURPOSE OF AD  
7 VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING  
8 AUTHORITIES AGAINST A TIMESHARE ESTATE, THE MANAGING ENTITY IS  
9 GENERALLY CONSIDERED THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE  
10 THE RIGHT TO CHALLENGE AN ASSESSMENT BY A TAXING AUTHORITY  
11 RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO THE PROVISIONS  
12 OF CHAPTER 194, FLORIDA STATUTES.

13           (3) OTHER DISCLOSURE.--

14           (b) Sales brochures, if any, shall be provided to each  
15 purchaser, and the following caveat in conspicuous type shall  
16 be placed on the inside front cover or on the first page  
17 containing text material of the sales brochure, or otherwise  
18 conspicuously displayed: ORAL REPRESENTATIONS CANNOT BE  
19 RELIED UPON AS CORRECTLY STATING REPRESENTATIONS OF THE  
20 DEVELOPER. FOR CORRECT REPRESENTATIONS, MAKE REFERENCE TO  
21 THIS BROCHURE AND TO THE DOCUMENTS REQUIRED BY SECTION  
22 719.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A  
23 BUYER OR LESSEE. If timeshare estates have been or may be  
24 created with respect to any unit in the cooperative, the sales  
25 brochure for sales of timeshare estates in such units must  
26 contain the following statement in conspicuous type: UNITS IN  
27 THIS COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES.

28           Section 7. Subsection (5) of section 719.504, Florida  
29 Statutes, is amended to read:

30           719.504 Prospectus or offering circular.--Every  
31 developer of a residential cooperative which contains more

1 than 20 residential units, or which is part of a group of  
2 residential cooperatives which will be served by property to  
3 be used in common by unit owners of more than 20 residential  
4 units, shall prepare a prospectus or offering circular and  
5 file it with the Division of Florida Land Sales, Condominiums,  
6 and Mobile Homes prior to entering into an enforceable  
7 contract of purchase and sale of any unit or lease of a unit  
8 for more than 5 years and shall furnish a copy of the  
9 prospectus or offering circular to each buyer. In addition to  
10 the prospectus or offering circular, each buyer shall be  
11 furnished a separate page entitled "Frequently Asked Questions  
12 and Answers," which must be in accordance with a format  
13 approved by the division. This page must, in readable  
14 language: inform prospective purchasers regarding their  
15 voting rights and unit use restrictions, including  
16 restrictions on the leasing of a unit; indicate whether and in  
17 what amount the unit owners or the association is obligated to  
18 pay rent or land use fees for recreational or other commonly  
19 used facilities; contain a statement identifying that amount  
20 of assessment which, pursuant to the budget, would be levied  
21 upon each unit type, exclusive of any special assessments, and  
22 which identifies the basis upon which assessments are levied,  
23 whether monthly, quarterly, or otherwise; state and identify  
24 any court cases in which the association is currently a party  
25 of record in which the association may face liability in  
26 excess of \$100,000; and state whether membership in a  
27 recreational facilities association is mandatory and, if so,  
28 identify the fees currently charged per unit type. The  
29 division shall by rule require such other disclosure as in its  
30 judgment will assist prospective purchasers. The prospectus or  
31 offering circular may include more than one cooperative,

1 although not all such units are being offered for sale as of  
2 the date of the prospectus or offering circular. The  
3 prospectus or offering circular must contain the following  
4 information:

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

11 (b) If timeshare estates are or may be created with  
12 respect to any unit in the cooperative, a statement in  
13 conspicuous type stating that timeshare estates are created  
14 and being sold in such specified units in the cooperative.

15 Section 8. Section 721.03, Florida Statutes, is  
16 amended to read:

17 721.03 Scope of chapter.--

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

23 (a) With respect to a timeshare plan ~~plans~~ containing  
24 accommodations or facilities located in this state which has  
25 previously been filed with and approved by the division and  
26 which is ~~are~~ offered for sale in other jurisdictions within  
27 the jurisdictional limits of the United States, ~~that regulate~~  
28 the offering or sale of the timeshare plan in ~~plans,~~ such  
29 jurisdictions ~~offers~~ shall not be subject to the provisions of  
30 this chapter ss. 721.06, 721.08-721.12, and 721.20 to the  
31 extent that such activity is regulated in the other United

1 ~~States jurisdictions, but only after the division has received~~  
2 ~~and accepted satisfactory evidence that the timeshare plan has~~  
3 ~~been filed and accepted by the appropriate agency in the other~~  
4 ~~jurisdictions. The director of the division shall also have~~  
5 ~~the discretion to require all or a portion of the disclosures~~  
6 ~~required by s. 721.07 or s. 721.55 to be made in connection~~  
7 ~~with offers made in the other United States jurisdictions.~~

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

18 1. The name and address of the timeshare plan.

19 2. The name and address of the developer and seller,  
20 if any.

21 3. The location and a brief description of the  
22 accommodations and facilities, if any, that are located in  
23 this state.

24 4. The number of timeshare interests and timeshare  
25 periods to be offered.

26 5. The term of the timeshare plan.

27 6. A copy of the timeshare instrument relating to the  
28 management and operation of accommodations and facilities, if  
29 any, that are located in this state.

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

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

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

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

27  
28 ~~Purchaser should note that ...(name of developer or other~~  
29 ~~person or entity)... at ...(address)... has a ...(describe~~  
30 ~~developer's or other person's or entity's actual interest)...~~  
31 ~~in the accommodations and facilities of the timeshare plan.~~

1  
2       ~~(c) The exemption provided in paragraph (a) shall not~~  
3 ~~apply unless and until a claim of exemption from regulation~~  
4 ~~containing the information required by paragraph (a) and s.~~  
5 ~~721.51(3)(b) and accompanied by the fee required by s.~~  
6 ~~721.51(3)(b) is filed with and approved by the division. The~~  
7 ~~division may adopt rules designating those provisions of ss.~~  
8 ~~721.07 and 721.55 which need not be addressed in the filings~~  
9 ~~required in paragraph (b).~~

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

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

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

26       3. Except as provided in this subparagraph, the  
27 division shall have no authority to determine whether any  
28 person has complied with another state's laws or to disapprove  
29 any filing out-of-state, timeshare instrument, or component  
30 site document, based solely upon the lack or degree of  
31 timeshare regulation in another state. The division may

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

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

25 5. Notwithstanding any other provision of this  
26 paragraph, the offer, in this state, of an additional interest  
27 to existing purchasers in the same timeshare plan or the same  
28 component site of a multisite timeshare plan with  
29 accommodations and facilities located outside of this state  
30 shall not be ~~which are located outside the state but offered~~  
31 for sale in this state as part of a vacation club are also

1 subject to the provisions of this chapter if the offer  
2 complies with the provisions of s. 721.11(4)~~part II~~.

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

15 ~~(3)(4)~~ A timeshare plan which is subject to the  
16 provisions of chapter 718 or chapter 719, if fully in  
17 compliance with the provisions of this chapter, is exempt from  
18 the following:

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

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

23 (c) Sections 718.503 and 719.503, relating to  
24 disclosure prior to sale.

25 (d) Sections 718.504 and 719.504, relating to  
26 prospectus or offering circular.

27 (e) Part VI of chapter 718 and part VI of chapter 719,  
28 relating to conversion of existing improvements to the  
29 condominium or cooperative form of ownership, respectively,  
30 provided that a developer converting existing improvements to  
31 a timeshare condominium or timeshare cooperative must comply

1 with ss. 718.606, 718.608, 718.61, and 718.62, or ss. 719.606,  
2 719.608, 719.61, and 719.62, if applicable, and, if the  
3 existing improvements received a certificate of occupancy more  
4 than 18 months before such conversion, one of the following:

5 1. The accommodations and facilities shall be  
6 renovated and improved to a condition such that the remaining  
7 useful life in years of the roof, plumbing, air-conditioning,  
8 and any component of the structure which has a useful life  
9 less than the useful life of the overall structure is equal to  
10 the useful life of accommodations or facilities that would  
11 exist if such accommodations and facilities were newly  
12 constructed and not previously occupied.

13 2. The developer shall fund reserve accounts for  
14 capital expenditures and deferred maintenance for the roof,  
15 plumbing, air-conditioning, and any component of the structure  
16 the useful life of which is less than the useful life of the  
17 overall structure. The reserve accounts shall be funded for  
18 each component in an amount equal to the product of the  
19 estimated current replacement cost of such component as of the  
20 date of such conversion (as disclosed and substantiated by a  
21 certificate under the seal of an architect or engineer  
22 authorized to practice in this state) multiplied by a  
23 fraction, the numerator of which shall be the remaining life  
24 of the component in years (as disclosed and substantiated by a  
25 certificate under the seal of an architect or engineer  
26 authorized to practice in this state) and the denominator of  
27 which shall be the total useful life of the component in years  
28 (as disclosed and substantiated by a certificate under the  
29 seal of an architect or engineer authorized to practice in  
30 this state). Alternatively, the reserve accounts may be funded  
31 for each component in an amount equal to the amount that,

1 except for the application of this subsection, would be  
2 required to be maintained pursuant to s. 718.618(1) or s.  
3 719.618(1). The developer shall fund the reserve accounts  
4 contemplated in this subparagraph out of the proceeds of each  
5 sale of a timeshare interest, on a pro rata basis, in an  
6 amount not less than a percentage of the total amount to be  
7 deposited in the reserve account equal to the percentage of  
8 ownership allocable to the timeshare interest sold. When an  
9 owners' association makes an expenditure of reserve account  
10 funds before the developer has initially sold all timeshare  
11 interests, the developer shall make a deposit in the reserve  
12 account if the reserve account is insufficient to pay the  
13 expenditure. Such deposit shall be at least equal to that  
14 portion of the expenditure which would be charged against the  
15 reserve account deposit that would have been made for any such  
16 timeshare interest had the timeshare interest been initially  
17 sold. When a developer deposits amounts in excess of the  
18 minimum reserve account funding, later deposits may be reduced  
19 to the extent of the excess funding.

20 3. The developer shall provide each purchaser with a  
21 warranty of fitness and merchantability pursuant to s.  
22 718.618(6) or s. 719.618(6).

23 ~~(4)(5)~~ The treatment of timeshare estates for ad  
24 valorem tax purposes and special assessments shall be as  
25 prescribed in chapters 192 through 200.

26 ~~(5)(6)~~ Membership camping plans shall be subject to  
27 the provisions of ss. 509.501-509.512 and not to the  
28 provisions of this chapter.

29 ~~(6)(7)~~ Unless otherwise provided herein, this chapter  
30 shall not apply to the offering of any timeshare plan under  
31 which the prospective purchaser's total financial obligation

1 will be ~~\$3,000~~~~\$1,500~~ or less during the entire term of the  
2 plan.

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

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

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

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

23 Section 9. Section 721.05, Florida Statutes, is  
24 amended to read:

25 721.05 Definitions.--As used in this chapter, the  
26 term:

27 (1) "Accommodation" means any apartment, condominium  
28 or cooperative unit, cabin, lodge, hotel or motel room,  
29 campground, or other private or commercial structure which is  
30 situated on real or personal property and designed for  
31

1 occupancy or use by one or more individuals. The term does  
2 not include an incidental benefit as defined in this section.

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

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

13 (4) "Closing" means:

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

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

26 (5) "Common expenses" means:

27 (a) Those expenses properly incurred for the  
28 maintenance, operation, and repair of the accommodations or  
29 facilities, or both, constituting the timeshare plan.

30 (b) Any other expenses designated as common expenses  
31 in a timeshare instrument.

1           (c) Any past due and uncollected ad valorem taxes  
2 assessed against a timeshare development pursuant to s.  
3 192.037.

4           (6) "Completion of construction" means:

5           (a)1. That a certificate of occupancy has been issued  
6 for the entire building in which the timeshare unit being sold  
7 is located, or for the improvement, or that the equivalent  
8 authorization has been issued, by the governmental body having  
9 jurisdiction; or

10           2. In a jurisdiction in which no certificate of  
11 occupancy or equivalent authorization is issued, that the  
12 construction, finishing, and equipping of the building or  
13 improvements according to the plans and specifications have  
14 been substantially completed; and

15           (b) That all accommodations and facilities of the  
16 timeshare plan are available for use in a manner identical in  
17 all material respects to the manner portrayed by the  
18 promotional material, advertising, and registered public  
19 offering statements ~~filed with the division.~~

20           ~~(c) Notwithstanding the provisions of paragraph (b), a~~  
21 ~~seller of a timeshare plan that is not a multisite timeshare~~  
22 ~~plan may portray possible accommodations or facilities to~~  
23 ~~prospective purchasers in advertising material or a public~~  
24 ~~offering statement filed with the division without such~~  
25 ~~accommodations or facilities being available for use by~~  
26 ~~purchasers so long as the advertising material or public~~  
27 ~~offering statement complies with the provisions of s.~~  
28 ~~721.11(4).~~

29           ~~(d) Notwithstanding the provisions of paragraph (b), a~~  
30 ~~developer of a timeshare plan that is not a multisite~~  
31 ~~timeshare plan may portray the general geographic location of~~

1 ~~possible accommodations or facilities to prospective~~  
2 ~~purchasers by disseminating oral or written statements~~  
3 ~~regarding same to broadcast or print media with no obligation~~  
4 ~~on the developer's part to actually construct such~~  
5 ~~accommodations or facilities or to file such accommodations~~  
6 ~~and facilities with the division, but only so long as such~~  
7 ~~oral or written statements are not considered advertising~~  
8 ~~material pursuant to s. 721.11(3)(e). For purposes of this~~  
9 ~~paragraph, the term "general geographic location" means the~~  
10 ~~boundaries of a state or country.~~

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

14 (7) "Conspicuous type" means:

15 (a) Type in upper and lower case letters two point  
16 sizes larger than the largest nonconspicuous type, exclusive  
17 of headings, on the page on which it appears but in at least  
18 10-point type; or

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

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

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

1 (9) "Developer" includes:

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

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

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

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

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

20 2. A managing entity, ~~that is~~ not otherwise a  
21 developer, that offers, or engages a third party to offer on  
22 its behalf, timeshare interests of a timeshare plan in its own  
23 right and that offers timeshare periods for its own account in  
24 a timeshare plan which it manages, provided that such offer  
25 complies to existing purchasers of that timeshare plan, or a  
26 managing entity which complies with the provisions of s.  
27 721.065; or

28 3. A person who owns or is conveyed, assigned, or  
29 transferred more than seven timeshare interests ~~periods~~ ~~from a~~  
30 ~~developer in a single voluntary or involuntary transaction and~~  
31 who subsequently conveys, assigns, or transfers all acquired

1 ~~of the timeshare interests periods received from the developer~~  
2 to a single purchaser in a single transaction, which  
3 transaction may occur in stages; or

4 4. A person who has acquired or has the right to  
5 acquire more than seven timeshare interests from a developer  
6 or other interestholder in connection with a loan,  
7 securitization, conduit, or similar financing arrangement  
8 transaction and who subsequently arranges for all or a portion  
9 of the timeshare interests to be offered by one or more  
10 developers in the ordinary course of business on their own  
11 behalfes or on behalf of such person.

12 (e) A successor or concurrent developer shall be  
13 exempt from any liability inuring to a predecessor or  
14 concurrent developer of the same timeshare plan, except as  
15 provided in s. 721.15(7), provided that this exemption shall  
16 not apply to any of the successor or concurrent developer's  
17 responsibilities, duties, or liabilities with respect to the  
18 timeshare plan that accrue after the date the successor or  
19 concurrent developer became a successor or concurrent  
20 developer, and provided that such transfer does not constitute  
21 a fraudulent transfer. In addition to other provisions of law,  
22 a transfer by a predecessor developer to a successor or  
23 concurrent developer shall be deemed fraudulent if the  
24 predecessor developer made the transfer:

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

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

29  
30 The provisions of this paragraph shall not be construed to  
31 relieve any successor or concurrent developer from the

1 obligation to comply with the provisions of any applicable  
2 timeshare instrument.

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

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

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

12 (13) "Escrow agent" includes only:

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

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

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

26 (d) A title insurance agent that is licensed pursuant  
27 to s. 626.8417, or a title insurance agency that is licensed  
28 pursuant to s. 626.8418, or a title insurer authorized to  
29 transact business in this state pursuant to s. 624.401 ~~so long~~  
30 ~~as the agent or agency has posted a fidelity bond issued by a~~  
31

1 ~~company authorized and licensed to do business in this state~~  
2 ~~as surety in the amount of \$50,000.~~

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

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

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

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

30 (17) "Incidental benefit" means an accommodation,  
31 product, service, discount, or other benefit which is offered

1 to a prospective purchaser of a timeshare plan or to a  
2 purchaser of a timeshare plan prior to the expiration of his  
3 or her initial 10-day voidability period pursuant to s.  
4 721.10; which is not an exchange program as defined in  
5 subsection (15); and which complies with the provisions of s.  
6 721.075. The term shall not include an offer of the use of  
7 the accommodations and facilities of the timeshare plan on a  
8 free or discounted one-time basis.

9 (18) "Independent," for purposes of determining  
10 eligibility of escrow agents and trustees pursuant to s.  
11 721.03(7)~~(8)~~, means that:

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

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

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

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

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

31

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

3           3. The escrow agent or trustee provides the developer  
4 with routine banking services which do not include  
5 construction or receivables financing or any other lending  
6 activities; or

7           4. The escrow agent or trustee performs closings for  
8 the developer or seller or issues owner's or lender's title  
9 insurance commitments or policies in connection with such  
10 closings.

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

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

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

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

29           (23) "One-to-one purchaser to accommodation ratio"  
30 means the ratio of the number of purchasers eligible to use  
31 the accommodations of a timeshare plan on a given day to the

1 number of accommodations available for use within the plan on  
 2 that day, such that the total number of purchasers eligible to  
 3 use the accommodations of the timeshare plan during a given  
 4 calendar year never exceeds the total number of accommodations  
 5 available for use in the timeshare plan during that year. For  
 6 purposes of calculation under this subsection, each purchaser  
 7 must be counted at least once, and no individual timeshare  
 8 unit may be counted more than 365 times per calendar year (or  
 9 more than 366 times per leap year). A purchaser who is  
 10 delinquent in the payment of timeshare plan assessments shall  
 11 continue to be considered eligible to use the accommodations  
 12 of the timeshare plan for purposes of this subsection  
 13 notwithstanding any application of s. 721.13(6).

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

20 (25) "Owners' association" means the association made  
 21 up of all purchasers of a timeshare plan who have purchased  
 22 timeshare estates.

23 (26) "Public offering statement" means the written  
 24 materials describing a single-site timeshare plan or a  
 25 multisite timeshare plan, including a text and any exhibits  
 26 attached thereto as required by ss. 721.07, 721.55, and  
 27 721.551. The term "public offering statement" shall refer to  
 28 both a registered public offering statement and a purchaser  
 29 public offering statement.

30 ~~(27)~~~~(26)~~ "Purchaser" means any person, other than a  
 31 developer, who by means of a voluntary transfer acquires a

1 legal or equitable interest in a timeshare plan other than as  
2 security for an obligation.

3 (28) "Purchaser public offering statement" means that  
4 portion of the registered public offering statement which must  
5 be delivered to purchasers pursuant to s. 721.07(6) or s.  
6 721.551.

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

10 (30)~~(27)~~ "Regulated short-term product" means a  
11 contractual right, offered by the seller, to use  
12 accommodations of a timeshare plan or other accommodations,  
13 provided that:

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

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

26 (31)~~(28)~~ "Seller" means any developer or any other  
27 person, or any agent or employee thereof, who offers timeshare  
28 interests ~~periods~~ in the ordinary course of business. The  
29 term "seller" does not include:

30 (a) An owner of a timeshare interest ~~period~~ who has  
31 acquired the timeshare interest ~~period~~ for his or her own use

1 and occupancy and who later offers it for resale; provided  
2 that a rebuttable presumption shall exist that an owner who  
3 has acquired more than seven timeshare interests ~~periods~~ did  
4 not acquire them for his or her own use and occupancy;

5 (b) A managing entity, ~~that is~~ not otherwise a seller,  
6 that offers, or engages a third party to offer on its behalf,  
7 timeshare interests of a timeshare plan in its own right and  
8 that offers timeshare periods for its own account in a  
9 timeshare plan which it manages, provided that such offer  
10 complies to existing purchasers of that timeshare plan, or a  
11 managing entity which complies with the provisions of s.  
12 721.065; or

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

20 (d) A person who has acquired or has the right to  
21 acquire more than seven timeshare interests from a developer  
22 or other interestholder in connection with a loan,  
23 securitization, conduit, or similar financing arrangement and  
24 who subsequently arranges for all or a portion of the  
25 timeshare interests to be offered by one or more developers in  
26 the ordinary course of business on their own behalves or on  
27 behalf of such person.

28 ~~(32)(29)~~ "Timeshare estate" means a right to occupy a  
29 timeshare unit, coupled with a freehold estate or an estate  
30 for years with a future interest in a timeshare property or a  
31 specified portion thereof. The term shall also mean an

1 interest in a condominium unit pursuant to s. 718.103, an  
2 interest in a cooperative unit pursuant to s. 719.103, or an  
3 interest in a trust that complies in all respects with the  
4 provisions of s. 721.08(2)(c)3.

5 (33)~~(30)~~ "Timeshare instrument" means one or more  
6 documents, by whatever name denominated, creating or governing  
7 the operation of a timeshare plan.

8 (34) "Timeshare interest" means a timeshare estate or  
9 timeshare license.

10 (35)~~(31)~~ "Timeshare license" means a right to occupy a  
11 timeshare unit, which right is neither coupled with a freehold  
12 interest, nor coupled with an estate for years with a future  
13 interest, in a timeshare property.

14 (36)~~(32)~~ "Timeshare period" means the period or  
15 periods of time when a purchaser of a timeshare interest plan  
16 is afforded the opportunity to use the accommodations or  
17 facilities, or both, of a timeshare plan.

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

27 (38)~~(34)~~ "Timeshare property" means one or more  
28 timeshare units subject to the same timeshare instrument,  
29 together with any other property or rights to property  
30 appurtenant to those timeshare units. Notwithstanding anything  
31 to the contrary contained in chapter 718 or chapter 719, the

1 timeshare instrument for a timeshare condominium or  
2 cooperative may designate personal property, contractual  
3 rights, affiliation agreements of component sites of vacation  
4 clubs, exchange companies, or reservation systems, or any  
5 other agreements or personal property, as common elements or  
6 limited common elements of the timeshare condominium or  
7 cooperative.

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

16 (40)(36) "Vacation ownership plan" means any timeshare  
17 plan consisting exclusively of timeshare estates.

18 (41)(37) "Vacation plan" or "vacation membership plan"  
19 means any timeshare plan consisting exclusively of timeshare  
20 licenses or consisting of a combination of timeshare licenses  
21 and timeshare estates.

22 Section 10. Section 721.06, Florida Statutes, is  
23 amended to read:

24 721.06 Contracts for purchase of timeshare interests  
25 periods.--

26 (1) Each seller shall utilize, and furnish each  
27 purchaser a fully completed and executed copy of ~~a~~ a contract  
28 pertaining to the sale, which contract shall include the  
29 following information:

30 (a) The actual date the contract is executed by each  
31 party.

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

3 (c) ~~The total financial obligation of the purchaser,~~  
4 ~~including the~~ initial purchase price and any additional  
5 charges to which the purchaser may be subject in connection  
6 with the purchase of the timeshare interest, such as  
7 financing, or which will be collected from the purchaser on or  
8 before closing, such as the current year's annual assessment  
9 for common expenses.

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

16 (e) ~~(d)~~ The estimated date of completion of  
17 construction of each accommodation or facility promised to be  
18 completed which is not completed at the time the contract is  
19 executed and the estimated date of closing.

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

25 (g) ~~(f)~~ Immediately prior to the space reserved in the  
26 contract for the signature of the purchaser, in conspicuous  
27 type, substantially the following statements:  
28

29 You may cancel this contract without any penalty or  
30 obligation within 10 calendar days after the date you sign  
31 this contract, ~~and within 10 calendar days after the date you~~

1 ~~receive the approved public offering statement, whichever is~~  
2 ~~later.~~

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

13  
14         (h)~~(g)~~ If a timeshare estate license is being  
15 conveyed, the following statement in conspicuous type:

16  
17         ~~You may also cancel this contract at any time after the~~  
18 ~~accommodations or facilities are no longer available as~~  
19 ~~provided in this contract and the public offering statement.~~

20  
21         ~~(h) If a timeshare estate is being conveyed, the~~  
22 ~~following statement in conspicuous type:~~

23  
24         For the purpose of ad valorem assessment, taxation and  
25 special assessments, the managing entity will be considered  
26 the taxpayer as your agent pursuant to section 192.037,  
27 Florida Statutes.

28  
29         (i) A statement that, in the event the purchaser  
30 cancels the contract during a 10-day cancellation period, the  
31 developer will refund to the purchaser the total amount of all

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

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

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

26 1. The names and addresses of all persons or entities  
 27 having an ownership interest or other interest in the  
 28 accommodations or facilities; and

29 2. The actual interest of the developer in the  
 30 accommodations or facilities. As an alternative to including  
 31 the statement in the purchase contract, a seller may include a

1 reference in the purchase contract to the location in the  
2 purchaser public offering statement text of such information.

3 ~~(1) If the contract is for the sale or transfer of a~~  
4 ~~timeshare period in which the accommodations or facilities are~~  
5 ~~subject to a lease, the following statement within the text in~~  
6 ~~conspicuous type: This timeshare period is subject to a lease~~  
7 ~~(or sublease). A copy of the executed lease shall be attached~~  
8 ~~as an exhibit.~~

9 (1)(m) If the purchaser will receive an interest in a  
10 multisite timeshare plan pursuant to part II, a the following  
11 statement shall be provided in conspicuous type in  
12 substantially the following form:

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

24  
25 (m)(n) The following statement in conspicuous type:

26  
27 Any resale of this timeshare interest must be  
28 accompanied by certain disclosures in accordance with section  
29 721.065, Florida Statutes.

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

3           (2) An agreement for deed shall be recorded by the  
4 developer within 30 days after the day it is executed by the  
5 purchaser. The developer shall pay all recording costs  
6 associated therewith.

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

10          ~~(4) A developer may not offer any number of timeshare~~  
11 ~~estates or timeshare licenses that would cause the total~~  
12 ~~number of estates or licenses offered to exceed a one-to-one~~  
13 ~~purchaser to accommodation ratio.~~

14           Section 11. Section 721.065, Florida Statutes, is  
15 amended to read:

16           721.065 Resale purchase agreements.--

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

1 behalf, timeshare interests in the timeshare plan which it  
2 manages to persons who are existing purchasers of that  
3 timeshare plan may also use a resale purchase agreement in  
4 compliance with subsection (2) in lieu of complying with the  
5 provisions of ss. 721.06-721.12 and 721.20.For purposes of  
6 this subsection, a rebuttable presumption shall exist that an  
7 owner who has acquired more than seven timeshare interests  
8 ~~periods~~ did not acquire them for her or his own use and  
9 occupancy.

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

12 (a) The name and address of the timeshare plan and of  
13 the managing entity of the timeshare plan.

14 (b) The following statements in conspicuous type  
15 located immediately prior to the disclosure required by  
16 paragraph (c):

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

1 question, the following statement must be included: A  
2 delinquency in the amount of \$.... for unpaid common expenses  
3 or ad valorem taxes currently exists with respect to the  
4 timeshare interest period you are purchasing, together with a  
5 per diem charge of \$.... for interest and late charges.) For  
6 the purpose of ad valorem assessment, taxation, and special  
7 assessments, the managing entity will be considered the  
8 taxpayer as your agent pursuant to section 192.037, Florida  
9 Statutes. Each owner is personally liable for the payment of  
10 her or his assessments for common expenses, and failure to  
11 timely pay these assessments may result in restriction or loss  
12 of your use and/or ownership rights.

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

21  
22 (c) The following statement in conspicuous type  
23 located immediately prior to the space in the contract  
24 reserved for the signature of the purchaser:

25  
26 You may cancel this contract without any penalty or obligation  
27 within 10 days after the date you sign this contract. If you  
28 decide to cancel this contract, you must notify the seller in  
29 writing of your intent to cancel. Your notice of cancellation  
30 shall be effective upon the date sent and shall be sent to the  
31 seller at ...(address).... Any attempt to obtain a waiver of

1 your cancellation right is void and of no effect. While you  
2 may execute all closing documents in advance, the closing, as  
3 evidenced by delivery of the deed or other document, before  
4 expiration of your 10-day cancellation period, is prohibited.

5  
6 (d) The year in which the purchaser will first be  
7 entitled to occupancy of a timeshare period associated with  
8 the timeshare interest that is the subject of the resale  
9 purchase agreement.

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

15 Section 12. Section 721.07, Florida Statutes, is  
16 amended to read:

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

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

1           (2)(a) Within 45 days after receipt of a registered  
2 public offering statement which is subject only to this part  
3 and is submitted in proper form as prescribed by rule, or  
4 within 120 days after receipt of a registered public offering  
5 statement which is subject to part II and is submitted in  
6 proper form as prescribed by rule, the division shall  
7 determine whether the proposed registered public offering  
8 statement is adequate to meet the requirements of this section  
9 and shall notify the developer by mail that the division has  
10 either approved the statement or found specified deficiencies  
11 in the statement. If the division fails to approve the  
12 statement or specify deficiencies in the statement within the  
13 period specified in this paragraph, the filing will be deemed  
14 approved.

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

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

31

1           (d) A developer shall have the authority to deliver to  
2 purchasers any purchaser public offering statement that is not  
3 yet approved by the division, provided that the following  
4 shall apply:

5           1. At the time the developer delivers an unapproved  
6 purchaser public offering statement to a purchaser pursuant to  
7 this paragraph, the developer shall deliver a fully completed  
8 and executed copy of the purchase contract required by s.  
9 721.06 that contains the following statement in conspicuous  
10 type in substantially the following form which shall replace  
11 the statements required by s. 721.06(1)(g):

12  
13 The developer is delivering to you a public offering statement  
14 that has been filed with but not yet approved by the Division  
15 of Florida Land Sales, Condominiums, and Mobile Homes. Any  
16 revisions to the unapproved public offering statement you have  
17 received must be delivered to you, but only if the revisions  
18 materially alter or modify the offering in a manner adverse to  
19 you. After the division approves the public offering  
20 statement, you will receive notice of the approval from the  
21 developer and the required revisions, if any.

22  
23 Your statutory right to cancel this transaction without any  
24 penalty or obligation expires 10 calendar days after the date  
25 you signed your purchase contract or 10 calendar days after  
26 you receive revisions required to be delivered to you, if any,  
27 whichever is later.

28  
29           2. After receipt of approval from the division and  
30 prior to closing, if any revisions made to the documents  
31 contained in the purchaser public offering statement

1 materially alter or modify the offering in a manner adverse to  
2 a purchaser, the developer shall send the purchaser such  
3 revisions together with a notice containing a statement in  
4 conspicuous type in substantially the following form:

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

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

24  
25 The unapproved public offering statement previously delivered  
26 to you has been approved by the Division of Florida Land  
27 Sales, Condominiums, and Mobile Homes. Revisions made to the  
28 unapproved public offering statement, if any, are either not  
29 required to be delivered to you or are not deemed by the  
30 developer, in its opinion, to materially alter or modify the  
31 offering in a manner that is adverse to you. Accordingly, your

1 cancellation right expired 10 days after you signed your  
2 purchase contract. A complete copy of the approved public  
3 offering statement is available through the managing entity  
4 for inspection as part of the books and records of the plan.  
5 If you have any questions regarding your cancellation rights,  
6 you may contact the division at [insert division's current  
7 address].~~The division is authorized to enter into an~~  
8 ~~agreement with another state for the purpose of facilitating~~  
9 ~~the processing of out-of-state timeshare instruments or other~~  
10 ~~component site documents pursuant to subsection (5) or part II~~  
11 ~~and for the purpose of facilitating the referral of consumer~~  
12 ~~complaints to the appropriate state.~~

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

1 ~~to establish the compliance of same with the laws of another~~  
2 ~~state.~~

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

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

1 the manner described in the timeshare instrument or any  
2 amendment that does not materially alter or modify the  
3 offering in a manner that is adverse to a purchaser, shall be  
4 delivered to a purchaser no later than 10 days prior to  
5 closing.

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

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

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

29 (b) Upon the filing of an amendment to an approved  
30 registered public offering statement, other than an amendment  
31

1 adding a phase to the timeshare plan, the developer shall pay  
2 a filing fee of \$100.

3 (5) Every registered public offering statement ~~filed~~  
4 ~~with the division~~ for a timeshare plan which is not a  
5 multisite ~~multistate~~ timeshare plan shall contain the  
6 information required by this subsection. The division is  
7 authorized to provide by rule the method by which a developer  
8 must provide such information to the division.

9 (a) A cover page stating only:

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

23 (b) A listing of all statements required to be in  
24 conspicuous type in the public offering statement ~~statements~~  
25 and in all exhibits thereto.

26 (c) A separate index of the contents and exhibits of  
27 the public offering statement.

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

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

3 1. Its name and location.

4 2. An explanation of the form of timeshare ownership  
5 that is being offered, including a statement as to whether any  
6 interest in the underlying real property will be conveyed to  
7 the purchaser. If the plan is being created or being sold on a  
8 leasehold, a description of the material terms of the lease  
9 shall be included ~~the location of the lease in the exhibits to~~  
10 ~~the public offering statement shall be stated.~~ If the plan is  
11 a plan in which timeshare estates are sold as interests in a  
12 trust pursuant to the requirements of this chapter, a full and  
13 accurate description of the trust arrangement and the  
14 trustee's duties shall be included.

15 3. An explanation of the manner in which the  
16 apportionment of common expenses and ownership of the common  
17 elements has been determined.

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

20 1. The number of timeshare buildings, ~~the number of~~  
21 ~~units in each building, the number of timeshare periods in~~  
22 ~~each unit, the~~ total number of timeshare periods declared as  
23 part of the timeshare plan and filed with the division, and  
24 ~~being offered,~~ the number of bathrooms and bedrooms in each  
25 type of timeshare unit, ~~and the total number of units and unit~~  
26 ~~weeks.~~

27 2. The latest date estimated for completion of  
28 constructing, finishing, and equipping the timeshare units  
29 declared as part of the timeshare plan and filed with the  
30 division.

31

1           3. The estimated maximum number of units and timeshare  
2 periods that will use the accommodations and facilities. If  
3 the maximum number of timeshare units or timeshare periods  
4 will vary, a description of the basis for variation ~~and the~~  
5 ~~minimum amount of dollars per timeshare period to be spent for~~  
6 ~~additional recreational facilities or for enlargement of such~~  
7 ~~facilities. If the addition or enlargement of facilities will~~  
8 ~~result in a material increase of a purchaser's maintenance~~  
9 ~~expense or rental expense, the maximum increase and~~  
10 ~~limitations thereon shall be stated.~~

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

13           4.5. The duration, in years, of the timeshare plan.

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

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

20           2. ~~Each swimming pool and its general location,~~  
21 ~~approximate size, depths, and capacity; its approximate deck~~  
22 ~~size and capacity; and whether the pool is heated.~~

23           3. ~~Each additional facility; the number of each such~~  
24 ~~facility; and its approximate location, approximate size, and~~  
25 ~~approximate capacity.~~

26           4. ~~A general description of the items of personal~~  
27 ~~property and the approximate numbers of each item of personal~~  
28 ~~property that the developer is committing to furnish for each~~  
29 ~~room or other facility or, in the alternative, a~~  
30 ~~representation as to the minimum amount of expenditure that~~  
31

1 ~~will be made to purchase the personal property for the~~  
2 ~~facility.~~

3 2.5. ~~The estimated date when each room or other~~  
4 ~~facility will be available for use by the purchaser.~~

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

8 ~~7. A reference to the location in the disclosure~~  
9 ~~materials of the lease or other agreements providing for the~~  
10 ~~use of those facilities.~~

11 ~~8. A description of the terms of the lease or other~~  
12 ~~agreement, including the length of its term; the rent payable,~~  
13 ~~directly or indirectly, by each purchaser; and the total rent~~  
14 ~~payable to the lessor, stated in weekly, monthly, and annual~~  
15 ~~amounts for the entire term of the lease; and a description of~~  
16 ~~any option to purchase the property under any such lease,~~  
17 ~~including the time the option may be exercised, the purchase~~  
18 ~~price or how it is to be determined, the manner of payment,~~  
19 ~~and whether the option may be exercised for a purchaser's~~  
20 ~~share or only as to the entire leased property.~~

21 3.9. ~~A statement as to whether the facilities will~~  
22 ~~developer may provide additional facilities not described~~  
23 ~~above; the general locations and types of such facilities;~~  
24 ~~improvements or changes that may be made; the approximate~~  
25 ~~dollar amounts to be expended; and the estimated maximum~~  
26 ~~additional common expense or cost to the individual purchaser~~  
27 ~~that may be charged during the first annual period of~~  
28 ~~operation of the modified or added facilities.~~

29 ~~(h) A description of the recreational and other~~  
30 ~~commonly used facilities which will not be used exclusively by~~  
31 ~~purchasers of the timeshare plan, and, if not, a statement as~~

1 to whether the purchasers of the timeshare plan are required  
2 to pay and which require the payment of any portion of the  
3 maintenance and expenses of such facilities, ~~either directly~~  
4 ~~or indirectly, by the purchasers. The description shall~~  
5 ~~include, but not be limited to, the following:~~

6 1. ~~Each building or facility committed to be built.~~

7 2. ~~Facilities not committed to be built except under~~  
8 ~~certain conditions, and a statement of those conditions or~~  
9 ~~contingencies.~~

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

17 4. ~~The year in which each facility will be available~~  
18 ~~for use by the purchasers or, in the alternative, the maximum~~  
19 ~~number of purchasers in the project at the time each of the~~  
20 ~~facilities is committed to be completed.~~

21 5. ~~A general description of the items of personal~~  
22 ~~property and the approximate numbers of each item of personal~~  
23 ~~property that the developer is committing to furnish for each~~  
24 ~~room or other facility or, in the alternative, a~~  
25 ~~representation as to the minimum amount of expenditure that~~  
26 ~~will be made to purchase the personal property for the~~  
27 ~~facility.~~

28 6. ~~If there are leases, descriptions thereof,~~  
29 ~~including the length of their terms, the rents payable, and~~  
30 ~~descriptions of any options to purchase.~~

31

1            (h)(i)1. If any ~~recreational facilities or other~~  
2 facilities offered by the developer for use by purchasers are  
3 to be leased or have club memberships ~~membership~~ associated  
4 with them, other than participation in a vacation club, one of  
5 the following statements in conspicuous type: There is a  
6 ~~recreational facilities~~ lease associated with one or more  
7 facilities of the ~~this~~ timeshare plan; or, There is a club  
8 membership associated with one or more facilities of the ~~this~~  
9 timeshare plan. ~~There shall be a reference to the location in~~  
10 ~~the disclosure materials where the recreation lease or club~~  
11 ~~membership is described in detail.~~

12            2. If it is mandatory that purchasers ~~unit owners~~ pay  
13 fees, rent, dues, or other charges under a ~~recreational~~  
14 facilities lease or club membership for the use of the  
15 facilities, other than participation in a vacation club, the  
16 applicable statement in conspicuous type in substantially the  
17 following form:

18            a. Membership in a ~~the recreational~~ facilities club is  
19 mandatory for purchasers;

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

23            c. Purchasers or the association(s) are required to  
24 pay their share of the rent or costs and expenses of  
25 maintenance, management, upkeep, and replacement, ~~rent, and~~  
26 ~~fees~~ under the ~~recreational~~ facilities lease (or the other  
27 instruments providing the facilities); or

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

31

1 Immediately following the applicable statement a description  
2 of the lease or other instrument shall be stated, including a  
3 description of terms of the payment of rent or costs and  
4 expenses of maintenance, management, upkeep, and replacement  
5 of the facilities, ~~the location in the disclosure materials~~  
6 ~~where the development is described in detail shall be stated.~~

7 3. If the purchasers are required to pay a use ~~If the~~  
8 ~~developer, or any other person other than the purchasers and~~  
9 ~~other persons having use rights in the facilities, reserves,~~  
10 ~~or is entitled to receive, any rent, fee, or other payment for~~  
11 ~~the use of the facilities, not including the rent or~~  
12 maintenance, management, upkeep, or replacement costs and  
13 expenses, the following statement in conspicuous type: The  
14 purchasers or the association(s) must pay ~~rent or land use~~  
15 fees for one or more recreational or other commonly used  
16 facilities. Immediately following this statement a  
17 description of the use fees shall be included, ~~the location in~~  
18 ~~the disclosure materials where the rent or land use fees are~~  
19 ~~described in detail shall be stated.~~

20 4. ~~If, in any recreation format, whether leasehold,~~  
21 ~~club, or other, any person other than the association has the~~  
22 ~~right to a lien on the timeshare~~ interests ~~periods~~ to secure  
23 the payment of assessments, rent, or other exactions, a  
24 statement in conspicuous type in substantially the following  
25 form:

26 a. There is a lien or lien right against each  
27 timeshare interest ~~period~~ to secure the payment of rent and  
28 other exactions under the facilities ~~recreation~~ lease. A  
29 purchaser's failure to make these payments may result in  
30 foreclosure of the lien; or

31

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

7  
 8 Immediately following the applicable statement, a description  
 9 of the lien right shall be included ~~the location in the~~  
 10 ~~disclosure materials where the lien or lien right is described~~  
 11 ~~in detail shall be stated.~~

12           (i)~~(j)~~ If the developer or any other person has the  
 13 right to increase or add to the ~~recreational~~ facilities at any  
 14 time after the establishment of the timeshare plan, without  
 15 the consent of the purchasers or association being required, a  
 16 statement in conspicuous type in substantially the following  
 17 form: ~~Recreational~~ Facilities may be expanded or added without  
 18 consent of the purchasers or the association(s). Immediately  
 19 following this statement, a description of ~~the location in the~~  
 20 ~~disclosure materials where~~ such reserved rights ~~are described~~  
 21 shall be included ~~stated~~.

22           (j)~~(k)~~ An explanation of the status of the title to  
 23 the real property underlying the timeshare plan, including a  
 24 statement of the existence of any lien, defect, judgment,  
 25 mortgage, or other encumbrance affecting the title to the  
 26 property, and how such lien, defect, judgment, mortgage, or  
 27 other encumbrance will be removed or satisfied prior to  
 28 closing.

29           (k)~~(l)~~ A description of any judgment against the  
 30 developer, the managing entity, or owner of the underlying  
 31 fee, which judgment is material to the timeshare plan; the

1 status of any pending suit to which the developer, the  
 2 managing entity, or owner of the underlying fee is a party,  
 3 which suit is material to the timeshare plan; and any other  
 4 suit which is material to the timeshare plan of which the  
 5 developer, managing entity, or owner of the underlying fee has  
 6 actual knowledge. If no judgments or pending suits exist,  
 7 there shall be a statement of such fact.

8 (l)~~(m)~~ A description of all unusual and material  
 9 circumstances, features, and characteristics of the real  
 10 property.

11 (m)~~(n)~~ A description of any financing to be offered to  
 12 purchasers by the developer or any person or entity in which  
 13 the developer has a financial interest, together with a  
 14 disclosure that the description of such financing may be  
 15 changed by the developer and that any change in the financing  
 16 offered to prospective purchasers will not be deemed to be a  
 17 material change.

18 (n)~~(o)~~ A detailed explanation of any financial  
 19 arrangements which have been provided for completion of all  
 20 promised improvements.

21 ~~(p) A statement as to whether the plan of the~~  
 22 ~~developer includes a program of leasing units or timeshare~~  
 23 ~~periods rather than selling them, or leasing and selling them~~  
 24 ~~subject to such leases. If so, there shall be a description~~  
 25 ~~of the plan, including the number and identification of the~~  
 26 ~~units and the provisions and term of the proposed leases, and~~  
 27 ~~a statement in conspicuous type that: The units (or timeshare~~  
 28 ~~periods) may be transferred subject to a lease.~~

29 (o)~~(q)~~ The name and address of the managing entity; a  
 30 statement whether the seller may change the managing entity or  
 31 its control and, if so, the manner by which the seller may

1 change the managing entity; a statement of the arrangements  
2 for management, maintenance, and operation of the  
3 accommodations and facilities and of other property that will  
4 serve the purchasers; and a description of the management  
5 arrangement and any contracts for these purposes having a term  
6 in excess of 1 year, including the names of the contracting  
7 parties, the term of the contract, the nature of the services  
8 included, and the compensation, stated for a month and for a  
9 year, and provisions for increases in the compensation.  
10 ~~Copies of all described contracts shall be attached as~~  
11 ~~exhibits.~~

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

28       (q)~~(s)~~1. If there are any restrictions upon the sale,  
29 transfer, conveyance, or leasing of a timeshare interest  
30 period, a statement in conspicuous type in substantially the  
31 following form: The sale, lease, or transfer of timeshare

1 ~~interests periods~~ is restricted or controlled. Immediately  
2 following this statement, a description of the nature of the  
3 ~~location in the disclosure materials where~~ the restriction,  
4 limitation, or control on the sale, lease, or transfer of  
5 timeshare ~~interests periods is described in detail~~ shall be  
6 included ~~stated~~.

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

14 (r)(t) If the timeshare plan is part of a phase  
15 project, a statement to that effect and a complete description  
16 of the phasing. Notwithstanding any provisions of s. 718.110  
17 or s. 719.1055, a developer may develop a timeshare  
18 condominium or a timeshare cooperative in phases if the  
19 original declaration of condominium or cooperative documents  
20 submitting the initial phase to condominium ownership or  
21 cooperative ownership or an amendment to the declaration of  
22 condominium or cooperative documents which has been approved  
23 by all of the unit owners and unit mortgagees provides for  
24 phasing. Notwithstanding any provisions of s. 718.403 or s.  
25 719.403 to the contrary, the original declaration of  
26 condominium or cooperative documents, or an amendment to the  
27 declaration of condominium or cooperative documents adopted  
28 pursuant to this subsection, need only generally describe the  
29 developer's phasing plan and the land which may become part of  
30 the condominium or cooperative, and, in conjunction therewith,  
31 the developer may also reserve all rights to vary his or her

1 phasing plan as to phase boundaries, plot plans and floor  
2 plans, timeshare unit types, timeshare unit sizes and  
3 timeshare unit type mixes, numbers of timeshare units, and  
4 ~~recreational areas~~ and facilities with respect to each  
5 subsequent phase. There shall be no time limit during which a  
6 developer of a timeshare condominium or timeshare cooperative  
7 must complete his or her phasing plan, and the developer shall  
8 not be required to notify owners of existing timeshare estates  
9 of his or her decision not to add one or more proposed phases.

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

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

29 ~~(w)~~ A description of the manner in which utility and  
30 other services, including, but not limited to, sewage and  
31 waste disposal, water supply, and storm drainage, will be

1 ~~provided and the names of the persons or entities furnishing~~  
2 ~~them.~~

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

7 1. The estimated annual expenses of the timeshare plan  
8 collectible from purchasers by assessments. The estimated  
9 payments by the purchaser for assessments shall also be stated  
10 in the estimated amounts for the times when they will be due.  
11 Expenses shall also be shown for the shortest timeshare period  
12 offered for sale by the developer. If the timeshare plan  
13 provides for the offer and sale of units to be used on a  
14 nontimeshare basis, the estimated monthly and annual expenses  
15 of such units shall be set forth in a separate schedule.

16 2. The estimated weekly, monthly, and annual expenses  
17 of the purchaser of each timeshare interest period, other than  
18 assessments payable to the managing entity. Expenses which  
19 are personal to purchasers that are not uniformly incurred by  
20 all purchasers or that are not provided for or contemplated by  
21 the timeshare plan documents may be excluded from this  
22 estimate.

23 3. The estimated items of expenses of the timeshare  
24 plan and the managing entity, except as excluded under  
25 subparagraph 2., including, but not limited to, if applicable,  
26 the following items, which shall be stated either as  
27 management expenses collectible by assessments or as expenses  
28 of the purchaser payable to persons other than the managing  
29 entity:

30 a. Expenses for the managing entity:

31 (I) Administration of the managing entity.

- 1           (II) Management fees.  
2           (III) Maintenance.  
3           (IV) Rent for ~~recreational and other commonly used~~  
4 facilities.  
5           (V) Taxes upon timeshare property.  
6           (VI) Taxes upon leased areas.  
7           (VII) Insurance.  
8           (VIII) Security provisions.  
9           (IX) Other expenses.  
10          (X) Operating capital.  
11          (XI) Reserves for deferred maintenance and reserves  
12 for capital expenditures. All reserves for any accommodations  
13 and facilities located in this state shall be calculated by a  
14 formula which is based upon estimated life and replacement  
15 cost of each reserve item. Reserves for deferred maintenance  
16 for such accommodations and facilities shall include accounts  
17 for roof replacement, building painting, pavement resurfacing,  
18 replacement of timeshare unit furnishings and equipment, and  
19 any other component, the useful life of which is less than the  
20 useful life of the overall structure. For any accommodations  
21 and facilities located outside of this state, the developer  
22 shall disclose the amount of reserves for deferred maintenance  
23 or capital expenditures required by the law of the situs  
24 state, if applicable, and maintained for such accommodations  
25 and facilities.  
26           (XII) Fees payable to the division.  
27          b. Expenses for a purchaser:  
28           (I) Rent for the timeshare unit, if subject to a  
29 lease.  
30           (II) Rent payable by the purchaser directly to the  
31 lessor or agent under any ~~recreational lease~~ or lease for the

1 use of ~~commonly used~~ facilities, which use and payment is a  
2 mandatory condition of ownership and is not included in the  
3 common expenses ~~expense~~ or assessments for common maintenance  
4 paid by the purchasers to the managing entity ~~association~~.

5 4. The estimated amounts shall be stated for a period  
6 of at least 12 months and may distinguish between the period  
7 prior to the time that purchasers elect a majority of the  
8 board of administration and the period after that date.

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

13 a. The specific time period measured in one or more  
14 calendar or fiscal years during which the guarantee will be in  
15 effect.

16 b. A statement that the developer will pay all common  
17 expenses incurred in excess of the total revenues of the  
18 timeshare plan pursuant to s. 721.15(2) if the developer has  
19 excused himself or herself from the payment of assessments  
20 during the guarantee period.

21 c. The level, expressed in total dollars, at which the  
22 developer guarantees the budget. If the developer has  
23 reserved the right to extend or increase the guarantee level  
24 pursuant to s. 721.15(2), a disclosure must be included to  
25 that effect.

26 6. If the developer intends to provide a trust fund to  
27 defer or reduce the payment of annual assessments, a copy of  
28 the trust instrument shall be attached as an exhibit and shall  
29 include a description of such arrangement, including, but not  
30 limited to:

31

1 a. The specific amount of such trust funds and the  
2 source of the funds.

3 b. The name and address of the trustee.

4 c. The investment methods permitted by the trust  
5 agreement.

6 d. A statement in conspicuous type that the funds from  
7 the trust account may not cover all assessments and that there  
8 is no guarantee that purchasers will not have to pay  
9 assessments in the future.

10 7. The budget of a phase timeshare plan may contain a  
11 note identifying the number of timeshare interests covered by  
12 the budget, indicating the number of timeshare interests, if  
13 any, estimated to be declared as part of the timeshare plan  
14 during that calendar year, and projecting the common expenses  
15 for the timeshare plan based upon the number of timeshare  
16 interests estimated to be declared as part of the timeshare  
17 plan during that calendar year.

18 ~~(v)(y)~~ A schedule of estimated closing expenses to be  
19 paid by a purchaser or lessee of a timeshare interest period  
20 and a statement as to whether a title opinion or title  
21 insurance policy is available to the purchaser and, if so, at  
22 whose expense.

23 ~~(w)(z)~~ The identity of the developer and the chief  
24 operating officer or principal directing the creation and sale  
25 of the timeshare plan and a statement of the experience of  
26 each in this field or, if no experience, a statement of that  
27 fact.

28 ~~(aa) A statement of any service, maintenance, or~~  
29 ~~recreation contracts or leases that may be canceled by the~~  
30 ~~purchasers.~~

31

1        ~~(x)(bb)~~ A statement of the total financial obligation  
2 of the purchaser, including the purchase price and any  
3 additional charges to which the purchaser may be subject.

4        ~~(y)(cc)~~ The name of any person who will or may have  
5 the right to alter, amend, or add to the charges to which the  
6 purchaser may be subject and the terms and conditions under  
7 which such alterations, amendments, or additions may be  
8 imposed.

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

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

13        ~~(bb)(ff)~~ A statement as to whether the timeshare plan  
14 is participating in an exchange program and, if so, the name  
15 and address of the exchange company offering the exchange  
16 program.

17        (cc) The existence of rules and regulations regarding  
18 any reservation features governing a purchaser's ability to  
19 make reservations for a timeshare period, including, if  
20 applicable, a conspicuous type disclaimer in substantially the  
21 following form:

22  
23 The right to reserve a timeshare period is subject to rules  
24 and regulations of the timeshare plan reservation system.

25  
26        (dd) If a developer is filing a timeshare plan that  
27 includes a timeshare instrument or component site document  
28 that was in conformance with the laws and rules in existence  
29 at the time the timeshare plan was created but does not  
30 conform to existing laws and rules that govern the timeshare  
31 plan and the developer does not have the authority or power to

1 amend or change the timeshare instrument or component site  
2 document to conform to such existing laws or rules as directed  
3 by the division, a brief explanation of current law and the  
4 conflict with the timeshare instrument or component site  
5 document, preceded by disclaimer in conspicuous type in  
6 substantially the following form:

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

22  
23 (ee)~~(gg)~~ Any other information that a ~~the~~ seller, with  
24 the approval of the division, desires to include in the public  
25 offering statement.

26 (ff)~~(hh)~~ Copies of the following documents and plans,  
27 to the extent they are applicable, shall be included as  
28 exhibits to the registered public offering statement provided,  
29 if the timeshare plan has not been declared at the time of the  
30 filing, the developer shall provide proposed documents:

31

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

1           ~~12.14.~~ Any documents required by s. 721.03(3)(e) as  
2 the result of the inclusion of a timeshare plan in the  
3 conversion of building ~~The statement of condition of the~~  
4 ~~existing building or buildings, if the offering is of~~  
5 ~~timeshare periods in an operation being converted to~~  
6 condominium or cooperative ownership.

7           ~~15.~~ ~~The statement of inspection for termite damage and~~  
8 ~~treatment of the existing improvements, if the timeshare~~  
9 ~~property is a conversion.~~

10           ~~13.16.~~ The form of agreement for sale or lease of  
11 timeshare interests ~~periods~~.

12           ~~14.17.~~ The executed agreement for escrow of payments  
13 made to the developer prior to closing and the form of any  
14 agreement for escrow of ad valorem tax escrow payments to be  
15 made into an ad valorem tax escrow account pursuant to s.  
16 192.037(6).

17           ~~15.18.~~ The documents containing any restrictions on  
18 use of the property required by paragraph(s) ~~(u)~~.

19           ~~16.19.~~ Any other documents or instruments creating  
20 the timeshare plan.

21           ~~20.~~ ~~Any contract or lease to be signed by the~~  
22 ~~purchasers.~~

23           ~~(gg)(ii)~~ Such other information as is necessary to  
24 fairly, meaningfully, and effectively disclose all aspects of  
25 the timeshare plan, including, but not limited to, any  
26 disclosures made necessary by the operation of s.  
27 721.03(8) ~~(9)~~. However, if a developer has, in good faith,  
28 attempted to comply with the requirements of this section, and  
29 if, in fact, he or she has substantially complied with the  
30 disclosure requirements of this chapter, nonmaterial errors or  
31 omissions shall not be actionable.

1           ~~(hh)(jj)~~ Notwithstanding the provisions of this  
 2 subsection, the registered public offering statement for a  
 3 component site of a multisite timeshare plan filed pursuant to  
 4 this subsection may contain cross-references to information  
 5 contained in the related multisite timeshare plan registered  
 6 public offering statement filed pursuant to s. 721.55 in lieu  
 7 of repeating such information.

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

16           (a) A copy of the purchaser public offering statement  
 17 text in the form approved by the division for delivery to  
 18 purchasers.

19           (b) Copies of the exhibits required to be filed with  
 20 the division pursuant to subparagraphs (5)~~(ff)(hh)~~1., 2., 4.,  
 21 5., 8., and 16 ~~19~~.

22           (c) A receipt for timeshare plan documents and a list  
 23 describing any exhibit to the registered public offering  
 24 statement filed with the division which is not delivered to  
 25 the purchaser. The division is authorized to prescribe by  
 26 rule the form of the receipt for timeshare plan documents and  
 27 the description of exhibits list that must be furnished to the  
 28 purchaser. The description of documents list utilized by a  
 29 developer shall be filed with the division for review as part  
 30 of the registered public offering statement ~~filing~~ pursuant to  
 31 this section. The developer shall be required to provide the

1 managing entity with a copy of the approved registered public  
2 offering statement ~~text and exhibits filed with the division~~  
3 and any approved amendments thereto to be maintained by the  
4 managing entity as part of the books and records of the  
5 timeshare plan pursuant to s. 721.13(3)(d).

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

9 (e) An executed copy of any document which the  
10 purchaser signs.

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

14 Section 13. Section 721.075, Florida Statutes, is  
15 amended to read:

16 721.075 Incidental benefits.--Incidental benefits  
17 shall be offered only as provided in this section.

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

24 (a) The use of or participation in the incidental  
25 benefit by the prospective purchaser is completely voluntary,  
26 and payment of any fee or other cost associated with the  
27 incidental benefit is required only upon such use or  
28 participation.

29 (b) No costs of acquisition, operation, maintenance,  
30 or repair of the incidental benefit are passed on to  
31 purchasers of the timeshare plan as common expenses of the

1 timeshare plan or as common expenses of a component site of a  
2 multisite timeshare plan.

3 (c) The continued availability of the incidental  
4 benefit is not necessary in order for any accommodation or  
5 facility of the timeshare plan to be available for use by  
6 purchasers of the timeshare plan in a manner consistent in all  
7 material respects with the manner portrayed by any promotional  
8 material, advertising, or purchaser public offering statement.

9 (d) The continued availability to purchasers of  
10 timeshare plan accommodations on no greater than a one-to-one  
11 purchaser to accommodation ratio is not dependent upon  
12 continued availability of the incidental benefit.

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

22 (f) The aggregate represented value of all incidental  
23 benefits offered by a developer to a purchaser may not exceed  
24 15 percent of the purchase price paid by the purchaser for his  
25 or her timeshare interest period.

26 (g) The incidental benefit is filed with the division  
27 in conjunction with the filing of a timeshare plan or in  
28 connection with a previously filed timeshare plan.

29 (2) Each purchaser shall execute a separate  
30 acknowledgment and disclosure statement with respect to all  
31

1 incidental benefits, which statement shall include the  
2 following information:

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

7 (b) A statement that use of or participation in the  
8 incidental benefit by the prospective purchaser is completely  
9 voluntary, and that payment of any fee or other cost  
10 associated with the incidental benefit is required only upon  
11 such use or participation.

12 (c) A statement that the incidental benefit is not  
13 assignable or otherwise transferable by the prospective  
14 purchaser or purchaser.

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

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

30  
31

1 The acknowledgment and disclosure statement for any ~~each~~  
 2 incidental benefit shall be filed with the division prior to  
 3 use. Each purchaser shall receive a copy of his or her  
 4 executed acknowledgment and disclosure statement as a document  
 5 required to be provided to him or her pursuant to s.  
 6 721.10(1)(b).

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

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

31

1           In the event ~~any~~describe incidental benefit described  
2 in this statement ~~benefit~~ becomes unavailable as a result of  
3 events beyond the control of the developer, the developer  
4 reserves the right to substitute a replacement incidental  
5 benefit of a type, quality, value, and term reasonably similar  
6 to the unavailable incidental benefit.

7  
8           The substituted incidental benefit shall be delivered to the  
9 purchaser within 30 days after the date that the  
10 unavailability of the incidental benefit was made known to the  
11 developer.

12           (4) All purchaser remedies pursuant to s. 721.21 shall  
13 be available for any violation of the provisions of this  
14 section.

15           Section 14. Section 721.08, Florida Statutes, is  
16 amended to read:

17           721.08 Escrow accounts; nondisturbance instruments;  
18 alternate security arrangements; transfer of legal title.--

19           (1) Prior to the filing of a registered public  
20 offering statement with the division, all developers shall  
21 establish an escrow account with an escrow agent for the  
22 purpose of protecting the funds or other property of  
23 purchasers required to be escrowed by this section. An escrow  
24 agent shall maintain the accounts called for in this section  
25 only in such a manner as to be under the direct supervision  
26 and control of the escrow agent. The escrow agent shall have  
27 a fiduciary duty to each purchaser to maintain the escrow  
28 accounts in accordance with good accounting practices and to  
29 release the purchaser's funds or other property from escrow  
30 only in accordance with this chapter. The escrow agent shall  
31 retain all affidavits received pursuant to this section for a

1 period of 5 years. Should the escrow agent receive  
 2 conflicting demands for funds or property held in escrow, the  
 3 escrow agent shall immediately notify the division of the  
 4 dispute and either promptly submit the matter to arbitration  
 5 or, by interpleader or otherwise, seek an adjudication of the  
 6 matter by court.

7 (2) One hundred percent of all funds or other property  
 8 which is received from or on behalf of purchasers of the  
 9 timeshare plan or timeshare interest ~~period~~ prior to the  
 10 occurrence of events required in this subsection shall be  
 11 deposited pursuant to an escrow agreement approved by the  
 12 division. The escrow agreement shall provide that the funds  
 13 or property may be released from escrow only as follows:

14 (a) Cancellation.--In the event a purchaser gives a  
 15 valid notice of cancellation pursuant to s. 721.10 or is  
 16 otherwise entitled to cancel the sale, the funds or property  
 17 received from or on behalf of the purchaser, or the proceeds  
 18 thereof, shall be returned to the purchaser. Such refund  
 19 shall be made within 20 days of demand therefor by the  
 20 purchaser or within 5 days after receipt of funds from the  
 21 purchaser's cleared check, whichever is later. If the  
 22 purchaser has received benefits under the contract prior to  
 23 the effective date of the cancellation, the funds or property  
 24 to be returned to the purchaser may be reduced by the  
 25 proportion of contract benefits actually received.

26 (b) Purchaser's default.--Following expiration of the  
 27 10-day cancellation period, if the purchaser defaults in the  
 28 performance of her or his obligations under the terms of the  
 29 contract to purchase or such other agreement by which a ~~the~~  
 30 seller sells the timeshare interest ~~period~~, the developer  
 31 shall provide an affidavit to the escrow agent requesting

1 release of the escrowed funds or property and shall provide a  
2 copy of such affidavit to the purchaser who has defaulted.

3 The developer's affidavit, as required herein, shall include:

4 1. A statement that the purchaser has defaulted and  
5 that the developer has not defaulted;

6 2. A brief explanation of the nature of the default  
7 and the date of its occurrence;

8 3. A statement that pursuant to the terms of the  
9 contract the developer is entitled to the funds held by the  
10 escrow agent; and

11 4. A statement that the developer has not received  
12 from the purchaser any written notice of a dispute between the  
13 purchaser and developer or a claim by the purchaser to the  
14 escrow.

15 (c) Compliance with conditions.--

16 1. If the timeshare plan is one in which timeshare  
17 licenses are to be sold and no cancellation or default has  
18 occurred, the escrow agent may release the escrowed funds or  
19 property upon presentation of:

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

22 (I) Expiration of the cancellation period.

23 (II) Completion of construction.

24 (III) Closing.

25 (IV) Either execution and recordation by each  
26 interestholder of the nondisturbance and notice to creditors  
27 instrument, as described in this section or, alternatively,  
28 transfer by the developer of legal title to the subject  
29 accommodations and facilities, or all use rights therein, to a  
30 trust satisfying the requirements of sub-subparagraph 3.b. and  
31 the execution and recordation by each other interestholder of

1 the nondisturbance and notice to creditors instrument, as  
2 described in this section.

3 b. A certified copy of the recorded nondisturbance and  
4 notice to creditors instrument that complies with subsection  
5 (3).

6 c. One of the following:

7 (I) A copy of a memorandum of agreement, as defined in  
8 s. 721.05(21), together with satisfactory evidence that the  
9 original memorandum of agreement has been irretrievably  
10 delivered for recording to the appropriate official  
11 responsible for maintaining the public records in the county  
12 in which the subject accommodations ~~and~~ ~~or~~ facilities are  
13 located. The original memorandum of agreement must be  
14 recorded within 180 days after the date on which the purchaser  
15 executed her or his purchase agreement.

16 (II) A notice delivered for recording to the  
17 appropriate official responsible for maintaining the public  
18 records in each county in which the subject accommodations and  
19 facilities are located notifying all persons of the identity  
20 of an independent escrow agent or trustee satisfying the  
21 requirements of sub-subparagraph 3.b. that shall maintain  
22 separate books and records, in accordance with good accounting  
23 practices, for the timeshare plan in which timeshare licenses  
24 are to be sold. The books and records shall indicate each  
25 accommodation and facility that is subject to such a timeshare  
26 plan and each purchaser of a timeshare license in the  
27 timeshare plan.

28 2. If the timeshare plan is one in which timeshare  
29 estates are to be sold, other than interests in a trust  
30 pursuant to subparagraph 3., and no cancellation or default  
31

1 has occurred, the escrow agent may release the escrowed funds  
2 or property upon presentation of:

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

5 (I) Expiration of the cancellation period.

6 (II) Completion of construction.

7 (III) Closing.

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

11 c. Evidence that the timeshare estate is free and  
12 clear of the claims of any interestholders, other than the  
13 claims of interestholders that, through a recorded instrument,  
14 are irrevocably made subject to the timeshare instrument and  
15 the use rights of purchasers made available through the  
16 timeshare instrument, or that are the subject of a recorded  
17 nondisturbance and notice to creditors instrument that  
18 complies with subsection (3).

19 3. If the timeshare plan is one in which timeshare  
20 estates are to be sold as interests in a trust that complies  
21 in all respects with the provisions of sub-subparagraph b.,  
22 and no cancellation or default has occurred, the escrow agent  
23 may release the escrowed funds or property upon presentation  
24 of:

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

27 (I) Expiration of the cancellation period.

28 (II) Completion of construction.

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

31 (IV) Closing.

1           b. Prior to the transfer by each interestholder of the  
2 subject accommodations and facilities, or all use rights  
3 therein, to a trust, any lien or other encumbrance against  
4 such accommodations and facilities, or use rights therein,  
5 shall be made subject to a nondisturbance and notice to  
6 creditors instrument as described in this section. No transfer  
7 pursuant to this sub-subparagraph shall become effective until  
8 the trustee accepts such transfer and the responsibilities set  
9 forth herein. A trust established pursuant to this  
10 sub-subparagraph shall comply with the following provisions:

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

18           (II) The trust shall be irrevocable so long as any  
19 purchaser has a right to occupy any portion of the timeshare  
20 property pursuant to the timeshare plan.

21           (III) The trustee shall not convey, hypothecate,  
22 mortgage, assign, lease, or otherwise transfer or encumber in  
23 any fashion any interest in or portion of the timeshare  
24 property with respect to which any purchaser has a right of  
25 use or occupancy unless the timeshare plan is terminated  
26 pursuant to the timeshare instrument, or such conveyance,  
27 hypothecation, mortgage, assignment, lease, transfer, or  
28 encumbrance is approved by a vote of two-thirds of all voting  
29 interests of the timeshare plan and such decision is declared  
30 by a court of competent jurisdiction to be in the best  
31 interests of the purchasers of the timeshare plan. The trustee

1 shall notify the division in writing within 10 days of  
2 receiving notice of the filing of any petition relating to  
3 obtaining such a court order. The division shall have standing  
4 to advise the court of the division's interpretation of the  
5 statute as it relates to the petition.

6 (IV) All purchasers of the timeshare plan or the  
7 owners' association of the timeshare plan shall be the express  
8 beneficiaries of the trust. The trustee shall act as a  
9 fiduciary to the beneficiaries of the trust. The personal  
10 liability of the trustee shall be governed by s. 737.306. The  
11 agreement establishing the trust shall set forth the duties of  
12 the trustee. The trustee shall be required to furnish promptly  
13 to the division upon request a copy of the complete list of  
14 the names and addresses of the owners in the timeshare plan  
15 and a copy of any other books and records of the timeshare  
16 plan required to be maintained pursuant to s. 721.13 that are  
17 in the possession, custody, or control of the trustee. All  
18 expenses reasonably incurred by the trustee in the performance  
19 of its duties, together with any reasonable compensation of  
20 the trustee, shall be common expenses of the timeshare plan.

21 (V) The trustee shall not resign upon less than 90  
22 days prior written notice to the managing entity and the  
23 division. No resignation shall become effective until a  
24 substitute trustee, approved by the division, is appointed by  
25 the managing entity and accepts the appointment.

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

28 (VII) For trusts holding property in a timeshare plan  
29 located outside this state, the trust holding such property  
30 shall be deemed in compliance with the requirements of this  
31 subparagraph if such trust is authorized and qualified to

1 conduct trust business under the laws of such jurisdiction and  
2 the agreement or law governing such trust arrangement provides  
3 substantially similar protections for the purchaser as are  
4 required in this subparagraph for trusts holding property in a  
5 timeshare plan in this state.

6 (VIII) The trustee shall have appointed a registered  
7 agent in this state for service of process. In the event such  
8 a registered agent is not appointed, service of process may be  
9 served pursuant to s. 721.265.

10 4. If the developer has previously provided a  
11 certified copy of any document required by this paragraph  
12 ~~section~~, she or he may for all subsequent disbursements  
13 substitute a true and correct copy of the certified copy,  
14 provided no changes to the document have been made or are  
15 required to be made.

16 (3) The nondisturbance and notice to creditors  
17 instrument, when required, shall be executed by each  
18 interestholder. The instrument shall state that:

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

22 (b) The instrument shall be effective as between the  
23 timeshare purchaser and interestholder despite any rejection  
24 or cancellation of the contract between the timeshare  
25 purchaser and developer as a result of bankruptcy proceedings  
26 of the developer; and

27 (c) So long as the interestholder has any interest in  
28 the accommodations, facilities, or plan, the interestholder  
29 will fully honor all the rights of the timeshare purchasers in  
30 and to the timeshare plan, will honor the purchasers' right to  
31 cancel their contracts and receive appropriate refunds, and

1 will comply with all other requirements of this chapter and  
2 rules promulgated hereunder.

3  
4 The instrument shall contain language sufficient to provide  
5 subsequent creditors of the developer and interestholders with  
6 notice of the existence of the timeshare plan and of the  
7 rights of purchasers and shall serve to protect the interest  
8 of the timeshare purchasers from any claims of subsequent  
9 creditors. A copy of the recorded nondisturbance and notice  
10 to creditors instrument, when required, shall be provided to  
11 each timeshare purchaser at the time the purchase contract is  
12 executed.

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

18 (5)(a) In lieu of any escrows required by this  
19 section, the director of the division shall have the  
20 discretion to accept other assurances, including, but not  
21 limited to, a surety bond issued by a company authorized and  
22 licensed to do business in this state as surety or an  
23 irrevocable letter of credit in an amount equal to the escrow  
24 requirements of this section.

25 (b) Notwithstanding anything in chapter 718 or chapter  
26 719 to the contrary, the director of the division shall have  
27 the discretion to accept other assurances pursuant to  
28 paragraph (a) in lieu of any requirement that completion of  
29 construction of one or more accommodations or facilities of a  
30 timeshare plan be accomplished prior to closing.

31

1           (6) An escrow agent holding funds escrowed pursuant to  
2 this section may invest such escrowed funds in securities of  
3 the United States Government, or any agency thereof, or in  
4 savings or time deposits in institutions insured by an agency  
5 of the United States Government. The right to receive the  
6 interest generated by any such investments shall be paid to  
7 the party to whom the escrowed funds or property are paid  
8 unless otherwise specified by contract.

9           (7) Each escrow agent shall maintain separate books  
10 and records for each timeshare plan and shall maintain such  
11 books and records in accordance with good accounting  
12 practices.

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

1 rights to the unclaimed funds. The escrow agent shall not be  
2 liable for any claims from any party arising out of the escrow  
3 agent's delivery of the unclaimed funds to the division  
4 pursuant to this section.

5 (9) For each transfer of the legal title to a  
6 timeshare estate, the developer shall deliver an instrument  
7 evidencing such transfer to the purchaser or to the clerk of  
8 the court for recording.

9 (10)~~(8)~~ Any developer, seller, or escrow agent who  
10 intentionally fails to comply with the provisions of this  
11 section concerning the establishment of an escrow account,  
12 deposits of funds into escrow, and withdrawal therefrom is  
13 guilty of a felony of the third degree, punishable as provided  
14 in s. 775.082, s. 775.083, or s. 775.084, or the successor  
15 thereof. The failure to establish an escrow account or to  
16 place funds therein as required in this section is prima facie  
17 evidence of an intentional and purposeful violation of this  
18 section.

19 Section 15. Section 721.09, Florida Statutes, is  
20 amended to read:

21 721.09 Reservation agreements; escrows.--

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

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

1 at least equal to the duration of the proposed timeshare plan,  
2 in the land upon which the timeshare plan is to be developed.

3 (c) If the timeshare plan subject to the reservation  
4 agreement has not been filed with the division under s.  
5 721.07(5) or s. 721.55 within 180 ~~90~~ days after the date the  
6 division approves the reservation agreement filing, the seller  
7 must immediately cancel all outstanding reservation  
8 agreements, refund all escrowed funds to prospective  
9 purchasers, and discontinue accepting reservation deposits or  
10 advertising the availability of reservation agreements.

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

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

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

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

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

30 (a) A statement that the escrow agent will grant a  
31 prospective purchaser an immediate, unqualified refund of the

1 reservation deposit upon the written request of either the  
2 purchaser or the seller directed to the escrow agent.

3 (b) A statement that the escrow agent may not  
4 otherwise release moneys unless a contract is signed by the  
5 purchaser, authorizing the transfer of the escrowed  
6 reservation deposit as a deposit on the purchase price. Such  
7 deposit shall then be subject to the requirements of s.  
8 721.08.

9 (c) A statement of the obligation of the developer to  
10 file a registered public offering statement with the division  
11 prior to entering into binding contracts.

12 (d) A statement of the right of the purchaser to  
13 receive the purchaser public offering statement required by  
14 this chapter.

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

17 (f) A statement that the seller assures that the  
18 purchase price represented in or pursuant to the reservation  
19 agreement will be the price in the contract for the purchase  
20 or that the price represented may be exceeded within a stated  
21 amount or percentage or a statement that no assurance is given  
22 as to the price in the contract for purchase.

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

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

28 (c) The escrow agent may invest the escrowed funds in  
29 securities of the United States Government, or any agency  
30 thereof, or in savings or time deposits in institutions  
31 insured by an agency of the United States Government. The

1 interest generated by any such investments shall be payable to  
2 the party entitled to receive the escrowed funds or property.

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

5 (e) Each escrow agent shall maintain separate books  
6 and records for each timeshare plan and shall maintain such  
7 books and records in accordance with good accounting  
8 practices.

9 (f) Any seller or escrow agent who intentionally fails  
10 to comply with the provisions of this section regarding  
11 deposit of funds in escrow and withdrawal therefrom is guilty  
12 of a felony of the third degree, punishable as provided in s.  
13 775.082, s. 775.083, or s. 775.084, or the successor of any of  
14 such sections. The failure to establish an escrow account or  
15 to place funds therein as required in this section is prima  
16 facie evidence of an intentional and purposeful violation of  
17 this section.

18 Section 16. Section 721.10, Florida Statutes, is  
19 amended to read:

20 721.10 Cancellation.--

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

24 (a) The execution date; or

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

29  
30 This right of cancellation may not be waived by any purchaser  
31 or by any other person on behalf of the purchaser.

1 Furthermore, no closing may occur until the cancellation  
2 period of the timeshare purchaser has expired. Any attempt to  
3 obtain a waiver of the cancellation right of the timeshare  
4 purchaser, or to hold a closing prior to the expiration of the  
5 cancellation period, is unlawful and such closing is voidable  
6 at the option of the purchaser for a period of 1 year after  
7 the expiration of the cancellation period. However, nothing  
8 in this section precludes the execution of documents in  
9 advance of closing for delivery after expiration of the  
10 cancellation period.

11 (2) Any notice of cancellation shall be considered  
12 given on the date postmarked if mailed, or when transmitted  
13 from the place of origin if telegraphed, so long as the notice  
14 is actually received by the developer or escrow agent. If  
15 given by means of a writing transmitted other than by mail or  
16 telegraph, the notice of cancellation shall be considered  
17 given at the time of delivery at the place of business of the  
18 developer.

19 (3) In the event of a timely preclosing cancellation,  
20 ~~or in the event the plan is one in which timeshare licenses~~  
21 ~~are sold and at any time the accommodations or facilities are~~  
22 ~~no longer available,~~ the developer shall honor the right of  
23 any purchaser to cancel the contract which granted the  
24 timeshare purchaser rights in and to the plan. Upon such  
25 cancellation, the developer shall refund to the purchaser the  
26 total amount of all payments made by the purchaser under the  
27 contract, reduced by the proportion of any contract benefits  
28 the purchaser has actually received under the contract prior  
29 to the effective date of the cancellation, as required by s.  
30 721.06 ~~which exceed the proportionate amount of benefits made~~  
31 ~~available under the plan, using the number of years of the~~

1 ~~plan as portrayed in the timeshare instrument as the base for~~  
 2 ~~plans of specific and limited duration, or using the fair~~  
 3 ~~market rental value of such benefits for plans without~~  
 4 ~~specific or limited duration.~~ Such refund shall be made within  
 5 20 days of demand therefor by the purchaser or within 5 days  
 6 after receipt of funds from the purchaser's cleared check,  
 7 whichever is later. ~~For purposes of this subsection, the term~~  
 8 ~~"benefits made available under the plan" shall not include~~  
 9 ~~public offering statements or other documentation or materials~~  
 10 ~~that must be furnished to a purchaser pursuant to statute or~~  
 11 ~~rule.~~

12 Section 17. Section 721.11, Florida Statutes, is  
 13 amended to read:

14 721.11 Advertising materials; oral statements.--

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

30 (b) All ~~such~~ advertising materials must be  
 31 substantially in compliance with this chapter and in full

1 compliance with the mandatory provisions of this chapter. In  
2 the event that any such material is not in substantial  
3 compliance with this chapter, the division may file  
4 administrative charges and an injunction against the developer  
5 and exact such penalties or remedies as provided in s. 721.26,  
6 or may require the developer to correct ~~any~~ the deficiency in  
7 the materials by notifying the developer of the deficiency.†  
8 ~~and~~, If the developer fails to correct the deficiency after  
9 such notification, the division may file administrative  
10 charges against the developer and exact such penalties or  
11 remedies as provided in s. 721.26.

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

1 ~~if accepted by the director, shall be to provide the division~~  
2 ~~with a source of funds to secure the developer's promise in~~  
3 ~~any prize and gift promotional offer to deliver the prize or~~  
4 ~~gift represented in such offer to any prospective purchaser~~  
5 ~~not receiving the represented prize or gift.~~

6 ~~(c) A developer from whom other assurances have been~~  
7 ~~accepted by the director of the division pursuant to paragraph~~  
8 ~~(b) shall file all advertising material, including prize and~~  
9 ~~gift promotional offers with the division at the time of use.~~  
10 ~~All such advertising materials must be substantially in~~  
11 ~~compliance with this chapter and in full compliance with the~~  
12 ~~mandatory provisions of this chapter. In the event that any~~  
13 ~~such material is not in compliance with this chapter, the~~  
14 ~~division may require the developer to correct the deficiency~~  
15 ~~by notifying the developer of the deficiency; and, if the~~  
16 ~~developer fails to correct the deficiency after receiving such~~  
17 ~~notice, the division may file administrative charges against~~  
18 ~~the developer and exact such penalties or remedies as provided~~  
19 ~~in s. 721.26. So long as the developer prepares and~~  
20 ~~disseminates the advertising material in good faith, the~~  
21 ~~division shall not penalize the developer for any deficiencies~~  
22 ~~which the division determines to exist in any advertising~~  
23 ~~material which the developer uses prior to receipt of a notice~~  
24 ~~of deficiency from the division regarding the advertising~~  
25 ~~material. For purposes of this section, "good faith" shall~~  
26 ~~mean that the developer has reasonably attempted to comply~~  
27 ~~with the provisions of this chapter relating to advertising~~  
28 ~~material, and that any deficiency determined to exist by the~~  
29 ~~division is not material and adverse to a prospective~~  
30 ~~purchaser.~~

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

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

4 (b) ~~A transcript of~~ Any radio or television  
5 advertisement.

6 (c) Any lodging or vacation certificate.

7 (d) ~~A transcript of~~ Any standard oral sales  
8 presentation.

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

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

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

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

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

26 (a) Any stockholder communication such as an annual  
27 report or interim financial report, proxy material,  
28 registration statement, securities prospectus, registration,  
29 property report, or other material required to be delivered to  
30 a prospective purchaser by an agency of any other state or the  
31 Federal Government.

1 (b) Any communication addressed to and relating to the  
2 account of any person who has previously executed a contract  
3 for the sale and purchase of a timeshare interest period in  
4 the timeshare plan to which the communication relates, except  
5 when directed to the sale of timeshare interests in a  
6 different timeshare plan or in a different component site of a  
7 multisite timeshare plan subject to part II ~~additional~~  
8 timeshare periods.

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

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

24 (e) Any oral or written statement disseminated by a  
25 developer to broadcast or print media, other than paid  
26 advertising or promotional material, regarding plans for the  
27 acquisition or development of timeshare property, including  
28 possible accommodations or facilities of a timeshare plan  
29 pursuant to subsection (7) or subsection (8), or possible  
30 component sites of a multisite timeshare plan pursuant to  
31 subsection (9)s. 721.553(1). However, any rebroadcast or any

1 other dissemination of such oral statements to a prospective  
2 purchaser by a seller in any manner, or any distribution of  
3 copies of newspaper or magazine articles, press releases, or  
4 any other dissemination of such written statements to a  
5 prospective purchaser by a seller in any manner, shall  
6 constitute advertising material.

7 (f) Any promotional materials relating to a timeshare  
8 plan that are not directed specifically at residents of this  
9 state, regardless of whether such materials relate to  
10 accommodations or facilities located in this state, provided  
11 that such materials do not contain any statements that would  
12 be in violation of subsection (4). For purposes of this  
13 paragraph, a rebuttable presumption shall exist that  
14 promotional materials are not directed specifically at  
15 residents of this state if the materials include a disclaimer  
16 in substantially the following form:

17  
18 This offer is not directed to residents in any state [or the  
19 offer is void in any states] in which a registration of the  
20 timeshare plan is required but in which registration  
21 requirements have not yet been met.

22  
23 (g) Any materials delivered to a purchaser after the  
24 purchase contract is executed that are not delivered for the  
25 purpose of soliciting the sale of a timeshare interest in a  
26 different timeshare plan or a different component site in a  
27 multisite timeshare plan subject to part II, provided that  
28 such materials do not contain any statements that would be in  
29 violation of subsection (4).

30 (h) Any materials exclusively shown, displayed, or  
31 presented in a sales center or during a sales presentation

1 provided that such materials do not contain any statements  
2 that would be in violation of subsection (4) and that any  
3 description of any facility that is not required to be built  
4 or that has not been completed shall be conspicuously labeled  
5 as "NEED NOT BE BUILT," "PROPOSED," or "UNDER CONSTRUCTION."  
6 If the facility is labeled "NEED NOT BE BUILT" or "PROPOSED,"  
7 the seller may indicate the estimated date that such facility  
8 will be made part of the timeshare plan. If the facility is  
9 labeled "UNDER CONSTRUCTION," the estimated date of completion  
10 must be included.

11 (4) No advertising or oral statement made by any  
12 seller shall:

13 (a) Misrepresent a fact or create a false or  
14 misleading impression regarding the timeshare plan or  
15 promotion thereof.

16 (b) Make a prediction of specific or immediate  
17 increases in the price or value of timeshare interests  
18 periods.

19 (c) Contain a statement concerning future price  
20 increases by a ~~the~~ seller which are nonspecific or not bona  
21 fide.

22 (d) Contain any asterisk or other reference symbol as  
23 a means of contradicting or substantially changing any  
24 previously made statement or as a means of obscuring a  
25 material fact.

26 (e) Describe any facility improvement to the timeshare  
27 plan that is not required to be built or that is uncompleted  
28 unless the improvement is conspicuously labeled as "NEED NOT  
29 BE BUILT," "PROPOSED," or "UNDER CONSTRUCTION." If the  
30 facility is labeled "NEED NOT BE BUILT" or "PROPOSED," the  
31 seller may indicate the estimated date that such facility will

1 be made part of the timeshare plan. If the facility is labeled  
2 "UNDER CONSTRUCTION," the estimated date of completion must be  
3 included with the date of promised completion clearly  
4 indicated.

5 (f) Misrepresent the size, nature, extent, qualities,  
6 or characteristics of the offered accommodations or  
7 facilities.

8 (g) Misrepresent the amount or period of time during  
9 which the accommodations or facilities will be available to  
10 any purchaser.

11 (h) Misrepresent the nature or extent of any  
12 incidental benefit.

13 (i) Make any misleading or deceptive representation  
14 with respect to the contents of the public offering statement  
15 and the contract or the rights, privileges, benefits, or  
16 obligations of the purchaser under the contract or this  
17 chapter.

18 (j) Misrepresent the conditions under which a  
19 purchaser may exchange the right to use accommodations or  
20 facilities in one location for the right to use accommodations  
21 or facilities in another location.

22 (k) Misrepresent the availability of a resale or  
23 rental program offered by or on behalf of the developer.

24 (l) Contain an offer or inducement to purchase which  
25 purports to be limited as to quantity or restricted as to time  
26 unless the numerical quantity or time limit applicable to the  
27 offer or inducement is clearly stated.

28 (m) Imply that a facility is available for the  
29 exclusive use of purchasers if the facility will actually be  
30 shared by others or by the general public.

31

1 (n) Purport to have resulted from a referral unless  
2 the name of the person making the referral can be produced  
3 upon demand of the division.

4 (o) Misrepresent the source of the advertising or  
5 statement by leading a prospective purchaser to believe that  
6 the advertising material is mailed by a governmental or  
7 official agency, credit bureau, bank, or attorney, if that is  
8 not the case.

9 (p) Misrepresent the value of any prize, gift, or  
10 other item to be awarded in connection with any prize and gift  
11 promotional offer, as described in s. 721.111, or any  
12 incidental benefit.

13 (5)(a) No written advertising material, including any  
14 lodging certificate, gift award, premium, discount, or display  
15 booth, may be utilized without each prospective purchaser  
16 being provided a disclosure ~~one of the following disclosures~~  
17 in conspicuous type in substantially the following form: This  
18 advertising material is being used for the purpose of  
19 soliciting sales of timeshare interests ~~periods~~; or This  
20 advertising material is being used for the purpose of  
21 soliciting sales of a vacation (or vacation membership or  
22 vacation ownership) plan. The division shall have the  
23 discretion to approve the use of an alternate disclosure. The  
24 conspicuous disclosure required in this subsection shall only  
25 be required to be given to each prospective purchaser on one  
26 piece of advertising for each advertising promotion or  
27 marketing campaign, provided that if the promotion or campaign  
28 contains terms and conditions, the conspicuous disclosure  
29 required in this subsection shall be included on any piece  
30 containing such terms and conditions. The conspicuous  
31 disclosure required in this subsection shall be provided

1 before the purchaser is required to take any affirmative  
 2 action pursuant to the promotion. If the advertising material  
 3 containing the conspicuous disclosure is a display booth, the  
 4 disclosure required by this subsection must be conspicuously  
 5 displayed on or within the display booth.~~If a filing of a~~  
 6 ~~timeshare plan containing accommodations and facilities~~  
 7 ~~located outside of this state has been approved by the situs~~  
 8 ~~jurisdiction and by the division, an alternate disclosure~~  
 9 ~~consistent with that required by the situs jurisdiction, or by~~  
 10 ~~such other jurisdiction or jurisdictions where the advertising~~  
 11 ~~material will be used, may be utilized with the prior approval~~  
 12 ~~of the director of the division so long as the alternate~~  
 13 ~~disclosure is substantially similar to that required by this~~  
 14 ~~paragraph.~~

15 (b) This subsection does not apply to any advertising  
 16 material which involves a project or development which  
 17 includes sales of real estate or other commodities or services  
 18 in addition to timeshare interests periods, including, but not  
 19 limited to, lot sales, condominium or home sales, or the  
 20 rental of resort accommodations. However, if the sale of  
 21 timeshare interests periods, as compared with such other sales  
 22 or rentals, is the primary purpose of the advertising  
 23 material, a disclosure shall be made in conspicuous type that:  
 24 This advertising material is being used for the purpose of  
 25 soliciting the sale of ... (Disclosure shall include timeshare  
 26 interests periods and may include other types of sales)....  
 27 Factors which the division may consider in determining whether  
 28 the primary purpose of the advertising material is the sale of  
 29 timeshare interests periods include:

- 30 1. The retail value of the timeshare interests periods  
 31 compared to the retail value of the other real estate,

1 commodities, or services being offered in the advertising  
2 material.

3           2. The amount of space devoted to the timeshare  
4 portion of the project in the advertising material compared to  
5 the amount of space devoted to other portions of the project,  
6 including, but not limited to, printed material, photographs,  
7 or drawings.

8           (6) Failure to provide cancellation rights or  
9 disclosures as required by this subsection in connection with  
10 the sale of a regulated short-term product constitutes  
11 misrepresentation in accordance with paragraph (4)(a). Any  
12 agreement relating to the sale of a regulated short-term  
13 product must be regulated as advertising material and is  
14 subject to the following:

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

21           (b) A purchaser of a regulated short-term product has  
22 the right to cancel the agreement until midnight of the 10th  
23 calendar day following the execution date of the agreement.  
24 The right of cancellation may not be waived by the prospective  
25 purchaser or by any other person on behalf of the prospective  
26 purchaser. Notice of cancellation must be given in the same  
27 manner prescribed for giving notice of cancellation under s.  
28 721.10(2). If the prospective purchaser gives a valid notice  
29 of cancellation or is otherwise entitled to cancel the sale,  
30 the funds or property received from or on behalf of the  
31 prospective purchaser, or the proceeds thereof, must be

1 returned to the prospective purchaser. Such refund must be  
2 made in the same manner prescribed for refunds under s.  
3 721.10.

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

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

15 2. A statement that the specific value for each  
16 benefit received by the prospective purchaser under the  
17 agreement will be as agreed to between the prospective  
18 purchaser and the seller.

19 (d) An agreement for purchase of a regulated  
20 short-term product must contain substantially the following  
21 statements in conspicuous type immediately above the space  
22 reserved in the agreement for the signature of the prospective  
23 purchaser:

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

1 Seller).... Any attempt to obtain a waiver of your  
2 cancellation right is unlawful.

3         If you execute a purchase contract for a timeshare  
4 interest period, section 721.08, Florida Statutes (escrow  
5 accounts), will apply to any funds or other property received  
6 from you or on your behalf. Section 721.10, Florida Statutes  
7 (cancellation), will apply to the purchase and you will not be  
8 entitled to a cancellation refund of the short-term product  
9 [or specify an alternate refund policy under these  
10 circumstances].

11  
12         (e) If the seller provides the purchaser with the  
13 right to cancel the purchase of a regulated short-term product  
14 at any time up to 7 days prior to the purchaser's reserved use  
15 of the accommodations, but in no event less than 10 days, and  
16 if the seller refunds the total amount of all payments made by  
17 the purchaser reduced by the proportion of any benefits the  
18 purchaser has actually received prior to the effective date of  
19 the cancellation, the specific value of which has been agreed  
20 to between the purchaser and the seller, the short-term  
21 product offer shall be exempt from the requirements of  
22 paragraphs (b), (c), and (d). An agreement relating to the  
23 sale of the regulated short-term product made pursuant to this  
24 paragraph must contain a statement setting forth the  
25 cancellation and refund rights of the prospective purchaser in  
26 a manner that is consistent with this section and s. 721.10,  
27 including a description of the length of the cancellation  
28 right, a statement that the purchaser's intent to cancel must  
29 be in writing and sent to the seller at a specified address, a  
30 statement that the notice of cancellation is effective upon  
31 the date sent, and a statement that any attempt to waive the

1 cancellation right is unlawful. The right of cancellation  
2 provided to the purchaser pursuant to this paragraph may not  
3 be waived by the prospective purchaser or by any other person  
4 on behalf of the prospective purchaser. Notice of cancellation  
5 must be given in the same manner prescribed for giving notice  
6 of cancellation pursuant to s. 721.10(2). If the prospective  
7 purchaser gives a valid notice of cancellation, or is  
8 otherwise entitled to cancel the sale, the funds or property  
9 received from or on behalf of the prospective purchaser, or  
10 the proceeds thereof, shall be returned to the prospective  
11 purchaser. Such refund shall be made in the manner prescribed  
12 for refunds under s. 721.10.

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

20 (8) Notwithstanding the provisions of s. 721.05(6)(b),  
21 a developer may portray possible accommodations or facilities  
22 to prospective purchasers by disseminating oral or written  
23 statements regarding same to broadcast or print media with no  
24 obligation on the developer's part to actually construct such  
25 accommodations or facilities or to file such accommodations or  
26 facilities with the division, but only so long as such oral or  
27 written statements are not considered advertising material  
28 pursuant to paragraph (3)(e).

29 (9) Notwithstanding the provisions of s. 721.05(6)(b),  
30 a seller of a multisite timeshare plan may portray a possible  
31 component site to prospective purchasers with no

1 accommodations or facilities located at such component site  
2 being available for use by purchasers so long as the seller  
3 satisfies the following requirements:

4 (a) A developer of a multisite timeshare plan may  
5 disseminate oral or written statements to broadcast or print  
6 media describing a possible component site with no obligation  
7 on the developer's part to actually add such component site to  
8 the multisite timeshare plan or to amend the developer's  
9 filing with the division, but only so long as such oral or  
10 written statements are not considered advertising material  
11 pursuant to paragraph (3)(e).

12 (b) A seller may make representations to purchasers in  
13 advertising material or in a purchaser public offering  
14 statement regarding the possible accommodations and facilities  
15 of a possible component site without such accommodations or  
16 facilities being available for use by purchasers so long as  
17 the advertising material or purchaser public offering  
18 statement complies with the provisions of subsection (4).

19 (c) In the event a seller makes any of the  
20 representations permitted by paragraph (b), the purchase  
21 agreement must contain the following conspicuous disclosure  
22 unless and until such time as the developer has committed  
23 itself in the timeshare instrument to adding the possible  
24 component site to the multisite timeshare plan, at which time  
25 the seller may portray the component site pursuant to the  
26 timeshare instrument without restriction:

27  
28 [Description of possible component site] is only a possible  
29 component site which may never be added to the multisite  
30 timeshare plan (or multisite vacation ownership plan or  
31 multisite vacation plan or vacation club). Do not purchase an

1 interest in the multisite timeshare plan (or multisite  
2 vacation ownership plan or multisite vacation plan or vacation  
3 club) in reliance upon the addition of this component site.

4  
5 (d) Notwithstanding anything contained in this chapter  
6 to the contrary, a developer or managing entity may  
7 communicate with existing purchasers regarding possible  
8 component sites without restriction, so long as all oral and  
9 written statements made to existing purchasers pursuant to  
10 this subsection comply with the provisions of subsection (4).

11 (e) Any violation of this subsection by a developer,  
12 seller, or managing entity shall constitute a violation of  
13 this chapter. Any violation of this subsection with respect to  
14 a purchaser whose purchase has not yet closed shall be deemed  
15 to provide that purchaser with a new 10-day voidability  
16 period.

17 Section 18. Section 721.111, Florida Statutes, is  
18 amended to read:

19 721.111 Prize and gift promotional offers.--

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

26 (2) A game promotion, such as a contest of chance,  
27 gift enterprise, or sweepstakes, in which the elements of  
28 chance and prize are present may not be used in connection  
29 with the offering or sale of timeshare interests ~~periods~~,  
30 except for drawings, as that term is defined in s.

31 849.0935(1)(a), in which no more than 10 prizes are promoted

1 and in which all promoted prizes are actually awarded. All  
2 such drawings must meet all requirements of this chapter and  
3 of ss. 849.092 and 849.094(1), (2), and (7).

4 (3) Any prize, gift, or other item offered pursuant to  
5 a prize and gift promotional offer must be delivered to the  
6 prospective purchaser on the day she or he appears to claim  
7 it, whether or not she or he purchases a timeshare interest  
8 period.

9 (4) A separate filing for each prize and gift  
10 promotional offer to be used in the sale of timeshare  
11 interests periods shall be made with the division pursuant to  
12 s. 721.11(1). The developer shall pay a \$100 filing fee for  
13 each prize and gift promotional offer. One item of each prize  
14 or gift, except cash, must be made available for inspection by  
15 the division.

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

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

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

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

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

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

31

1 (f) The name and address of the registered agent in  
2 this state of the promotional entity for service of process  
3 purposes.

4 ~~(g) The number of anticipated recipients of each item~~  
5 ~~of advertising material related to the prize and gift~~  
6 ~~promotional offer.~~

7 (g)(h) Full disclosure of all pertinent information  
8 concerning the use of lodging or vacation certificates,  
9 including the terms and conditions of the campaign and the  
10 fact and extent of participation in such campaign by the  
11 developer. The developer shall provide to the division, upon  
12 the request of the division, an affidavit, certification, or  
13 other reasonable evidence ~~division may require reasonable~~  
14 ~~assurances~~ that the obligation incurred by a seller or the  
15 seller's agent in a lodging certificate program can be met.

16 ~~(6) Each developer shall pay to the division a fee of~~  
17 ~~\$100 for the filing of each prize and gift promotional offer,~~  
18 ~~at the time of filing. Those developers utilizing game~~  
19 ~~promotions in which the elements of chance and prize are~~  
20 ~~present shall pay an additional \$400 fee at the time of filing~~  
21 ~~of the prize and gift promotional offer. No additional fee~~  
22 ~~may be charged for the submission of corrected advertising~~  
23 ~~material related to a prize and gift promotional offer or for~~  
24 ~~the submission of additional material related to a prize and~~  
25 ~~gift promotional offer for which a prior filing has been made.~~

26 (6)(7) All advertising material to be distributed in  
27 connection with a prize and gift promotional offer shall  
28 contain, in addition to the information required pursuant to  
29 the provisions of s. 721.11, the following disclosures:

30 (a) A description of the prize, gift, or other item  
31 that the prospective purchaser will actually receive,

1 including, if the price is in excess of \$50, the  
2 manufacturer's suggested retail price or, if none is  
3 available, the verifiable retail value. If the value is \$50 or  
4 less, the description shall contain a statement of such.

5 (b) All rules, terms, requirements, and preconditions  
6 which must be fulfilled or met before a prospective purchaser  
7 may claim any prize, gift, or other item involved in the prize  
8 and gift promotional plan, including whether the prospective  
9 purchaser is required to attend a sales presentation in order  
10 to receive the prize, gift, or other item.

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

12 (d) If the number of prizes, gifts, or other items to  
13 be awarded is limited, a statement of the number of items that  
14 will be awarded.

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

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

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

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

28 (7)~~(9)~~ All prizes, gifts, or other items represented  
29 by the developer to be awarded in connection with any prize  
30 and gift promotional offer shall be awarded by the date  
31

1 referenced in the advertising material used in connection with  
2 such offer.

3 Section 19. Subsection (1) of section 721.12, Florida  
4 Statutes, is amended to read:

5 721.12 Recordkeeping by seller.--Each seller of a  
6 timeshare plan shall maintain among its business records the  
7 following:

8 (1) A copy of each contract for the sale of a  
9 timeshare interest period, which contract has not been  
10 canceled. If a timeshare estate is being sold, the seller is  
11 required to retain a copy of the contract only until a deed of  
12 conveyance, agreement for deed, or lease is recorded in the  
13 office of the clerk of the circuit court in the county wherein  
14 the plan is located.

15 Section 20. Section 721.13, Florida Statutes, is  
16 amended to read:

17 721.13 Management.--

18 (1)(a) For each ~~Before the first sale of a~~ timeshare  
19 plan period, the developer shall ~~create or~~ provide for a  
20 managing entity, which shall be either the developer, a  
21 separate manager or management firm, or ~~the board of~~  
22 ~~administration of an owners' association, or some combination~~  
23 thereof. Any owners' association shall be created prior to the  
24 recording of the timeshare instrument.

25 (b)1. With respect to a timeshare plan which is also  
26 regulated under chapter 718 or chapter 719, or which contains  
27 a mandatory owners' association, the board of administration  
28 of the association shall be considered the managing entity of  
29 the timeshare plan.

30 2. During any period of time in which such association  
31 has entered into a contract with a manager or management firm

1 to provide some or all of the management services to the  
2 timeshare plan, both the board of administration and the  
3 manager or management firm shall be considered the managing  
4 entity of the timeshare plan and shall be jointly and  
5 severally responsible for the faithful discharge of the duties  
6 of the managing entity.

7 3. An owners' association which is the managing entity  
8 of a timeshare plan that includes condominium units or  
9 cooperative units shall not be considered a condominium  
10 association pursuant to the provisions of chapter 718 or a  
11 cooperative association pursuant to the provisions of chapter  
12 719, unless such owners' association also operates the entire  
13 condominium pursuant to s. 718.111 or the entire cooperative  
14 pursuant to s. 719.104.

15 (c) With respect to any timeshare plan other than one  
16 described in paragraph (b), any developer shall be considered  
17 the managing entity of the timeshare plan unless and until  
18 such developer clearly provides in the timeshare instrument  
19 that a different party will serve as managing entity, which  
20 party has acknowledged in writing that it has accepted the  
21 duties and obligations of serving as managing entity. In the  
22 event such other party subsequently resigns or otherwise  
23 ceases to perform its duties as managing entity, any developer  
24 shall again be considered the managing entity until the  
25 developer arranges for a new managing entity pursuant to this  
26 paragraph.

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

31

1           (e) Any managing entity performing community  
2 association management must comply with part VIII of chapter  
3 468.

4           (2)(a) The managing entity shall act in the capacity  
5 of a fiduciary to the purchasers of the timeshare plan. No  
6 penalty imposed by the division pursuant to s. 721.26 against  
7 any managing entity for breach of fiduciary duty shall be  
8 assessed as a common expense of any timeshare plan.

9           (b) The managing entity shall invest the operating and  
10 reserve funds of the timeshare plan in accordance with s.  
11 518.11(1); however, the managing entity shall give safety of  
12 capital greater weight than production of income. In no event  
13 shall the managing entity invest timeshare plan funds with a  
14 developer or with any entity that is not independent of any  
15 developer or any managing entity within the meaning of s.  
16 721.05(18), and in no event shall the managing entity invest  
17 timeshare plan funds in notes and mortgages related in any way  
18 to the timeshare plan.

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

21           (a) Management and maintenance of all accommodations  
22 and facilities constituting the timeshare plan.

23           (b) Collection of all assessments for common expenses.

24           (c)1. Providing each year to all purchasers an  
25 itemized annual budget which shall include all estimated  
26 revenues and expenses. The budget shall be in the form  
27 required by s. 721.07(5)(u)~~(x)~~ and shall be the final budget  
28 adopted by the managing entity for the current fiscal year.  
29 The budget shall contain, as a footnote or otherwise, any  
30 related party transaction disclosures or notes which appear in  
31 the audited financial statements of the managing entity for

1 the previous budget year as required by paragraph (e). A copy  
2 of the final budget shall be filed with the division within 30  
3 days after the beginning of each fiscal year ~~its adoption by~~  
4 ~~the managing entity~~ together with a statement of the number of  
5 periods of 7-day annual use availability that exist within the  
6 timeshare plan, including those periods filed for sale by the  
7 developer but not yet committed to the timeshare plan, for  
8 which annual fees are required to be paid to the division  
9 under s. 721.27.

10 2. Notwithstanding anything contained in chapter 718  
11 or chapter 719 to the contrary, the board of administration of  
12 an owners' association which serves as the managing entity may  
13 from time to time reallocate reserves for deferred maintenance  
14 and capital expenditures required by s.

15 721.07(5)(u)~~(x)~~3.a.(XI) from any deferred maintenance or  
16 capital expenditure reserve account to any other deferred  
17 maintenance or capital expenditure reserve account or accounts  
18 in its discretion without the consent of purchasers of the  
19 timeshare plan. Funds in any deferred maintenance or capital  
20 expenditure reserve account may not be transferred to any  
21 operating account without the consent of a majority of the  
22 purchasers of the timeshare plan. The managing entity may from  
23 time to time transfer excess funds in any operating account to  
24 any deferred maintenance or capital expenditure reserve  
25 account without the vote or approval of purchasers of the  
26 timeshare plan.

27 (d)1. Maintenance of all books and records concerning  
28 the timeshare plan so that all such books and records are  
29 reasonably available for inspection by any purchaser or the  
30 authorized agent of such purchaser. For purposes of this  
31 subparagraph, the books and records of the timeshare plan

1 shall be considered "reasonably available" if copies of the  
2 requested portions are delivered to the purchaser or the  
3 purchaser's agent within 7 days of the date the managing  
4 entity receives a written request for the records signed by  
5 the purchaser. The managing entity may charge the purchaser a  
6 reasonable fee for copying the requested information not to  
7 exceed 25 cents per page. However, any purchaser or agent of  
8 such purchaser shall be permitted to personally inspect and  
9 examine the books and records wherever located at any  
10 reasonable time, under reasonable conditions, and under the  
11 supervision of the custodian of those records. The custodian  
12 shall supply copies of the records where requested and upon  
13 payment of the copying fee. No fees other than those set forth  
14 in this section may be charged for the providing of,  
15 inspection, or examination of books and records. All books and  
16 financial records of the timeshare plan must be maintained in  
17 accordance with generally accepted accounting practices.

18         2. If the books and records of the timeshare plan are  
19 not maintained on the premises of the accommodations and  
20 facilities of the timeshare plan, the managing entity shall  
21 inform the division in writing of the location of the books  
22 and records and the name and address of the person who acts as  
23 custodian of the books and records at that location. In the  
24 event that the location of the books and records changes, the  
25 managing entity shall notify the division of the change in  
26 location and the name and address of the new custodian within  
27 30 days of the date the books and records are moved. The  
28 purchasers shall be notified of the location of the books and  
29 records and the name and address of the custodian in the copy  
30 of the annual budget provided to them pursuant to paragraph  
31 (c).

1           3. The division is authorized to adopt rules which  
2 specify those items and matters that shall be included in the  
3 books and records of the timeshare plan and which specify  
4 procedures to be followed in requesting and delivering copies  
5 of the books and records.

6           4. Notwithstanding any provision of chapter 718 or  
7 chapter 719 to the contrary, the managing entity may not  
8 furnish the name or address of any purchaser to any other  
9 purchaser or authorized agent thereof unless the purchaser  
10 whose name and address are requested first approves the  
11 disclosure in writing.

12           (e) Arranging for an annual audit of the financial  
13 statements of the timeshare plan by a certified public  
14 accountant licensed by the Board of Accountancy of the  
15 Department of Business and Professional Regulation, in  
16 accordance with generally accepted auditing standards as  
17 defined by the rules of the Board of Accountancy of the  
18 Department of Business and Professional Regulation. The  
19 financial statements required by this section must be prepared  
20 on an accrual basis using fund accounting, and must be  
21 presented in accordance with generally accepted accounting  
22 principles. A copy of the audited financial statements must be  
23 filed with the division and forwarded to the board of  
24 directors and officers of the owners' association, if one  
25 exists, no later than 5 calendar months after the end of the  
26 timeshare plan's fiscal year. If no owners' association  
27 exists, each purchaser must be notified, no later than 5  
28 months after the end of the timeshare plan's fiscal year, that  
29 a copy of the audited financial statements is available upon  
30 request to the managing entity. Notwithstanding any  
31 requirement of s. 718.111(13) or s. 719.104(4)~~(14)~~, the

1 audited financial statements required by this section are the  
2 only annual financial reporting requirements for timeshare  
3 condominiums or timeshare cooperatives.

4 (f) Making available for inspection by the division  
5 any books and records of the timeshare plan upon the request  
6 of the division. The division may enforce this paragraph by  
7 making direct application to the circuit court.

8 (g) Scheduling occupancy of the timeshare units, when  
9 purchasers are not entitled to use specific timeshare periods,  
10 so that all purchasers will be provided the use and possession  
11 of the accommodations and facilities of the timeshare plan  
12 which they have purchased.

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

16 (i) 1. Entering into an ad valorem tax escrow agreement  
17 prior to the receipt of any ad valorem tax escrow payments  
18 into the ad valorem tax escrow account, as long as an  
19 independent escrow agent is required by s. 192.037.

20 2. Submitting to the division the statement of  
21 receipts and disbursements regarding the ad valorem tax escrow  
22 account as required by s. 192.037(6)(e). The statement of  
23 receipts and disbursements must also include a statement  
24 disclosing that all ad valorem taxes have been paid in full to  
25 the tax collector through the current assessment year, or, if  
26 all such ad valorem taxes have not been paid in full to the  
27 tax collector, a statement disclosing those assessment years  
28 for which there are outstanding ad valorem taxes due and the  
29 total amount of all delinquent taxes, interest, and penalties  
30 for each such assessment year as of the date of the statement  
31 of receipts and disbursements.

1           (j) Notwithstanding anything contained in chapter 718  
2 or chapter 719 to the contrary, purchasers shall not have the  
3 power to cancel contracts entered into by the managing entity  
4 relating to a master or community antenna television system, a  
5 franchised cable television service, or any similar paid  
6 television programming service or bulk rate services  
7 agreement.

8           (4) The managing entity shall maintain among its  
9 records and provide to the division upon request a complete  
10 list of the names and addresses of all purchasers and owners  
11 of timeshare units in the timeshare plan. The managing entity  
12 shall update this list no less frequently than quarterly.  
13 Pursuant to paragraph (3)(d), the managing entity may not  
14 publish this owner's list or provide a copy of it to any  
15 purchaser or to any third party other than the division.  
16 However, the managing entity shall ~~initiate a mailing~~ to those  
17 persons listed on the owner's list materials provided by any  
18 purchaser, upon the written request of that any purchaser, if  
19 the purpose of the mailing is to advance legitimate  
20 association business, such as a proxy solicitation for any  
21 purpose, including the recall of one or more board members  
22 elected by the owners or the discharge of the manager or  
23 management firm. The use of any proxies solicited in this  
24 manner must comply with the provisions of the timeshare  
25 instrument and this chapter. A mailing requested for the  
26 purpose of advancing legitimate association business shall  
27 occur within 30 days after receipt of a request from a  
28 purchaser. The board of administration of the association  
29 shall be responsible for determining the appropriateness of  
30 any mailing requested pursuant to this subsection, ~~and it~~  
31 ~~shall be a violation of this chapter and of part VIII of~~

1 ~~chapter 468 for the board of administration and/or the manager~~  
2 ~~or management firm to refuse to initiate any mailing requested~~  
3 ~~for the purpose of advancing legitimate association business.~~  
4 The purchaser who requests the mailing must reimburse the  
5 association in advance for the association's actual costs in  
6 performing the mailing. It shall be a violation of this  
7 chapter and, if applicable, of pt. VIII of chapter 468, for  
8 the board of administration or the manager or management firm  
9 to refuse to mail any material requested by the purchaser to  
10 be mailed, provided the sole purpose of the materials is to  
11 advance legitimate association business. If the purpose of the  
12 mailing is a proxy solicitation to recall one or more board  
13 members elected by the owners or to discharge the manager or  
14 management firm and the managing entity does not mail the  
15 materials within 30 days after receipt of a request from a  
16 purchaser, the circuit court in the county where the timeshare  
17 plan is located may, upon application from the requesting  
18 purchaser, summarily order the mailing of the materials solely  
19 related to the recall of one or more board members elected by  
20 the owners or the discharge of the manager or management firm.  
21 The court shall dispose of an application on an expedited  
22 basis. In the event of such an order, the court may order the  
23 managing entity to pay the purchaser's costs, including  
24 attorney's fees reasonably incurred to enforce the purchaser's  
25 rights, unless the managing entity can prove it refused the  
26 mailing in good faith because of a reasonable basis for doubt  
27 about the legitimacy of the mailing.

28 (5) Any managing entity, or individual officer,  
29 director, employee, or agent thereof, who willfully  
30 misappropriates the property or funds of a timeshare plan  
31 commits a felony of the third degree, punishable as provided

1 in s. 775.082, s. 775.083, or s. 775.084, or the successor  
2 thereof.

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

31

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

1 time as the purchaser is no longer delinquent. The notice  
2 shall not be effective to bar the use of third parties  
3 receiving use rights in the timeshare period in question  
4 through an affiliated exchange program without the additional  
5 notice to the affiliated exchange program required by  
6 paragraph (c).

7 (c) In addition to giving notice to the delinquent  
8 purchaser as required by paragraph (b), a managing entity  
9 desiring to deny the use of the accommodations and facilities  
10 of the timeshare plan to third parties receiving use rights in  
11 the delinquent purchaser's timeshare period through any  
12 affiliated exchange program shall notify the affiliated  
13 exchange company in writing of the denial of use. The receipt  
14 of such written notice by the affiliated exchange company  
15 shall be effective to bar the use of all third parties  
16 claiming through the affiliated exchange program, and such  
17 notice shall be binding upon the affiliated exchange company  
18 and all third parties claiming through the affiliated exchange  
19 program until such time as the affiliated exchange company  
20 receives notice from the managing entity that the purchaser is  
21 no longer delinquent. However, any third party claiming  
22 through the affiliated exchange program who has received a  
23 confirmed assignment of the delinquent purchaser's use rights  
24 from the affiliated exchange company prior to the expiration  
25 of 48 hours after the receipt by the affiliated exchange  
26 company of such written notice from the managing entity shall  
27 be permitted by the managing entity to use the accommodations  
28 and facilities of the timeshare plan to the same extent that  
29 he or she would be allowed to use such accommodations and  
30 facilities if the delinquent purchaser were not delinquent.

31

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

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

24           (f)1. Provided that the managing entity has properly  
25 and timely given notice to a delinquent purchaser pursuant to  
26 paragraph (b) and to any affiliated exchange program pursuant  
27 to paragraph (c), the managing entity may give further notice  
28 to the delinquent purchaser that it may ~~intends to~~ rent the  
29 delinquent purchaser's timeshare period, or any use rights  
30 appurtenant thereto, and will ~~to~~ apply the proceeds of such  
31 rental, net of any rental commissions, cleaning charges,

1 travel agent commissions, or any other commercially reasonable  
2 charges reasonably and usually incurred by the managing entity  
3 in securing rentals, to the delinquent purchaser's account.  
4 Such further notice of intent to rent must be given at least  
5 30 days prior to the first day of the purchaser's use period,  
6 and must be delivered to the purchaser in the manner required  
7 for notices under paragraph (b).

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

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

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

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

30           3. In securing a rental pursuant to this paragraph,  
31 the managing entity shall not be required to obtain the

1 highest nightly rental rate available, nor any particular  
2 rental rate, and the managing entity shall not be required to  
3 rent the entire timeshare period; however, the managing entity  
4 must use reasonable efforts to secure a rental that is  
5 commensurate with other rentals of similar timeshare periods  
6 or use rights generally secured at that time.

7 (g) A managing entity shall have breached its  
8 fiduciary duty described in subsection (2) in the event it  
9 enforces the denial of use pursuant to paragraph (b) against  
10 any one purchaser or group of purchasers without similarly  
11 enforcing it against all purchasers, including all developers  
12 and owners of the underlying fee; however, a managing entity  
13 shall not be required to solicit rentals pursuant to paragraph  
14 (f) for every delinquent purchaser. A managing entity shall  
15 also have breached its fiduciary duty in the event an error in  
16 the books and records of the timeshare plan results in a  
17 denial of use pursuant to this subsection of any purchaser who  
18 is not, in fact, delinquent. In addition to any remedies  
19 otherwise available to purchasers of the timeshare plan  
20 arising from such breaches of fiduciary duty, such breach  
21 shall also constitute a violation of this chapter. In  
22 addition, any purchaser receiving a notice of delinquency  
23 pursuant to paragraph (b), or any third party claiming under  
24 such purchaser pursuant to paragraph (b), may immediately  
25 bring an action for injunctive or declaratory relief against  
26 the managing entity seeking to have the notice invalidated on  
27 the grounds that the purchaser is not, in fact, delinquent,  
28 that the managing entity failed to follow the procedures  
29 prescribed by this section, or on any other available grounds.  
30 The prevailing party in any such action shall be entitled to  
31

1 recover his or her reasonable attorney's fees from the losing  
2 party.

3 (7) Unless the articles of incorporation, the bylaws,  
4 or the provisions of this chapter provide for a higher quorum  
5 requirement, the percentage of voting interests required to  
6 make decisions and to constitute a quorum at a meeting of the  
7 members of a timeshare condominium or owners' association  
8 shall be 15 percent of the voting interests. If a quorum is  
9 not present at any meeting of the owners' association at which  
10 members of the board of administration are to be elected, the  
11 meeting may be adjourned and reconvened within 90 days for the  
12 sole purpose of electing members of the board of  
13 administration, and the quorum for such adjourned meeting  
14 shall be 15 percent of the voting interests. This provision  
15 shall apply notwithstanding any provision of chapter 718 or  
16 chapter 719 to the contrary.

17 (8) Notwithstanding anything to the contrary in s.  
18 718.110, s. 718.113, s. 718.114, or s. 719.1055, the board of  
19 administration of any owners' association that operates a  
20 timeshare condominium pursuant to s. 718.111, or a timeshare  
21 cooperative pursuant to s. 719.104, shall have the power to  
22 make material alterations or substantial additions to the  
23 accommodations or facilities of such timeshare condominium or  
24 timeshare cooperative without the approval of the association.  
25 However, if the timeshare condominium or timeshare cooperative  
26 contains any residential units that are not subject to the  
27 timeshare plan, such action by the board of administration  
28 must be approved by a majority of the owners of such  
29 residential units. Unless otherwise provided in the timeshare  
30 instrument as originally recorded, no such amendment may  
31 change the configuration or size of any accommodation in any

1 material fashion, or change the proportion or percentage by  
2 which a member of the association shares the common expenses,  
3 unless the record owners of the affected units or timeshare  
4 interests and all record owners of liens on the affected units  
5 or timeshare interests join in the execution of the amendment.

6 ~~(9)~~(8) Any failure of the managing entity to  
7 faithfully discharge the fiduciary duty to purchasers imposed  
8 by this section or to otherwise comply with the provisions of  
9 this section shall be a violation of this chapter and of part  
10 VIII of chapter 468.

11 Section 21. Subsection (2) of section 721.14, Florida  
12 Statutes, is amended to read:

13 721.14 Discharge of managing entity.--

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

1 receiver shall have all powers and duties of a duly  
2 constituted board of administration and shall serve until  
3 discharged by the circuit court.

4 Section 22. Section 721.15, Florida Statutes, is  
5 amended to read:

6 721.15 Assessments for common expenses.--

7 (1)(a) Until a managing entity is created or provided  
8 pursuant to s. 721.13, the developer shall pay all common  
9 expenses. The timeshare instrument shall provide for the  
10 allocation of common expenses among all timeshare units or  
11 timeshare interests ~~periods~~ on a reasonable basis, including  
12 timeshare interests ~~periods~~ owned or not yet sold by the  
13 developer. The timeshare instrument may provide that the  
14 common expenses allocated may differ between those timeshare  
15 units that are part of the timeshare plan and those units that  
16 are not part of the timeshare plan; however, the different  
17 proportion of expenses must be based upon reasonable  
18 differences in the benefit provided to each. The timeshare  
19 instrument shall allocate common expenses to timeshare  
20 interests ~~periods~~ owned or not yet sold by the developer on  
21 the same basis that common expenses are allocated to similar  
22 or equivalent timeshare interests ~~periods~~ sold to purchasers.

23 (b) Notwithstanding any provision of chapter 718 or  
24 chapter 719 to the contrary, the allocation of total common  
25 expenses for a condominium or a cooperative timeshare plan may  
26 vary on any reasonable basis, including, but not limited to,  
27 timeshare unit size, timeshare unit type, timeshare unit  
28 location, specific identification, or a combination of these  
29 factors, if the percentage interest in the common elements  
30 attributable to each timeshare condominium parcel or timeshare  
31 cooperative parcel equals the share of the total common

1 expenses allocable to that parcel. The share of a timeshare  
2 interest in the common expenses allocable to the timeshare  
3 condominium parcel or the timeshare cooperative parcel  
4 containing such interest may vary on any reasonable basis if  
5 the timeshare interest's share of its parcel's common expense  
6 allocation is equal to that timeshare interest's share of the  
7 percentage interest in common elements attributable to such  
8 parcel.

9 (2)(a) After the creation or provision of a managing  
10 entity, the managing entity shall make an annual assessment  
11 against each purchaser for the payment of common expenses,  
12 based on the projected annual budget, in the amount specified  
13 by the contract between the seller and the purchaser or in the  
14 timeshare instrument.

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

1 insurance coverages required by s. 721.165, the common  
2 expenses incurred during the guarantee period resulting from a  
3 natural disaster or an act of God, which are not covered by  
4 insurance proceeds from the insurance maintained by the  
5 owners' association, may be assessed against all purchasers  
6 owning timeshare interests on the date of such natural  
7 disaster or act of God, and their successors and assigns,  
8 including the developer with respect to timeshare interests  
9 owned by the developer. In the event of such an assessment,  
10 all timeshare interests shall be assessed in accordance with  
11 their ownership interest as required by paragraph (1)(a).

12 (c) For the purpose of calculating the obligation of a  
13 developer under a guarantee pursuant to paragraph (b),  
14 depreciation expenses related to real property shall be  
15 excluded from common expenses incurred during the guarantee  
16 period.

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

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

1 purchaser and shall be secured by a lien in favor of the  
2 managing entity upon the timeshare interest period with  
3 respect to which the delinquent assessment has been incurred.

4 (4) Unless otherwise specified in the contract between  
5 the seller and the purchaser, any common expenses benefiting  
6 fewer than all purchasers shall be assessed only against those  
7 purchasers benefited.

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

12 (6) Notwithstanding any contrary requirements of s.  
13 718.112(2)(g) or s. 719.106(1)(g), for timeshare plans subject  
14 to this chapter, assessments against purchasers need not be  
15 made more frequently than annually.

16 (7) A purchaser, regardless of how her or his  
17 timeshare estate or timeshare license has been acquired,  
18 including a purchaser at a judicial sale, is personally liable  
19 for all assessments for common expenses which come due while  
20 the purchaser is the owner of such interest. A successor in  
21 interest is jointly and severally liable with her or his  
22 predecessor in interest for all unpaid assessments against  
23 such predecessor up to the time of transfer of the timeshare  
24 interest to such successor without prejudice to any right a  
25 successor in interest may have to recover from her or his  
26 predecessor in interest any amounts assessed against such  
27 predecessor and paid by such successor. The predecessor in  
28 interest shall provide the managing entity with a copy of the  
29 recorded deed of conveyance if the interest is a timeshare  
30 estate or a copy of the instrument of transfer if the interest  
31 is a timeshare license, containing the name and mailing

1 address of the successor in interest within 15 days after the  
2 date of transfer. The managing entity shall not be liable to  
3 any person for any inaccuracy in the books and records of the  
4 timeshare plan arising from the failure of the predecessor in  
5 interest to timely and correctly notify the managing entity of  
6 the name and mailing address of the successor in interest.

7 ~~Nothing in this subsection shall be construed to impair the~~  
8 ~~operation of s. 718.116 for timeshare condominiums.~~

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

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

24 (b) Anything contained in chapter 718 or chapter 719  
25 to the contrary notwithstanding, a managing entity which  
26 serves as managing entity of more than one timeshare plan, or  
27 of more than one component site pursuant to part II, shall not  
28 commingle the common expense funds of any one timeshare plan  
29 or component site with the common expense funds of any other  
30 timeshare plan or component site. However, the managing  
31 entity may maintain common expense funds of multiple timeshare

1 plans or multiple component sites within a single account for  
2 a period not to exceed 30 days after the date on which the  
3 managing entity received payment of such funds.

4 Section 23. Section 721.16, Florida Statutes, is  
5 amended to read:

6 721.16 Liens for overdue assessments; liens for labor  
7 performed on, or materials furnished to, a timeshare unit.--

8 (1) The managing entity has a lien on a timeshare  
9 interest period for any assessment levied against that  
10 timeshare interest period from the date such assessment  
11 becomes due. The managing entity also has a lien on a  
12 timeshare interest of any purchaser for the cost of any  
13 maintenance, repairs, or replacement resulting from an act of  
14 such purchaser or purchaser's guest that results in damage to  
15 the timeshare property or facilities made available to the  
16 purchasers.

17 (2) The managing entity may bring an action in its  
18 name to foreclose a lien under subsection (1)~~for assessments~~  
19 in the manner a mortgage of real property is foreclosed and  
20 may also bring an action to recover a money judgment for the  
21 unpaid assessments without waiving any claim of lien.  
22 ~~However, in the case of a timeshare plan in which no interest~~  
23 ~~in real property is conveyed, the managing entity may bring an~~  
24 ~~action under the Uniform Commercial Code.~~

25 (3) The lien is effective from the date of recording a  
26 claim of lien in the public records of the county or counties  
27 in which the accommodations and ~~or~~ facilities constituting the  
28 timeshare plan are located. The claim of lien shall state the  
29 name of the timeshare plan and identify the timeshare interest  
30 ~~period~~ for which the lien is effective, state the name of the  
31 purchaser, state the assessment amount due, and state the due

1 dates. Notwithstanding any provision of s. 718.116(5)(a) or s.  
 2 719.108(4) to the contrary, the lien is effective until  
 3 satisfied or until 5 years have expired after the date the  
 4 claim of lien is recorded unless, within that time, an action  
 5 to enforce the lien is commenced pursuant to subsection (2). A  
 6 ~~The~~ claim of lien for assessments may include only assessments  
 7 which are due when the claim is recorded. A claim of lien  
 8 shall be signed and acknowledged by an officer or agent of the  
 9 managing entity. Upon full payment, the person making the  
 10 payment is entitled to receive a satisfaction of the lien.

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

14 (5) Labor performed on a timeshare unit, or materials  
 15 furnished to a timeshare unit, shall not be the basis for the  
 16 filing of a lien pursuant to part I of chapter 713, the  
 17 Construction Lien Law, against the timeshare unit of any  
 18 timeshare-period owner not expressly consenting to or  
 19 requesting the labor or materials.

20 Section 24. Subsection (1) of section 721.165, Florida  
 21 Statutes, is amended to read:

22 721.165 Insurance.--

23 (1) The seller, initially, and thereafter the managing  
 24 entity, shall be responsible for obtaining insurance to  
 25 protect the accommodations and facilities of the timeshare  
 26 plan in an amount equal to the replacement cost of such  
 27 accommodations and facilities. Failure to obtain and maintain  
 28 the insurance required by this subsection during any period of  
 29 developer control of the managing entity shall constitute a  
 30 breach of s. 721.13(2)(a) by the managing entity, unless the  
 31 managing entity can show that, despite such failure, it

1 exercised due diligence to obtain and maintain the insurance  
2 required by this subsection.

3 Section 25. Section 721.17, Florida Statutes, is  
4 amended to read:

5 721.17 Transfer of interest.--Except in the case of a  
6 timeshare plan subject to the provisions of chapter 718 or  
7 chapter 719, no developer or owner of the underlying fee shall  
8 sell, lease, assign, mortgage, or otherwise transfer his or  
9 her interest in the accommodations and ~~or~~ facilities of the  
10 timeshare plan except by an instrument evidencing the transfer  
11 recorded in the public records of the county in which such ~~the~~  
12 accommodations and ~~or~~ facilities are located. The instrument  
13 shall be executed by both the transferor and transferee and  
14 shall state:

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

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

20 (3) That the transferee will fully honor the rights of  
21 the purchasers to occupy and use the accommodations and  
22 facilities as provided in their original contracts and the  
23 timeshare instruments.

24 (4) That the transferee will fully honor all rights of  
25 timeshare purchasers to cancel their contracts and receive  
26 appropriate refunds.

27 (5) That the obligations of the transferee under such  
28 instrument will continue to exist despite any cancellation or  
29 rejection of the contracts between the developer and purchaser  
30 arising out of bankruptcy proceedings.

31

1 Should any transfer of the interest of the developer or owner  
2 of the underlying fee occur in a manner which is not in  
3 compliance with this section, the terms set forth in this  
4 section shall be presumed to be a part of the transfer and  
5 shall be deemed to be included in the instrument of transfer.  
6 Notice shall be mailed to each purchaser of record within 30  
7 days of the transfer unless such transfer does not affect the  
8 purchaser's rights in or use of the timeshare plan. Persons  
9 who hold mortgages on the property constituting a timeshare  
10 plan before the registered public offering statement of such  
11 plan is approved by the division shall not be considered  
12 transferees for the purposes of this section.

13 Section 26. Subsection (1) of section 721.18, Florida  
14 Statutes, is amended to read:

15 721.18 Exchange programs; filing of information and  
16 other materials; filing fees; unlawful acts in connection with  
17 an exchange program.--

18 (1) If a purchaser is offered the opportunity to  
19 subscribe to an exchange program, the seller shall deliver to  
20 the purchaser, together with the purchaser public offering  
21 statement, and prior to the offering or execution of any  
22 contract between the purchaser and the company offering the  
23 exchange program, written information regarding such exchange  
24 program; or, if the exchange company is dealing directly with  
25 the purchaser, the exchange company shall deliver to the  
26 purchaser, prior to the initial offering or execution of any  
27 contract between the purchaser and the company offering the  
28 exchange program, written information regarding such exchange  
29 program. In either case, the purchaser shall certify in  
30 writing to the receipt of such information. Such information  
31 shall include, but is not limited to, the following

1 information, the form and substance of which shall first be  
2 approved by the division in accordance with subsection (2):

3 (a) The name and address of the exchange company.

4 (b) The names of all officers, directors, and  
5 shareholders of the exchange company.

6 (c) Whether the exchange company or any of its  
7 officers or directors has any legal or beneficial interest in  
8 any developer, seller, or managing entity for any timeshare  
9 plan participating in the exchange program and, if so, the  
10 name and location of the timeshare plan and the nature of the  
11 interest.

12 (d) Unless otherwise stated, a statement that the  
13 purchaser's contract with the exchange company is a contract  
14 separate and distinct from the purchaser's contract with the  
15 seller of the timeshare plan.

16 (e) Whether the purchaser's participation in the  
17 exchange program is dependent upon the continued affiliation  
18 of the timeshare plan with the exchange program.

19 (f) Whether ~~A statement that~~ the purchaser's  
20 participation in the exchange program is voluntary.

21 (g) A complete and accurate description of the terms  
22 and conditions of the purchaser's contractual relationship  
23 with the exchange program and the procedure by which changes  
24 thereto may be made.

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

27 (i) A complete and accurate description of all  
28 limitations, restrictions, or priorities employed in the  
29 operation of the exchange program, including, but not limited  
30 to, limitations on exchanges based on seasonality, timeshare  
31 unit size, or levels of occupancy, expressed in boldfaced

1 type, and, in the event that such limitations, restrictions,  
2 or priorities are not uniformly applied by the exchange  
3 program, a clear description of the manner in which they are  
4 applied.

5 (j) Whether exchanges are arranged on a  
6 space-available basis and whether any guarantees of  
7 fulfillment of specific requests for exchanges are made by the  
8 exchange program.

9 (k) Whether and under what circumstances a purchaser,  
10 in dealing with the exchange program, may lose the use and  
11 occupancy of her or his timeshare period in any properly  
12 applied for exchange without her or his being provided with  
13 substitute accommodations by the exchange program.

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

18 (m) The name and address of the site of each  
19 accommodation or facility included in the timeshare plans  
20 participating in the exchange program.

21 (n) The number of the timeshare units in each  
22 timeshare plan which are available for occupancy and which  
23 qualify for participation in the exchange program, expressed  
24 within the following numerical groupings: 1-5; 6-10; 11-20;  
25 21-50; and 51 and over.

26 (o) The number of currently enrolled purchasers for  
27 each timeshare plan participating in the exchange program,  
28 expressed within the following numerical groupings: 1-100;  
29 101-249; 250-499; 500-999; and 1,000 and over; and a statement  
30 of the criteria used to determine those purchasers who are  
31 currently enrolled with the exchange program.

1 (p) The disposition made by the exchange company of  
2 timeshare periods deposited with the exchange program by  
3 purchasers enrolled in the exchange program and not used by  
4 the exchange company in effecting exchanges.

5 (q) The following information, which shall be  
6 independently audited by a certified public accountant or  
7 accounting firm in accordance with the standards of the  
8 Accounting Standards Board of the American Institute of  
9 Certified Public Accountants and reported annually beginning  
10 no later than July 1, 1982:

11 1. The number of purchasers currently enrolled in the  
12 exchange program.

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

15 3. The percentage of confirmed exchanges, which is the  
16 number of exchanges confirmed by the exchange program divided  
17 by the number of exchanges properly applied for, together with  
18 a complete and accurate statement of the criteria used to  
19 determine whether an exchange request was properly applied  
20 for.

21 4. The number of timeshare periods for which the  
22 exchange program has an outstanding obligation to provide an  
23 exchange to a purchaser who relinquished a timeshare period  
24 during the year in exchange for a timeshare period in any  
25 future year.

26 5. The number of exchanges confirmed by the exchange  
27 program during the year.

28 (r) A statement in boldfaced type to the effect that  
29 the percentage described in subparagraph (q)3. is a summary of  
30 the exchange requests entered with the exchange program in the  
31 period reported and that the percentage does not indicate the

1 probabilities of a purchaser's being confirmed to any specific  
2 choice or range of choices.

3 Section 27. Section 721.19, Florida Statutes, is  
4 amended to read:

5 721.19 Provisions requiring purchase or lease of  
6 timeshare property by owners' association or purchasers unit  
7 ~~owners~~; validity.--In any timeshare plan in which timeshare  
8 estates are sold, no grant or reservation made by a  
9 declaration, lease, or other document, nor any contract made  
10 by the developer, managing entity, or owners' association,  
11 which requires the owners' association or purchasers unit  
12 ~~owners~~ to purchase or lease any portion of the timeshare  
13 property shall be valid unless approved by a majority of the  
14 purchasers other than the developer, after more than 50  
15 percent of the timeshare periods have been sold.

16 Section 28. Section 721.20, Florida Statutes, is  
17 amended to read:

18 721.20 Licensing requirements; suspension or  
19 revocation of license; exceptions to applicability; collection  
20 of advance fees for listings unlawful.--

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

24 ~~(2) Solicitors licensed under the provisions of~~  
25 ~~paragraph (2)(a) who engage only in the solicitation of~~  
26 ~~prospective purchasers, and purchasers engaging in~~  
27 ~~solicitation activities as described in paragraph (2)(e), and~~  
28 any purchaser who refers no more than 20 people to a developer  
29 per year or who otherwise provides testimonials on behalf of a  
30 developer are exempt from the provisions of chapter 475.

31

1           ~~(2)(a) Pursuant to rules adopted by the division, each~~  
2 ~~off-premises solicitor or other person who engages in the~~  
3 ~~solicitation of prospective purchasers of units in a timeshare~~  
4 ~~plan must purchase a timeshare occupational license for a fee~~  
5 ~~of \$100. The license shall be issued to the solicitor for a~~  
6 ~~2-year period and shall expire on the second anniversary of~~  
7 ~~the date of issuance. Sellers of a timeshare plan who are~~  
8 ~~licensed and in good standing under chapter 475 shall be~~  
9 ~~exempt from licensure under this subsection upon filing proof~~  
10 ~~of such licensure and good standing with the division prior to~~  
11 ~~engaging in any solicitation activity. However, the division~~  
12 ~~may deny, suspend, or revoke the exemption of such seller when~~  
13 ~~the license issued under chapter 475 has been suspended or~~  
14 ~~revoked.~~

15           ~~(b) It is unlawful for any person to solicit~~  
16 ~~prospective purchasers of a timeshare plan without first~~  
17 ~~having secured a timeshare occupational license and having~~  
18 ~~paid the occupational license fee; however, an applicant who~~  
19 ~~has completed and filed an application for a timeshare~~  
20 ~~occupational license and who has paid the required~~  
21 ~~occupational license fee may solicit prospective purchasers of~~  
22 ~~a timeshare plan pursuant to this section pending approval or~~  
23 ~~denial of his or her application by the division.~~

24           ~~(c) Prior to issuing an occupational license to an~~  
25 ~~applicant, the division shall receive an application, on forms~~  
26 ~~designed by the division, containing such pertinent background~~  
27 ~~information as is necessary to properly identify the~~  
28 ~~applicant; however, the fingerprinting of applicants is not~~  
29 ~~required.~~

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

1           (3) A solicitor who has violated the provisions of  
2 chapter 468, chapter 718, chapter 719, this chapter, or the  
3 rules of the division governing timesharing, ~~or when the~~  
4 ~~holder of a license issued pursuant to chapter 475 has had his~~  
5 ~~or her license suspended or revoked. If any occupational~~  
6 ~~license expires by division rule while administrative charges~~  
7 ~~are pending against the license, the proceedings against the~~  
8 ~~license shall continue to conclusion as if the license were~~  
9 ~~still in effect. In addition to those remedies available~~  
10 ~~against the developer, the division may impose against an~~  
11 ~~applicant or licensed solicitor a civil fine of up to \$500 in~~  
12 ~~addition to, or in lieu of, a suspension or revocation~~  
13 ~~provided for in this section for violation of the rules of the~~  
14 ~~division.~~

15           ~~(e) Any purchaser who refers no more than 20 people to~~  
16 ~~a developer per year or who otherwise provides testimonials on~~  
17 ~~behalf of a developer shall not shall be subject to licensure~~  
18 ~~under the provisions of paragraph (a).s. 721.26. Any~~  
19 ~~developer or other person who supervises, directs, or engages~~  
20 ~~the services of a solicitor shall be liable for any violation~~  
21 ~~of the provisions of chapter 468, chapter 718, chapter 719,~~  
22 ~~this chapter, or the rules of the division governing~~  
23 ~~timesharing committed by such solicitor.~~

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

27           (4) County and municipal governments shall have the  
28 authority to adopt codes of conduct and regulations to govern  
29 solicitor activity conducted on public property, including  
30 providing for the imposition of penalties prescribed by a  
31 schedule of fines adopted by ordinance for violations of any

1 such code of conduct or regulation. Any violation of any such  
 2 adopted code of conduct or regulation shall not constitute a  
 3 separate violation of this chapter. This subsection is not  
 4 intended to restrict or invalidate any local code of conduct  
 5 or regulation.

6 (5)~~(3)~~ This section does not apply to those  
 7 individuals who offer for sale only timeshare interests  
 8 ~~periods~~ in timeshare property located outside this state and  
 9 who do not engage in any sales activity within this state or  
 10 to timeshare plans which are registered with the Securities  
 11 and Exchange Commission. For the purposes of this section,  
 12 both timeshare licenses and timeshare estates are considered  
 13 to be interests in real property.

14 (6)~~(4)~~ Notwithstanding the provisions of s. 475.452,  
 15 it is unlawful for any broker, salesperson, or  
 16 broker-salesperson to collect any advance fee for the listing  
 17 of any timeshare estate or timeshare license.

18 Section 29. Section 721.21, Florida Statutes, is  
 19 amended to read:

20 721.21 Purchasers' remedies.--An action for damages or  
 21 for injunctive or declaratory relief for a violation of this  
 22 chapter may be brought by any purchaser or owners'association  
 23 ~~of purchasers~~ against the developer, a seller, an escrow  
 24 agent, or the managing entity. The prevailing party in any  
 25 such action, or in any action in which the purchaser claims a  
 26 right of voidability based upon either a closing before the  
 27 expiration of the cancellation period or an amendment which  
 28 materially alters or modifies the offering in a manner adverse  
 29 to the purchaser, may be entitled to reasonable attorney's  
 30 fees. Relief under this section does not exclude other  
 31 remedies provided by law.

1           Section 30. Paragraph (a) of subsection (1) and  
2 subsection (2) of section 721.24, Florida Statutes, are  
3 amended to read:

4           721.24 Firesafety.--

5           (1) Any:

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

12  
13 shall be equipped with an automatic sprinkler system installed  
14 in compliance with the provisions prescribed in the National  
15 Fire Protection Association publication NFPA No. 13 (1985),  
16 "Standards for the Installation of Sprinkler Systems." The  
17 sprinkler installation may be omitted in closets which are not  
18 over 24 square feet in area and in bathrooms which are not  
19 over 55 square feet in area, which closets and bathrooms are  
20 located in timeshare units. Each timeshare unit shall be  
21 equipped with an approved listed single-station smoke detector  
22 meeting the minimum requirements of NFPA-74 (1984), "Standards  
23 for the Installation, Maintenance and Use of Household Fire  
24 Warning Equipment," powered from the building electrical  
25 service, notwithstanding the number of stories in the  
26 structure, if the contract for construction is let after  
27 September 30, 1983. Single-station smoke detection is not  
28 required when a timeshare unit's smoke detectors are connected  
29 to a central alarm system which also alarms locally.

30           (2) Any timeshare unit of a timeshare plan, as defined  
31 in this chapter, ~~and~~ chapter 718, or chapter 719 which is of

1 three stories or more and for which the construction contract  
2 was let before October 1, 1983, shall be equipped with:

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

4 (b) An approved sprinkler system for all interior  
5 corridors, public areas, storage rooms, closets, kitchen  
6 areas, and laundry rooms, less individual timeshare units, if  
7 the following conditions are met:

8 1. There is a minimum 1-hour separation between each  
9 timeshare unit and between each timeshare unit and a corridor.

10 2. The building is constructed of noncombustible  
11 materials.

12 3. The egress conditions meet the requirements of s.  
13 5-3 of the Life Safety Code, NFPA 101 (1985).

14 4. The building has a complete automatic fire  
15 detection system which meets the requirements of NFPA-72A  
16 (1987) and NFPA-72E (1984), including smoke detectors in each  
17 timeshare unit individually annunciating to a panel at a  
18 supervised location.

19 Section 31. Paragraphs (a), (d), and (e) of subsection  
20 (5) of section 721.26, Florida Statutes, are amended to read:

21 721.26 Regulation by division.--The division has the  
22 power to enforce and ensure compliance with the provisions of  
23 this chapter, except for parts III and IV, using the powers  
24 provided in this chapter, as well as the powers prescribed in  
25 chapters 498, 718, and 719. In performing its duties, the  
26 division shall have the following powers and duties:

27 (5) Notwithstanding any remedies available to  
28 purchasers, if the division has reasonable cause to believe  
29 that a violation of this chapter, or of any division rule or  
30 order promulgated or issued pursuant to this chapter, has  
31 occurred, the division may institute enforcement proceedings

1 in its own name against any regulated party, as such term is  
2 defined in this subsection:

3 (a)1. "Regulated party," for purposes of this section,  
4 means any developer, exchange company, seller, managing  
5 entity, association, association director, association  
6 officer, manager, management firm, escrow agent, trustee, any  
7 respective assignees or agents, or any other person having  
8 duties or obligations pursuant to this chapter.

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

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

28 2. The division shall have broad authority and  
29 discretion to petition the circuit court to appoint a receiver  
30 with respect to any managing entity which fails to perform its  
31 duties and obligations under this chapter with respect to the

1 operation of a timeshare plan. The circumstances giving rise  
2 to an appropriate petition for receivership under this  
3 subparagraph include, but are not limited to:

4 a. Damage to or destruction of any of the  
5 accommodations or facilities of a timeshare plan, where the  
6 managing entity has failed to repair or reconstruct same.

7 b. A breach of fiduciary duty by the managing entity,  
8 including, but not limited to, undisclosed self-dealing or  
9 failure to timely assess, collect, or disburse the common  
10 expenses of the timeshare plan.

11 c. Failure of the managing entity to operate the  
12 timeshare plan in accordance with the timeshare instrument and  
13 this chapter.

14  
15 If, under the circumstances, it appears that the events giving  
16 rise to the petition for receivership cannot be reasonably and  
17 timely corrected in a cost-effective manner consistent with  
18 the timeshare instrument, the receiver may petition the  
19 circuit court to implement such amendments or revisions to the  
20 timeshare instrument as may be necessary to enable the  
21 managing entity to resume effective operation of the timeshare  
22 plan, or to enter an order terminating the timeshare plan, or  
23 to enter such further orders regarding the disposition of the  
24 timeshare property as the court deems appropriate including  
25 the disposition and sale of the timeshare property held by the  
26 association or the purchasers. In the event of a receiver's  
27 sale, all rights, title, and interest held by the association  
28 or any purchaser shall be extinguished and title shall vest in  
29 the buyer. This provision applies to timeshare estates and  
30 timeshare licenses. All reasonable costs and fees of the  
31

1 receiver relating to the receivership shall become common  
2 expenses of the timeshare plan upon order of the court.

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

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

14 2.a. If a regulated party fails to pay a penalty, the  
15 division shall thereupon issue an order directing that such  
16 regulated party cease and desist from further operation until  
17 such time as the penalty is paid; or the division may pursue  
18 enforcement of the penalty in a court of competent  
19 jurisdiction.

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

23 Section 32. Section 721.27, Florida Statutes, is  
24 amended to read:

25 721.27 Annual fee for each timeshare unit ~~period~~ in  
26 plan.--On January 1 of each year, each managing entity of a  
27 timeshare plan located in this state shall collect as a common  
28 expense and pay to the division an annual fee of \$2 for each 7  
29 days of ~~equal to the aggregate filing fee calculated pursuant~~  
30 ~~to s. 721.07(4)(a) or s. 721.58, whichever is applicable,~~  
31 ~~based upon the total number of periods of 7-day annual use~~

1 availability that exist within the timeshare plan at that  
2 time, subject to any limitations on the amount of such annual  
3 fee pursuant to s. 721.58. ~~Each developer of a phased~~  
4 ~~timeshare plan shall remit to the managing entity that portion~~  
5 ~~of the annual fee that relates to those timeshare units filed~~  
6 ~~for sale by the developer but not yet declared as part of the~~  
7 ~~condominium or cooperative regime or otherwise committed to~~  
8 ~~the timeshare plan before January 1.~~ If any portion of the  
9 annual fee is not paid by March 1, the managing entity may be  
10 assessed a penalty pursuant to s. 721.26 ~~shall be assessed a~~  
11 ~~late fee of 10 percent of the amount due or \$250, whichever is~~  
12 ~~greater.~~

13 Section 33. Section 721.29, Florida Statutes, is  
14 created to read:

15 721.29 Recording.--If any timeshare plan  
16 accommodations or facilities are located in any jurisdiction  
17 that does not have recording laws or will not record any  
18 document or instrument required to be recorded pursuant to  
19 this chapter, the division shall have the discretion to accept  
20 an alternative method of protecting purchasers' rights that  
21 will be effective under the laws of that other jurisdiction.

22 Section 34. Section 721.51, Florida Statutes, is  
23 amended to read:

24 721.51 Legislative purpose; scope.--

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

29 (2) All multisite timeshare plans shall be governed by  
30 both part I and this part except where otherwise provided in  
31 this part. In the event of a conflict between the provisions

1 of part I and this part, the provisions of this part shall  
2 prevail.

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

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

- 12 ~~1. The name and address of the multisite timeshare~~  
13 ~~plan;~~
- 14 ~~2. The name and address of the developer or seller;~~
- 15 ~~3. The location and a brief description of the~~  
16 ~~accommodations and facilities of the multisite timeshare plan;~~
- 17 ~~4. The number of timeshare periods to be offered;~~
- 18 ~~5. The term of the multisite timeshare plan; and~~
- 19 ~~6. A copy of the form purchase contract to be utilized~~  
20 ~~in offering the multisite timeshare plan, which contract must~~  
21 ~~contain the disclosure required by paragraph (c).~~

22  
23 ~~The division is authorized to adopt rules requiring additional~~  
24 ~~information to be furnished to the division or in the purchase~~  
25 ~~contract in connection with the registration for exemption.~~

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

31

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

6  
7           ~~The offering of this timeshare plan outside the~~  
8 ~~jurisdictional limits of the United States of America is~~  
9 ~~exempt from regulation under Florida law, and any purchase~~  
10 ~~resulting from such an offer is not protected by the State of~~  
11 ~~Florida. However, the management and operation of any~~  
12 ~~accommodations or facilities located in Florida is subject to~~  
13 ~~Florida law and may give rise to enforcement action regardless~~  
14 ~~of the location of any offer.~~

15           Section 35. Paragraph (a) of subsection (4) of section  
16 721.52, Florida Statutes, is amended to read:

17           721.52 Definitions.--As used in this chapter part, the  
18 term:

19           (4) "Multisite timeshare plan" means any method,  
20 arrangement, or procedure with respect to which a purchaser  
21 obtains, by any means, a recurring right to use and occupy  
22 accommodations or facilities of more than one component site,  
23 only through use of a reservation system, whether or not the  
24 purchaser is able to elect to cease participating in the plan.  
25 However, the term "multisite timeshare plan" shall not include  
26 any method, arrangement, or procedure wherein:

27           (a) The contractually specified maximum total  
28 financial obligation on the purchaser's part is \$3,000 or  
29 less, during the entire term of the plan ~~\$1,500 or less,~~  
30 ~~excluding the aggregate amount of any common expense~~  
31 ~~assessments and special assessments levied by an owners'~~

1 ~~association or other person who is not an affiliate of the~~  
2 ~~seller or the developer, provided that any such assessment~~  
3 ~~obligations are fully described as accurately as possible in~~  
4 ~~the purchaser's purchase contract, but including all other~~  
5 ~~amounts paid by such purchaser for any purpose whatsoever,~~  
6 ~~regardless of the term of such use and occupancy rights; or~~  
7

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

11 Section 36. Paragraph (e) is added to subsection (1)  
12 of section 721.53, Florida Statutes, to read:

13 721.53 Subordination instruments; alternate security  
14 arrangements.--

15 (1) With respect to each accommodation or facility of  
16 a multisite timeshare plan, the developer shall provide the  
17 division with satisfactory evidence that one of the following  
18 has occurred with respect to each interestholder prior to  
19 offering the accommodation or facility as a part of the  
20 multisite timeshare plan:

21 (e) The interestholder has transferred the subject  
22 accommodation or facility or all use rights therein to a trust  
23 that complies with this paragraph. Prior to such transfer, any  
24 lien or other encumbrance against such accommodation or  
25 facility shall be made subject to a nondisturbance and notice  
26 to creditors instrument pursuant to paragraph (a) or a  
27 subordination and notice to creditors instrument pursuant to  
28 paragraph (b). No transfer pursuant to this paragraph shall  
29 become effective until the trust accepts such transfer and the  
30 responsibilities set forth herein. A trust established  
31

1 pursuant to this paragraph shall comply with the following  
2 provisions:

3 1. The trustee shall be an individual or a business  
4 entity authorized and qualified to conduct trust business in  
5 this state. Any corporation authorized to do business in this  
6 state may act as trustee in connection with a timeshare plan  
7 pursuant to this chapter. The trustee must be independent from  
8 any developer or managing entity of the timeshare plan or any  
9 interestholder of any accommodation or facility of such plan.  
10 The same trustee may hold the accommodations and facilities,  
11 or use rights therein, for one or more of the component sites  
12 of the timeshare plan.

13 2. The trust shall be irrevocable so long as any  
14 purchaser has a right to occupy any portion of the timeshare  
15 property pursuant to the timeshare plan.

16 3. The trustee shall not convey, hypothecate,  
17 mortgage, assign, lease, or otherwise transfer or encumber in  
18 any fashion any interests in or portion of the timeshare  
19 property with respect to which any purchaser has a right of  
20 use or occupancy unless the timeshare plan is terminated  
21 pursuant to the timeshare instrument, or the timeshare  
22 property held in trust is deleted from a multisite timeshare  
23 plan pursuant to s. 721.552(3), or such conveyance,  
24 hypothecation, mortgage, assignment, lease, transfer, or  
25 encumbrance is approved by vote of two-thirds of all voting  
26 interests of the timeshare plan and such decision is declared  
27 by a court of competent jurisdiction to be in the best  
28 interests of the purchasers of the timeshare plan.

29 4. All purchasers of the timeshare plan or the owners'  
30 association of the timeshare plan shall be express  
31 beneficiaries of the trust. The trustee shall act as a

1 fiduciary to the beneficiaries of the trust. The personal  
2 liability of the trustee shall be governed by s. 737.306. The  
3 agreement establishing the trust shall set forth the duties of  
4 the trustee. The trustee shall be required to furnish promptly  
5 to the division upon request a copy of the complete list of  
6 the names and addresses of the owners in the timeshare plan  
7 and a copy of any other books and records of the timeshare  
8 plan required to be maintained pursuant to s. 721.13 that are  
9 in the possession of the trustee. All expenses reasonably  
10 incurred by the trustee in the performance of its duties,  
11 together with any reasonable compensation of the trustee,  
12 shall be common expenses of the timeshare plan.

13 5. The trustee shall not resign upon less than 90 days  
14 prior written notice to the managing entity and the division.  
15 No resignation shall become effective until a substitute  
16 trustee, approved by the division, is appointed by the  
17 managing entity and accepts the appointment.

18 6. The documents establishing the trust arrangement  
19 shall constitute a part of the timeshare instrument.

20 7. For trusts holding property in component sites  
21 located outside this state, the trust holding such property  
22 shall be deemed in compliance with the requirements of this  
23 paragraph, if such trust is authorized and qualified to  
24 conduct trust business under the laws of such jurisdiction and  
25 the agreement or law governing such trust arrangement provides  
26 substantially similar protections for the purchaser as are  
27 required in this paragraph for trusts holding property in a  
28 component site located in this state.

29 8. The trustee shall have appointed a registered agent  
30 in this state for service of process. In the event such a  
31

1 registered agent is not appointed, service of process may be  
2 served pursuant to s. 721.265.

3 Section 37. Section 721.55, Florida Statutes, is  
4 amended to read:

5 721.55 Multisite timeshare plan public offering  
6 statement.--Each registered public offering statement ~~filed~~  
7 ~~with the division~~ for a multisite timeshare plan shall contain  
8 the information required by this section and shall comply with  
9 the provisions of s. 721.07, except as otherwise provided  
10 therein. The division is authorized to provide by rule the  
11 method by which a developer must provide such information to  
12 the division. Each multisite timeshare plan registered public  
13 offering statement shall contain the following information and  
14 disclosures:

15 (1) A cover page containing:

16 (a) The name of the multisite timeshare plan.

17 (b) The following statement in conspicuous type:

18  
19 This public offering statement contains important  
20 matters to be considered in acquiring an interest in a  
21 multisite timeshare plan (or multisite vacation ownership plan  
22 or multisite vacation plan or vacation club). The statements  
23 contained herein are only summary in nature. A prospective  
24 purchaser should refer to all references, accompanying  
25 exhibits ~~hereto~~, contract documents, and sales materials. The  
26 prospective purchaser should not rely upon oral  
27 representations as being correct and should refer to this  
28 document and accompanying exhibits for correct  
29 representations.  
30  
31

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

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

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

10           (a) A description of the multisite timeshare plan,  
11 including its term, legal structure, and form of ownership.  
12 For multisite timeshare plans in which the purchaser will  
13 receive a timeshare estate pursuant to s. 721.57 or a specific  
14 timeshare license as defined in s. 721.552(4), the description  
15 must also include the term of each component site within the  
16 multisite timeshare plan.

17           (b) A description of the structure and ownership of  
18 the reservation system together with a disclosure of the  
19 entity responsible for the operation of the reservation  
20 system. The description shall include the financial terms of  
21 any lease of the reservation system, if applicable. The  
22 developer shall not be required to disclose the financial  
23 terms of any such lease if such lease is prepaid in full for  
24 the term of the multisite timeshare plan or to any extent that  
25 neither purchasers nor the managing entity will be required to  
26 make payments for the continued use of the system following  
27 default by the developer or termination of the managing  
28 entity.

29           (c)1. A description of the manner in which the  
30 reservation system operates. The description shall include a  
31 disclosure in compliance with the demand balancing standard

1 set forth in s. 721.56(6) and shall describe the developer's  
2 efforts to comply with same in creating the reservation  
3 system. The description shall also include a summary of the  
4 rules and regulations governing access to and use of the  
5 reservation system.

6 2. In lieu of describing the rules and regulations of  
7 the reservation system in the public offering statement text,  
8 the developer may attach the rules and regulations as a  
9 separate public offering statement exhibit, together with a  
10 cross-reference in the public offering statement text to such  
11 exhibit.

12 ~~3. For each component site for which occupancy~~  
13 ~~information is available, the developer shall disclose the~~  
14 ~~average level of occupancy calculated by category of quarter~~  
15 ~~or season for the calendar year including the date 2 years~~  
16 ~~prior to the date on which the multisite timeshare plan is~~  
17 ~~first offered. Every 2 years such averages must be revised~~  
18 ~~and updated. In lieu of providing such information in the~~  
19 ~~public offering statement text, the developer may provide the~~  
20 ~~information in a public offering statement exhibit, together~~  
21 ~~with a cross-reference in the public offering statement text~~  
22 ~~to such exhibit.~~

23 (d) The existence of and an explanation regarding any  
24 priority reservation features that affect a purchaser's  
25 ability to make reservations for the use of a given  
26 accommodation or facility on a first come, first served basis,  
27 including, if applicable, the following statement in  
28 conspicuous type:

29  
30 Component sites contained in the multisite timeshare  
31 plan (or multisite vacation ownership plan or multisite

1 vacation plan or vacation club) are subject to priority  
2 reservation features which may affect your ability to obtain a  
3 reservation.

4  
5 (e) A summary of the material rules and regulations,  
6 if any, other than the reservation system rules and  
7 regulations, affecting the purchaser's use of each  
8 accommodation and facility at each component site.

9 (f) If the provisions of s. 721.552 and the timeshare  
10 instrument permit additions, substitutions, or deletions of  
11 accommodations or facilities, the public offering statement  
12 must include substantially the following information:

13 1. Additions.--

14 a. A description of the basis upon which new  
15 accommodations and facilities may be added to the multisite  
16 timeshare plan; by whom additions may be made; and the  
17 anticipated effect of the addition of new accommodations and  
18 facilities upon the reservation system, its priorities, its  
19 rules and regulations, and the availability of existing  
20 accommodations and facilities.

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

25 c. The developer shall also disclose any extent to  
26 which the purchasers of the multisite timeshare plan will have  
27 the right to consent to any proposed additions; if the  
28 purchasers do not have the right to consent, the developer  
29 must include the following disclosure in conspicuous type:  
30  
31

1 Accommodations and facilities may be added to this  
2 multisite timeshare plan (or multisite vacation ownership plan  
3 or multisite vacation plan or vacation club) without the  
4 consent of the purchasers. The addition of accommodations and  
5 facilities to the plan may result in the addition of new  
6 purchasers who will compete with existing purchasers in making  
7 reservations for the use of available accommodations and  
8 facilities within the plan, and may also result in an increase  
9 in the annual assessment against purchasers for common  
10 expenses.

11  
12 2. Substitutions.--

13 a. A description of the basis upon which new  
14 accommodations and facilities may be substituted for existing  
15 accommodations and facilities of the multisite timeshare plan;  
16 by whom substitutions may be made; the basis upon which the  
17 determination may be made to cause such substitutions to  
18 occur; and any limitations upon the ability to cause  
19 substitutions to occur.

20 b. The developer shall also disclose any extent to  
21 which purchasers will have the right to consent to any  
22 proposed substitutions; if the purchasers do not have the  
23 right to consent, the developer must include the following  
24 disclosure in conspicuous type:

25  
26 New accommodations and facilities may be substituted  
27 for existing accommodations and facilities of this multisite  
28 timeshare plan (or multisite vacation ownership plan or  
29 multisite vacation plan or vacation club) without the consent  
30 of the purchasers. The replacement accommodations and  
31 facilities may be located at a different place or may be of a

1 different type or quality than the replaced accommodations and  
2 facilities. The substitution of accommodations and facilities  
3 may also result in an increase in the annual assessment  
4 against purchasers for common expenses.

5  
6 3. Deletions.--A description of any provision of the  
7 timeshare instrument governing deletion of accommodations or  
8 ~~and~~ facilities from the multisite timeshare plan. If the  
9 timeshare instrument does not provide for business  
10 interruption insurance in the event of a casualty, or if it is  
11 unavailable, or if the instrument permits the developer, the  
12 managing entity, or the purchasers to elect not to reconstruct  
13 after casualty under certain circumstances or to secure  
14 replacement accommodations or facilities in lieu of  
15 reconstruction, the public offering statement must contain a  
16 disclosure that during the reconstruction, replacement, or  
17 acquisition period, or as a result of a decision not to  
18 reconstruct, purchasers of the plan may temporarily compete  
19 for available accommodations on a greater than one-to-one  
20 purchaser to accommodation ratio.

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

23 1. The identity of the developer; the developer's  
24 business address; the number of years of experience the  
25 developer has in the timeshare, hotel, motel, travel, resort,  
26 or leisure industries; and a description of any pending  
27 lawsuit or judgment against the developer which is material to  
28 the plan. If there are no such pending lawsuits or judgments,  
29 there shall be a statement to that effect.

30 2. The identity of the managing entity of the  
31 multisite timeshare plan; the managing entity's business

1 address; the number of years of experience the managing entity  
2 has in the timeshare, hotel, motel, travel, resort, or leisure  
3 industries; and a description of any lawsuit or judgment  
4 against the managing entity which is material to the plan. If  
5 there are no pending lawsuits or judgments, there shall be a  
6 statement to that effect. The description of the managing  
7 entity shall also include a description of the relationship  
8 among the managing entity of the multisite timeshare plan and  
9 the various component site managing entities.

10 (h) A description of the purchaser's liability for  
11 common expenses of the multisite timeshare plan, including the  
12 following:

13 1. A description of the common expenses of the plan,  
14 including the method of allocation and assessment of such  
15 common expenses, whether component site common expenses and  
16 real estate taxes are included within the total common expense  
17 assessment of the multisite timeshare plan, and, if not, the  
18 manner in which timely payment of component site common  
19 expenses and real estate taxes shall be accomplished.

20 2. A description of any cap imposed upon the level of  
21 common expenses payable by the purchaser. In no event shall  
22 the total common expense assessment for the multisite  
23 timeshare plan in a given calendar year exceed 125 percent of  
24 the total common expense assessment for the plan in the  
25 previous calendar year.

26 3. A description of the entity responsible for the  
27 determination of the common expenses of the multisite  
28 timeshare plan, as well as any entity which may increase the  
29 level of common expenses assessed against the purchaser at the  
30 multisite timeshare plan level.

31

1           4. A description of the method used to collect common  
2 expenses, including the entity responsible for such  
3 collections, and the lien rights of any entity for nonpayment  
4 of common expenses. If the common expenses of any component  
5 site are collected by the managing entity of the multisite  
6 timeshare plan, a statement to that effect together with the  
7 identity and address of the escrow agent required by s.  
8 721.56(3).

9           5. If the purchaser will receive a nonspecific  
10 timeshare license as defined in s. 721.552(4), a statement  
11 that a multisite timeshare plan budget is attached to the  
12 public offering statement as an exhibit pursuant to paragraph  
13 (7)(c). The multisite timeshare plan budget shall comply with  
14 the provisions of s. 721.07(5)(u)~~(x)~~.

15           6. If the developer intends to guarantee the level of  
16 assessments for the multisite timeshare plan, such guarantee  
17 must be based upon a good faith estimate of the revenues and  
18 expenses of the multisite timeshare plan. The guarantee must  
19 include a description of the following:

20           a. The specific time period, measured in one or more  
21 calendar or fiscal years, during which the guarantee will be  
22 in effect.

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

27           c. The level, expressed in total dollars, at which the  
28 developer guarantees the assessments. If the developer has  
29 reserved the right to extend or increase the guarantee level,  
30 a disclosure must be included to that effect.

31

1           7. If ~~As~~ required under applicable law, the developer  
2 shall also disclose the following matters for each component  
3 site:

4           a. Any limitation upon annual increases in common  
5 expenses;

6           b. The existence of any bad debt or working capital  
7 reserve; and

8           c. The existence of any replacement or deferred  
9 maintenance reserve.

10           (i) If there are any restrictions upon the sale,  
11 transfer, conveyance, or leasing of an interest in a multisite  
12 timeshare plan, a description of the restrictions together  
13 with a statement in conspicuous type in substantially the  
14 following form:

15  
16           The sale, lease, or transfer of interests in this  
17 multisite timeshare plan is restricted or controlled.

18  
19           (j) The following statement in conspicuous type in  
20 substantially the following form:

21  
22           The purchase of an interest in a multisite timeshare  
23 plan (or multisite vacation ownership plan or multisite  
24 vacation plan or vacation club) should be based upon its value  
25 as a vacation experience or for spending leisure time, and not  
26 considered for purposes of acquiring an appreciating  
27 investment or with an expectation that the interest may be  
28 resold.

29  
30           (k) If the multisite timeshare plan provides  
31 purchasers with the opportunity to participate in an exchange

1 program, a description of the name and address of the exchange  
2 company and the method by which a purchaser accesses the  
3 exchange program. In lieu of this requirement, the public  
4 offering statement text may contain a cross-reference to other  
5 provisions in the public offering statement or in an exhibit  
6 containing this information.

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

11 1. The name and address of each component site.

12 2. The number of accommodations, timeshare interests,  
13 and timeshare periods, expressed in periods of 7-day use  
14 availability, committed to the multisite timeshare plan and  
15 available for use by purchasers.

16 3. Each type of accommodation in terms of the number  
17 of bedrooms, bathrooms, sleeping capacity, and whether or not  
18 the accommodation contains a full kitchen. For purposes of  
19 this description, a full kitchen shall mean a kitchen having a  
20 minimum of a dishwasher, range, sink, oven, and refrigerator.

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

23 a. The intended use of the facility, if not apparent  
24 from the description.

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

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

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

31

1           5. A cross-reference to the location in the public  
2 offering statement of the description of any priority  
3 reservation features which may affect a purchaser's ability to  
4 obtain a reservation in the component site.

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

14           (6) Any other information that the developer, with the  
15 approval of the division, desires to include in the public  
16 offering statement text.

17           (7) The following documents shall be included as  
18 exhibits to the registered public offering statement ~~filed~~  
19 ~~with the division~~, if applicable:

20           (a) The timeshare instrument.

21           (b) The reservation system rules and regulations.

22           (c) The multisite timeshare plan budget pursuant to  
23 subparagraph (4)(h)5.

24           (d) Any document containing the material rules and  
25 regulations described in paragraph (4)(e).

26           (e) Any contract, agreement, or other document through  
27 which component sites are affiliated with the multisite  
28 timeshare plan.

29           (f) Any escrow agreement required pursuant to s.  
30 721.08 or s. 721.56(3).

31

1 (g) The form agreement for sale or lease of an  
2 interest in the multisite timeshare plan.

3 (h) The form receipt for multisite timeshare plan  
4 documents required to be given to the purchaser pursuant to s.  
5 721.551(2)(b).

6 (i) The description of documents list required to be  
7 given to the purchaser by s. 721.551(2)(b).

8 (j) The component site managing entity affidavit or  
9 statement required by s. 721.56(1).

10 (k) Any subordination instrument required by s.  
11 721.53.

12 (l)1. If the multisite timeshare plan contains any  
13 component sites located in this state, the information  
14 required by s. 721.07(5) pertaining to each such component  
15 site unless exempt pursuant to s. 721.03.

16 2. If the purchaser will receive a timeshare estate  
17 pursuant to s. 721.57 or a specific timeshare license as  
18 defined in s. 721.552(4) in a component site located outside  
19 of this state but which is offered in this state, the  
20 information required by s. 721.07(5) pertaining to that  
21 component site provided, however, that the provisions of s.  
22 721.07(5)(u) shall only require disclosure of information  
23 related to the estimated budget for the timeshare plan and  
24 purchaser's expenses as required by the jurisdiction in which  
25 the component site is located.

26 (8)(a) A timeshare plan containing only one component  
27 site must be filed with the division as a multisite timeshare  
28 plan if the timeshare instrument reserves the right for the  
29 developer to add future component sites. However, if the  
30 developer fails to add at least one additional component site  
31 to a timeshare plan described in this paragraph within 3 years

1 after the date the plan is initially filed with the division,  
2 the multisite filing for such plan shall thereupon terminate,  
3 and the developer may not thereafter offer any further  
4 interests in such plan unless and until he or she refiles such  
5 plan with the division pursuant to this chapter.

6 (b) The public offering statement for any timeshare  
7 plan described in paragraph (a) must include the following  
8 disclosure in conspicuous type:

9  
10 This timeshare plan has been filed as a multisite  
11 timeshare plan (or multisite vacation ownership plan or  
12 multisite vacation plan or vacation club); however, this plan  
13 currently contains only one component site. The developer is  
14 not required to add any additional component sites to the  
15 plan. Do not purchase an interest in this plan in reliance  
16 upon the addition of any other component sites.

17 Section 38. Subsection (2) of section 721.551, Florida  
18 Statutes, is amended to read:

19 721.551 Delivery of multisite timeshare plan purchaser  
20 public offering statement.--

21 (2) The developer shall furnish each purchaser with  
22 the following:

23 (a) A copy of the approved multisite timeshare plan  
24 public offering statement text ~~filed with the division~~  
25 containing the information required by s. 721.55(1)-(6).

26 (b) A receipt for multisite timeshare plan documents  
27 and a list describing any exhibit to the registered public  
28 offering statement ~~filed with the division~~ which is not  
29 delivered to the purchaser. The division is authorized to  
30 prescribe by rule the form of the receipt for multisite  
31 timeshare plan documents and the description of exhibits list

1 that must be furnished to the purchaser pursuant to this  
2 section.

3 (c) If the purchaser will receive a timeshare estate  
4 pursuant to s. 721.57 or a specific timeshare license as  
5 defined in s. 721.552(4) in a component site located in this  
6 state, the developer shall also furnish the purchaser with the  
7 information required to be delivered pursuant to s.  
8 721.07(6)(a) and (b) for the component site in which the  
9 purchaser will receive an estate or license.

10 (d) Any other exhibit that the developer elects to  
11 include as part of the purchaser public offering statement ~~to~~  
12 ~~be furnished to purchasers~~, provided that the developer first  
13 files the exhibit with the division.

14 (e) An executed copy of any document which the  
15 purchaser signs.

16 (f) The developer shall be required to provide the  
17 managing entity of the multisite timeshare plan with a copy of  
18 the approved registered public offering statement ~~text and~~  
19 ~~exhibits filed with the division~~ and any approved amendments  
20 thereto to be maintained by the managing entity as part of the  
21 books and records of the timeshare plan pursuant to s.  
22 721.13(3)(d).

23 Section 39. Paragraph (a) of subsection (3) of section  
24 721.552, Florida Statutes, is amended to read:

25 721.552 Additions, substitutions, or deletions of  
26 component site accommodations or facilities; purchaser  
27 remedies for violations.--Additions, substitutions, or  
28 deletions of component site accommodations or facilities may  
29 be made only in accordance with the following:

30 (3) DELETIONS.--

31 (a) Deletion by casualty.--

1           1. Pursuant to s. 721.165, the timeshare instrument  
2 creating the multisite timeshare plan must provide for  
3 casualty insurance for the accommodations and facilities of  
4 the multisite timeshare plan in an amount equal to the  
5 replacement cost of such ~~the~~ accommodations or facilities.  
6 The timeshare instrument must also provide that in the event  
7 of a casualty that results in accommodations or facilities  
8 being unavailable for use by purchasers, the managing entity  
9 shall notify all affected purchasers of such unavailability of  
10 use within 30 days after the event of casualty.

11           2. The timeshare instrument must also provide for the  
12 application of any insurance proceeds arising from a casualty  
13 to either the replacement or acquisition of additional similar  
14 accommodations or facilities or to the removal of purchasers  
15 from the multisite timeshare plan so that purchasers will not  
16 be competing for available accommodations on a greater than  
17 one-to-one purchaser to accommodation ratio.

18           3. If the timeshare instrument does not provide for  
19 business interruption insurance, or if it is unavailable, or  
20 if the instrument permits the developer, the managing entity,  
21 or the purchasers to elect not to reconstruct after casualty  
22 under certain circumstances or to secure replacement  
23 accommodations or facilities in lieu of reconstruction,  
24 purchasers of the plan may temporarily compete for available  
25 accommodations on a greater than one-to-one purchaser to  
26 accommodation ratio. The decision whether or not to  
27 reconstruct shall be made as promptly as possible under the  
28 circumstances.

29           4. Any replacement of accommodations or facilities  
30 pursuant to this paragraph shall be made upon the same basis  
31

1 as required for substitution as set forth in subparagraph  
2 (2)(b)2.

3 Section 40. Section 721.553, Florida Statutes, is  
4 repealed.

5 Section 41. Subsection (2) and paragraphs (a) and (c)  
6 of subsection (5) of section 721.56, Florida Statutes, are  
7 amended to read:

8 721.56 Management of multisite timeshare plans;  
9 reservation systems; demand balancing.--

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

18 (5)(a)1. The reservation system is a facility of any  
19 nonspecific timeshare license multisite timeshare plan as  
20 defined in s. 721.552(4). The reservation system is not a  
21 facility of any specific timeshare license multisite timeshare  
22 plan as defined in s. 721.552(4), nor is it a facility of any  
23 multisite timeshare plan in which timeshare estates are  
24 offered pursuant to s. 721.57.

25 2. The reservation system of any multisite timeshare  
26 plan shall include any computer software and hardware employed  
27 for the purpose of enabling or facilitating the operation of  
28 the reservation system. Nothing contained in this part shall  
29 preclude a manager or management firm ~~company~~ that is serving  
30 as managing entity of a multisite timeshare plan from  
31 providing in its contract with the purchasers or owners'

1 association of the multisite timeshare plan or in the  
2 timeshare instrument that the manager or management firm  
3 ~~company~~ owns the reservation system and that the managing  
4 entity shall continue to own the reservation system in the  
5 event the purchasers discharge the managing entity pursuant to  
6 s. 721.14.

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

18 1. The names, addresses, and reservation status of  
19 component site accommodations.

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

22 3. All outstanding confirmed reservations and  
23 reservation requests for that component site.

24 4. Such other component site records and information  
25 as are necessary, in the reasonable discretion of the  
26 component site managing entity, to permit the uninterrupted  
27 operation and administration of the component site, provided  
28 that a given component site managing entity shall not be  
29 entitled to any information regarding other component sites or  
30 regarding the terminated multisite timeshare plan managing  
31 entity.

1  
2 All reasonable costs incurred by the terminated managing  
3 entity in effecting the transfer of information required by  
4 this paragraph shall be reimbursed to the terminated managing  
5 entity on a pro rata basis by each component site, and the  
6 amount of such reimbursement shall constitute a common expense  
7 of each component site.

8 Section 42. Subsection (3) of section 721.81, Florida  
9 Statutes, is amended to read:

10 721.81 Legislative purpose.--The purposes of this part  
11 are to:

12 (3) Recognize the need to assist ~~vacation ownership~~  
13 ~~resort~~ owners' associations and mortgagees by simplifying and  
14 expediting the process of foreclosure of assessment liens and  
15 mortgage liens against timeshare estates.

16 Section 43. Paragraph (a) of subsection (1) of section  
17 721.82, Florida Statutes, is amended to read:

18 721.82 Definitions.--As used in this part, the term:

19 (1) "Assessment lien" means:

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

23 Section 44. Paragraph (b) of subsection (5) of section  
24 721.84, Florida Statutes, is amended to read:

25 721.84 Appointment of a registered agent; duties.--

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

29 (b) A successor registered agent is appointed and such  
30 successor registered agent executes an acceptance of  
31 appointment as successor registered agent and satisfies all of

1 the requirements of subsection (1). The resigning registered  
2 agent may designate the successor registered agent; however,  
3 if the resigning registered agent fails to designate a  
4 successor registered agent or the designated successor  
5 registered agent fails to accept, the successor registered  
6 agent for the affected obligors may be designated by the  
7 mortgagee as to the mortgage lien and by the owners'  
8 ~~association of the timeshare plan~~ as to the assessment lien;  
9 and

10 Section 45. Subsection (2) of section 721.85, Florida  
11 Statutes, is amended to read:

12 721.85 Service to notice address or on registered  
13 agent.--

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

17 Section 46. Subsection (1) of section 721.86, Florida  
18 Statutes, is amended to read:

19 721.86 Miscellaneous provisions.--

20 (1) The procedures in this part must be given effect  
21 in the context of any foreclosure proceedings against  
22 timeshare estates governed by this chapter, chapter 702, ~~or~~  
23 chapter 718, or chapter 719.

24 Section 47. Subsection (3) is added to section  
25 617.3075, Florida Statutes, to read:

26 617.3075 Prohibited clauses in homeowners' association  
27 documents.--

28 (3) Homeowners' association documents, including  
29 declarations of covenants, articles of incorporation, or  
30 bylaws, may not preclude the display of one United States flag  
31 by property owners. However, the flag must be displayed in a

1 respectful way and may be subject to reasonable standards for  
2 size, placement, and safety, as adopted by the homeowners'  
3 association, consistent with Title 36 U.S.C. Chapter 10 and  
4 any local ordinances.

5 Section 48. Section 718.103, Florida Statutes, is  
6 amended to read:

7 718.103 Definitions.--As used in this chapter, the  
8 term:

9 (1) "Assessment" means a share of the funds which are  
10 required for the payment of common expenses, which from time  
11 to time is assessed against the unit owner.

12 (2) "Association" means, in addition to any entity  
13 ~~those entities~~ responsible for the operation of common  
14 elements owned in undivided shares by unit owners, any entity  
15 which operates or maintains other real property in which  
16 ~~condominium~~ unit owners have use rights, where ~~unit owner~~  
17 membership in the entity is composed exclusively of  
18 ~~condominium~~ unit owners or their elected or appointed  
19 representatives, and ~~where membership in the entity~~ is a  
20 required condition of unit ownership.

21 (3) "Association property" means that property, real  
22 and personal, which is owned or leased by, or is dedicated by  
23 a recorded plat to, the association for the use and benefit of  
24 its members.

25 (4) "Board of administration" or "board" means the  
26 board of directors or other representative body which is  
27 responsible for administration of the association.

28 (5) "Buyer" means a person who purchases a condominium  
29 unit. The term "purchaser" may be used interchangeably with  
30 the term "buyer."  
31

1           (6) "Bylaws" means the bylaws of the association as  
2 they are amended ~~exist~~ from time to time.

3           (7) "Committee" means a group of board members, unit  
4 owners, or board members and unit owners appointed by the  
5 board or a member of the board to make recommendations to the  
6 board regarding the proposed annual ~~association~~ budget or to  
7 take action on behalf of the board.

8           (8) "Common elements" means the portions of the  
9 condominium property ~~which are~~ not included in the units.

10           (9) "Common expenses" means all expenses ~~and~~  
11 ~~assessments which are~~ properly incurred by the association in  
12 the performance of its duties, including expenses specified in  
13 s. 718.115 for the condominium.

14           (10) "Common surplus" means the amount ~~excess~~ of all  
15 receipts or revenues, of the association collected on behalf  
16 ~~of a condominium (including, but not limited to, assessments,~~  
17 rents, or profits, collected by a condominium association  
18 which exceeds, and revenues on account of the common elements)  
19 ~~over the~~ common expenses.

20           (11) "Condominium" means that form of ownership of  
21 real property ~~which is~~ created pursuant to ~~the provisions of~~  
22 this chapter, which is comprised entirely of units that may be  
23 owned by one or more persons, and in which there is,  
24 appurtenant to each unit, an undivided share in common  
25 elements.

26           (12) "Condominium parcel" means a unit, together with  
27 the undivided share in the common elements ~~which is~~  
28 appurtenant to the unit.

29           (13) "Condominium property" means the lands,  
30 leaseholds, and personal property that are subjected to  
31 condominium ownership, whether or not contiguous, and all

1 improvements thereon and all easements and rights appurtenant  
2 thereto intended for use in connection with the condominium.

3 (14) "Conspicuous type" means bold type in capital  
4 letters no smaller than the largest type, exclusive of  
5 headings, on the page on which it appears and, in all cases,  
6 at least 10-point type. Where conspicuous type is required,  
7 it must be separated on all sides from other type and print.  
8 Conspicuous type may be used in a contract ~~contracts~~ for  
9 purchase and sale of a unit, a lease of a unit for more than 5  
10 years, or a prospectus or offering circular ~~public offering~~  
11 ~~statements~~ only where required by law.

12 (15) "Declaration" or "declaration of condominium"  
13 means the instrument or instruments by which a condominium is  
14 created, as they are from time to time amended.

15 (16) "Developer" means a person who creates a  
16 condominium or offers condominium parcels for sale or lease in  
17 the ordinary course of business, but does not include an owner  
18 or lessee of a condominium or cooperative unit who has  
19 acquired the unit for his or her own occupancy, nor does it  
20 include a cooperative association which creates a condominium  
21 by conversion of an existing residential cooperative after  
22 control of the association has been transferred to the unit  
23 owners if, following the conversion, the unit owners will be  
24 the same persons who were unit owners of the cooperative and  
25 no units are offered for sale or lease to the public as part  
26 of the plan of conversion.

27 (17) "Division" means the Division of Florida Land  
28 Sales, Condominiums, and Mobile Homes of the Department of  
29 Business and Professional Regulation.

30 (18) "Land" means, ~~unless otherwise defined in the~~  
31 ~~declaration as hereinafter provided,~~ the surface of a legally

1 described parcel of real property and includes, unless  
 2 otherwise specified in the declaration and whether separate  
 3 from or including such surface, airspace lying above and  
 4 subterranean space lying below such surface. However, if so  
 5 defined in the declaration, the term "land" may mean all or  
 6 any portion of the airspace or subterranean space between two  
 7 legally identifiable elevations and may exclude the surface of  
 8 a parcel of real property and may mean any combination of the  
 9 foregoing, whether or not contiguous.

10 (19) "Limited common elements" means those common  
 11 elements which are reserved for the use of a certain  
 12 ~~condominium~~ unit or units to the exclusion of all other units,  
 13 as specified in the declaration ~~of condominium~~.

14 (20) "Multicondominium" means a real estate  
 15 development containing two or more condominiums all of which  
 16 are operated by the same association.

17 (21)~~(20)~~ "Operation" or "operation of the condominium"  
 18 includes the administration and management of the condominium  
 19 property.

20 (22)~~(21)~~ "Rental agreement" means any written  
 21 agreement, or oral agreement if for less duration than 1 year,  
 22 providing for use and occupancy of premises.

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

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

15 (24)~~(23)~~ "Special assessment" means any assessment  
16 levied against a unit owner ~~owners~~ other than the assessment  
17 required by a budget adopted annually.

18 (25)~~(24)~~ "Timeshare estate" means any interest in a  
19 unit under which the exclusive right of use, possession, or  
20 occupancy of the unit circulates among the various purchasers  
21 of a timeshare plan pursuant to chapter 721 on a recurring  
22 basis for a period of time.

23 (26)~~(25)~~ "Timeshare unit" means a unit in which  
24 timeshare estates have been created.

25 (27)~~(26)~~ "Unit" means a part of the condominium  
26 property which is subject to exclusive ownership. A unit may  
27 be in improvements, land, or land and improvements together,  
28 as specified in the declaration.

29 (28)~~(27)~~ "Unit owner" or "owner of a unit" means a  
30 record owner of legal title to a condominium parcel.

31

1           ~~(29)~~~~(28)~~ "Voting certificate" means a document which  
2 designates one of the record title owners, or the corporate,  
3 partnership, or entity representative, who is authorized to  
4 vote on behalf of a condominium unit that is owned by more  
5 than one owner or by any entity.

6           ~~(30)~~~~(29)~~ "Voting interests ~~interest~~" means the voting  
7 rights distributed to the association members pursuant to s.  
8 718.104(4)(i). In a multicondominium association, the voting  
9 interests of the association are the voting rights distributed  
10 to the unit owners in all condominiums operated by the  
11 association. On matters related to a specific condominium in  
12 a multicondominium association, the voting interests of the  
13 condominium are the voting rights distributed to the unit  
14 owners in that condominium.

15           Section 49. Subsection (2) and paragraphs (f) and (g)  
16 of subsection (4) of section 718.104, Florida Statutes, are  
17 amended, and paragraph (h) is added to subsection (4), to  
18 read:

19           718.104 Creation of condominiums; contents of  
20 declaration.--Every condominium created in this state shall be  
21 created pursuant to this chapter.

22           (2) A condominium is created by recording a  
23 declaration in the public records of the county where the land  
24 is located, executed and acknowledged with the requirements  
25 for a deed. All persons who have record title to the interest  
26 in the land being submitted to condominium ownership, or their  
27 lawfully authorized agents, must join in the execution of the  
28 declaration. Upon the recording of the declaration, or an  
29 amendment adding a phase to the condominium under s.  
30 718.403(6), all units described in the declaration or phase  
31 amendment as being located in or on the land then being

1 submitted to condominium ownership shall come into existence,  
 2 regardless of the state of completion of planned improvements  
 3 in which the units may be located. Upon recording the  
 4 declaration of condominium pursuant to this section, the  
 5 developer shall file the recording information with the  
 6 division within 120 calendar ~~30 business~~ days on a form  
 7 prescribed by the division.

8 (4) The declaration must contain or provide for the  
 9 following matters:

10 (f) The undivided share of ownership of in the common  
 11 elements and common surplus of the condominium that is  
 12 appurtenant to each unit stated as a percentage or a fraction  
 13 ~~of percentages or fractions, which, in the aggregate, must~~  
 14 ~~equal~~ the whole. In the declaration of condominium for  
 15 residential condominiums created after April 1, 1992, the  
 16 ownership share of the common elements assigned to each  
 17 residential unit shall be based either upon the total square  
 18 footage of each residential unit in uniform relationship to  
 19 the total square footage of each other residential unit in the  
 20 condominium or on an equal fractional basis.

21 (g) The percentage or fractional shares of liability  
 22 ~~for proportions or percentages of and manner of sharing~~ common  
 23 expenses of the condominium and owning common surplus, which,  
 24 for all a residential units condominium, must be the same as  
 25 the undivided shares of ownership of in the common elements  
 26 and common surplus appurtenant to each unit as provided for in  
 27 paragraph (f).

28 (h) If a developer reserves the right, in a  
 29 declaration recorded on or after July 1, 2000, to create a  
 30 multicondominium, the declaration must state, or provide a  
 31 specific formula for determining, the fractional or percentage

1 shares of liability for the common expenses of the association  
2 and of ownership of the common surplus of the association to  
3 be allocated to the units in each condominium to be operated  
4 by the association. If the declaration as originally recorded  
5 fails to so provide, the share of liability for the common  
6 expenses of the association and of ownership of the common  
7 surplus of the association allocated to each unit in each  
8 condominium operated by the association shall be a fraction of  
9 the whole, the numerator of which is the number "one" and the  
10 denominator of which is the total number of units in all  
11 condominiums operated by the association.

12 Section 50. Subsection (2) of section 718.106, Florida  
13 Statutes, is amended to read:

14 718.106 Condominium parcels; appurtenances; possession  
15 and enjoyment.--

16 (2) There shall pass with a unit, as appurtenances  
17 thereto:

18 (a) An undivided share in the common elements and  
19 common surplus.

20 (b) The exclusive right to use such portion of the  
21 common elements as may be provided by the declaration,  
22 including the right to transfer such right to other units or  
23 unit owners to the extent authorized by the declaration as  
24 originally recorded, or amendments to the declaration adopted  
25 under s. 718.110(2).

26 (c) An exclusive easement for the use of the airspace  
27 occupied by the unit as it exists at any particular time and  
28 as the unit may lawfully be altered or reconstructed from time  
29 to time. An easement in airspace which is vacated shall be  
30 terminated automatically.

31

1 (d) Membership in the association designated in the  
2 declaration, with the full voting rights appertaining thereto.

3 (e) Other appurtenances as may be provided in the  
4 declaration.

5 Section 51. Subsections (4) and (9) of section  
6 718.110, Florida Statutes, are amended, and subsection (12) is  
7 added to that section, to read:

8 718.110 Amendment of declaration; correction of error  
9 or omission in declaration by circuit court.--

10 (4) Unless otherwise provided in the declaration as  
11 originally recorded, no amendment may change the configuration  
12 or size of any ~~condominium~~ unit in any material fashion,  
13 materially alter or modify the appurtenances to the unit, or  
14 change the proportion or percentage by which the unit owner ~~of~~  
15 ~~the parcel~~ shares the common expenses of the condominium and  
16 owns the common surplus of the condominium unless the record  
17 owner of the unit and all record owners of liens on the unit  
18 ~~it~~ join in the execution of the amendment and unless all the  
19 record owners of all other units in the same condominium  
20 approve the amendment. The acquisition of property by the  
21 association, and material alterations or substantial additions  
22 to such property or the common elements by the association in  
23 accordance with s. 718.111(7) or s. 718.113, shall not be  
24 deemed to constitute a material alteration or modification of  
25 the appurtenances to the units. A declaration recorded after  
26 April 1, 1992, may not require the approval of less than a  
27 majority of total voting interests of the condominium for  
28 amendments under this subsection, unless otherwise required by  
29 a ~~any~~ governmental entity.

30 (9) If there is an omission or error in a declaration  
31 ~~of condominium~~, or in any other document required by law to

1 establish the condominium, the association may correct the  
2 error or omission by an amendment to the declaration or to the  
3 other document required to create a condominium in the manner  
4 provided in the declaration to amend the declaration or, if  
5 none is provided, by vote of a majority of the voting  
6 interests of the condominium. The amendment is effective when  
7 passed and approved and a certificate of ~~the~~ amendment is  
8 executed and recorded as provided in subsections (2) and (3)  
9 ~~s. 718.104~~. This procedure for amendment cannot be used if  
10 such an amendment would materially or adversely affect  
11 property rights of unit owners, unless the affected unit  
12 owners consent in writing. This subsection does not restrict  
13 the powers of the association to otherwise amend the  
14 declaration, or other documentation, but authorizes a simple  
15 process of amendment requiring a lesser vote for the purpose  
16 of curing defects, errors, or omissions when the property  
17 rights of unit owners are not materially or adversely  
18 affected.

19 (12)(a) With respect to an existing multicondominium  
20 association, any amendment to change the fractional or  
21 percentage share of liability for the common expenses of the  
22 association and ownership of the common surplus of the  
23 association must be approved by at least a majority of the  
24 total voting interests of each condominium operated by the  
25 association unless the declarations of all condominiums  
26 operated by the association uniformly require approval by a  
27 greater percentage of the voting interests of each  
28 condominium.

29 (b) Unless approval by a greater percentage of the  
30 voting interests of an existing multicondominium association  
31 is expressly required in the declaration of an existing

1 condominium, the declaration may be amended upon approval of  
2 at least a majority of the total voting interests of each  
3 condominium operated by the multicondominium association for  
4 the purpose of:

5 1. Setting forth in the declaration the formula  
6 currently utilized, but not previously stated in the  
7 declaration, for determining the percentage or fractional  
8 shares of liability for the common expenses of the  
9 multicondominium association and ownership of the common  
10 surplus of the multicondominium association.

11 2. Providing for the creation or enlargement of a  
12 multicondominium association by the merger or consolidation of  
13 two or more associations and changing the name of the  
14 association, as appropriate.

15 Section 52. Paragraphs (a) and (c) of subsection (12)  
16 and subsections (13), (14), and (15) of section 718.111,  
17 Florida Statutes, are amended to read:

18 718.111 The association.--

19 (12) OFFICIAL RECORDS.--

20 (a) From the inception of the association, the  
21 association shall maintain each of the following items, when  
22 applicable, which shall constitute the official records of the  
23 association:

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

26 2. A photocopy of the recorded declaration of  
27 condominium of each condominium operated by the association  
28 and of each amendment to each declaration.

29 3. A photocopy of the recorded bylaws of the  
30 association and of each amendment to the bylaws.

31

1           4. A certified copy of the articles of incorporation  
2 of the association, or other documents creating the  
3 association, and of each amendment thereto.

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

5           6. A book or books which contain the minutes of all  
6 meetings of the association, of the board of directors, and of  
7 unit owners, which minutes shall be retained for a period of  
8 not less than 7 years.

9           7. A current roster of all unit owners and their  
10 mailing addresses, unit identifications, voting  
11 certifications, and, if known, telephone numbers.

12           8. All current insurance policies of the association  
13 and condominiums operated by the association.

14           9. A current copy of any management agreement, lease,  
15 or other contract to which the association is a party or under  
16 which the association or the unit owners have an obligation or  
17 responsibility.

18           10. Bills of sale or transfer for all property owned  
19 by the association.

20           11. Accounting records for the association and  
21 separate accounting records for each condominium which the  
22 association operates, ~~according to good accounting practices.~~  
23 All accounting records shall be maintained for a period of not  
24 less than 7 years. The accounting records shall include, but  
25 are not limited to:

26           a. Accurate, itemized, and detailed records of all  
27 receipts and expenditures.

28           b. A current account and a monthly, bimonthly, or  
29 quarterly statement of the account for each unit designating  
30 the name of the unit owner, the due date and amount of each  
31

1 assessment, the amount paid upon the account, and the balance  
2 due.

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

5 d. All contracts for work to be performed. Bids for  
6 work to be performed shall also be considered official records  
7 and shall be maintained for a period of 1 year.

8 12. Ballots, sign-in sheets, voting proxies, and all  
9 other papers relating to voting by unit owners, which shall be  
10 maintained for a period of 1 year from the date of the  
11 election, vote, or meeting to which the document relates.

12 13. All rental records, when the association is acting  
13 as agent for the rental of condominium units.

14 14. A copy of the current question and answer sheet as  
15 described by s. 718.504.

16 15. All other records of the association not  
17 specifically included in the foregoing which are related to  
18 the operation of the association.

19 (c) The official records of the association are open  
20 to inspection by any association member or the authorized  
21 representative of such member at all reasonable times. The  
22 right to inspect the records includes the right to make or  
23 obtain copies, at the reasonable expense, if any, of the  
24 association member. The association may adopt reasonable  
25 rules regarding the frequency, time, location, notice, and  
26 manner of record inspections and copying. The failure of an  
27 association to provide the records within 10 working days  
28 after receipt of a written request shall create a rebuttable  
29 presumption that the association willfully failed to comply  
30 with this paragraph. A unit owner who is denied access to  
31 official records is entitled to the actual damages or minimum

1 damages for the association's willful failure to comply with  
2 this paragraph. The minimum damages shall be \$50 per calendar  
3 day up to 10 days, the calculation to begin on the 11th  
4 working day after receipt of the written request. The failure  
5 to permit inspection of the association records as provided  
6 herein entitles any person prevailing in an enforcement action  
7 to recover reasonable attorney's fees from the person in  
8 control of the records who, directly or indirectly, knowingly  
9 denied access to the records for inspection. The association  
10 shall maintain an adequate number of copies of the  
11 declaration, articles of incorporation, bylaws, and rules, and  
12 all amendments to each of the foregoing, as well as the  
13 question and answer sheet provided for in s. 718.504 and  
14 year-end financial information required in this section on the  
15 condominium property to ensure their availability to unit  
16 owners and prospective purchasers, and may charge its actual  
17 costs for preparing and furnishing these documents to those  
18 requesting the same. Notwithstanding the provisions of this  
19 paragraph, the following records shall not be accessible to  
20 unit owners:

21 1. Any record protected by the lawyer-client privilege  
22 as described in s. 90.502, and any record protected by the  
23 work-product privilege including any ~~A record which was~~  
24 prepared by an association attorney or prepared at the  
25 attorney's express direction, which reflects a mental  
26 impression, conclusion, litigation strategy, or legal theory  
27 of the attorney or the association, and which was prepared  
28 exclusively for civil or criminal litigation or for  
29 adversarial administrative proceedings, or which was prepared  
30 in anticipation of imminent civil or criminal litigation or  
31 imminent adversarial administrative proceedings until the

1 conclusion of the litigation or adversarial administrative  
2 proceedings.

3 2. Information obtained by an association in  
4 connection with the approval of the lease, sale, or other  
5 transfer of a unit.

6 3. Medical records of unit owners.

7 (13) FINANCIAL REPORTING REPORTS.--Within 90 days  
8 after the end of the fiscal year, or annually on a date  
9 provided in the bylaws, the association shall prepare and  
10 complete, or cause to be prepared and completed by a third  
11 party, a financial report for the preceding fiscal year.  
12 Within 21 days after the financial report is completed or  
13 received by the association from the third party, the  
14 association shall mail to each unit owner at the address last  
15 furnished to the association by the unit owner, or hand  
16 deliver to each unit owner, a copy of the financial report or  
17 a notice that a copy of the financial report will be mailed or  
18 hand delivered to the unit owner, without charge, upon receipt  
19 of a written request from the unit owner. The division shall  
20 adopt rules setting forth uniform accounting principles and  
21 standards to be used by all associations and shall adopt rules  
22 addressing financial reporting requirements for  
23 multicondominium associations. In adopting such rules, the  
24 division shall consider the number of members and annual  
25 revenues of an association. Financial reports shall be  
26 prepared as follows:

27 (a) An association that meets the criteria of this  
28 paragraph shall prepare or cause to be prepared a complete set  
29 of financial statements in accordance with generally accepted  
30 accounting principles. The financial statements shall be  
31

1 based upon the association's total annual revenues, as  
2 follows:

3 1. An association with total annual revenues of  
4 \$100,000 or more, but less than \$200,000, shall prepare  
5 compiled financial statements.

6 2. An association with total annual revenues of at  
7 least \$200,000, but less than \$400,000, shall prepare reviewed  
8 financial statements.

9 3. An association with total annual revenues of  
10 \$400,000 or more shall prepare audited financial statements.

11 (b)1. An association with total annual revenues of  
12 less than \$100,000 shall prepare a report of cash receipts and  
13 expenditures.

14 2. An association which operates less than 50 units,  
15 regardless of the association's annual revenues, shall prepare  
16 a report of cash receipts and expenditures in lieu of  
17 financial statements required by paragraph (a).

18 3. A report of cash receipts and disbursements must  
19 disclose the amount of receipts by accounts and receipt  
20 classifications and the amount of expenses by accounts and  
21 expense classifications, including, but not limited to, the  
22 following, as applicable: costs for security, professional and  
23 management fees and expenses, taxes, costs for recreation  
24 facilities, expenses for refuse collection and utility  
25 services, expenses for lawn care, costs for building  
26 maintenance and repair, insurance costs, administration and  
27 salary expenses, and reserves accumulated and expended for  
28 capital expenditures, deferred maintenance, and any other  
29 category for which the association maintains reserves.

30 (c) An association may prepare or cause to be  
31 prepared, without a meeting of or approval by the unit owners:

1           1. Compiled, reviewed, or audited financial  
2 statements, if the association is required to prepare a report  
3 of cash receipts and expenditures;

4           2. Reviewed or audited financial statements, if the  
5 association is required to prepare compiled financial  
6 statements; or

7           3. Audited financial statements if the association is  
8 required to prepare reviewed financial statements.

9           (d) If approved by a majority of the voting interests  
10 present at a properly called meeting of the association, an  
11 association may prepare or cause to be prepared:

12           1. A report of cash receipts and expenditures in lieu  
13 of a compiled, reviewed, or audited financial statement;

14           2. A report of cash receipts and expenditures or a  
15 compiled financial statement in lieu of a reviewed or audited  
16 financial statement; or

17           3. A report of cash receipts and expenditures, a  
18 compiled financial statement, or a reviewed financial  
19 statement in lieu of an audited financial statement.

20  
21 Such meeting and approval must occur prior to the end of the  
22 fiscal year and is effective only for the fiscal year in which  
23 the vote is taken. With respect to an association to which  
24 the developer has not turned over control of the association,  
25 all unit owners, including the developer, may vote on issues  
26 related to the preparation of financial reports for the first  
27 2 fiscal years of the association's operation, beginning with  
28 the fiscal year in which the declaration is recorded.

29 Thereafter, all unit owners except the developer may vote on  
30 such issues until control is turned over to the association by  
31 the developer.~~Within 60 days following the end of the fiscal~~

1 ~~or calendar year or annually on such date as is otherwise~~  
2 ~~provided in the bylaws of the association, the board of~~  
3 ~~administration of the association shall mail or furnish by~~  
4 ~~personal delivery to each unit owner a complete financial~~  
5 ~~report of actual receipts and expenditures for the previous 12~~  
6 ~~months, or a complete set of financial statements for the~~  
7 ~~preceding fiscal year prepared in accordance with generally~~  
8 ~~accepted accounting principles. The report shall show the~~  
9 ~~amounts of receipts by accounts and receipt classifications~~  
10 ~~and shall show the amounts of expenses by accounts and expense~~  
11 ~~classifications, including, if applicable, but not limited to,~~  
12 ~~the following:~~

- 13 ~~(a) Costs for security;~~
- 14 ~~(b) Professional and management fees and expenses;~~
- 15 ~~(c) Taxes;~~
- 16 ~~(d) Costs for recreation facilities;~~
- 17 ~~(e) Expenses for refuse collection and utility~~  
18 ~~services;~~
- 19 ~~(f) Expenses for lawn care;~~
- 20 ~~(g) Costs for building maintenance and repair;~~
- 21 ~~(h) Insurance costs;~~
- 22 ~~(i) Administrative and salary expenses; and~~
- 23 ~~(j) Reserves for capital expenditures, deferred~~  
24 ~~maintenance, and any other category for which the association~~  
25 ~~maintains a reserve account or accounts.~~

26 ~~(14) The division shall adopt rules which may require~~  
27 ~~that the association deliver to the unit owners, in lieu of~~  
28 ~~the financial report required by subsection (13), a complete~~  
29 ~~set of financial statements for the preceding fiscal year.~~  
30 ~~The financial statements shall be delivered within 90 days~~  
31 ~~following the end of the previous fiscal year or annually on~~

1 ~~such other date as provided by the bylaws. The rules of the~~  
2 ~~division may require that the financial statements be~~  
3 ~~compiled, reviewed, or audited, and the rules shall take into~~  
4 ~~consideration the criteria set forth in s. 718.501(1)(j). The~~  
5 ~~requirement to have the financial statements compiled,~~  
6 ~~reviewed, or audited does not apply to associations when a~~  
7 ~~majority of the voting interests of the association present at~~  
8 ~~a duly called meeting of the association have determined for a~~  
9 ~~fiscal year to waive this requirement. In an association in~~  
10 ~~which turnover of control by the developer has not occurred,~~  
11 ~~the developer may vote to waive the audit requirement for the~~  
12 ~~first 2 years of the operation of the association, after which~~  
13 ~~time waiver of an applicable audit requirement shall be by a~~  
14 ~~majority of voting interests other than the developer. The~~  
15 ~~meeting shall be held prior to the end of the fiscal year, and~~  
16 ~~the waiver shall be effective for only 1 fiscal year. This~~  
17 ~~subsection does not apply to a condominium which consists of~~  
18 ~~50 or fewer units.~~

19 (14)(15) COMMINGLING.--All funds collected by an  
20 association shall be maintained separately in the  
21 association's name. For investment purposes only, reserve  
22 funds may be commingled with operating funds of the  
23 association. Commingled operating and reserve funds shall be  
24 accounted for separately and a commingled account shall not,  
25 at any time, be less than the amount identified as reserve  
26 funds. This subsection does not prohibit a multicondominium  
27 association from commingling the operating funds of separate  
28 condominiums or the reserve funds of separate condominiums.  
29 Furthermore, for investment purposes only, a multicondominium  
30 association may commingle the operating funds of separate  
31 condominiums with the reserve funds of separate condominiums.

1 A manager or business entity required to be licensed or  
2 registered under s. 468.432, or an agent, employee, officer,  
3 or director of an association, shall not commingle any  
4 association funds with his or her funds or with the funds of  
5 any other condominium association or the funds of a community  
6 association as defined in s. 468.431.~~All funds shall be~~  
7 ~~maintained separately in the association's name. Reserve and~~  
8 ~~operating funds of the association shall not be commingled~~  
9 ~~unless combined for investment purposes. This subsection is~~  
10 ~~not meant to prohibit prudent investment of association funds~~  
11 ~~even if combined with operating or other reserve funds of the~~  
12 ~~same association, but such funds must be accounted for~~  
13 ~~separately, and the combined account balance may not, at any~~  
14 ~~time, be less than the amount identified as reserve funds in~~  
15 ~~the combined account. No manager or business entity required~~  
16 ~~to be licensed or registered under s. 468.432, and no agent,~~  
17 ~~employee, officer, or director of a condominium association~~  
18 ~~shall commingle any association funds with his or her funds or~~  
19 ~~with the funds of any other condominium association or~~  
20 ~~community association as defined in s. 468.431.~~

21 Section 53. Paragraphs (d), (e), and (f) of subsection  
22 (2) of section 718.112, Florida Statutes, are amended to read:

23 718.112 Bylaws.--

24 (2) REQUIRED PROVISIONS.--The bylaws shall provide for  
25 the following and, if they do not do so, shall be deemed to  
26 include the following:

27 (d) Unit owner meetings.--

28 1. There shall be an annual meeting of the unit  
29 owners. Unless the bylaws provide otherwise, a vacancy on the  
30 board of ~~administration~~ caused by the expiration of a  
31 director's term shall be filled by electing a new board

1 member, and the election shall be by secret ballot; however,  
2 if the number of vacancies equals or exceeds the number of  
3 candidates, no election is required. If there is no provision  
4 in the bylaws for terms of the members of the board of  
5 ~~administration~~, the terms of all members of the board of  
6 ~~administration~~ shall expire upon the election of their  
7 successors at the annual meeting. Any unit owner desiring to  
8 be a candidate for board membership shall comply with  
9 subparagraph 3. ~~In order to be eligible for board membership,~~  
10 ~~a person must meet the requirements set forth in the~~  
11 ~~declaration.~~A person who has been convicted of any felony by  
12 any court of record in the United States and who has not had  
13 his or her right to vote restored pursuant to law in the  
14 jurisdiction of his or her residence is not eligible for board  
15 membership. The validity of an action by the board is not  
16 affected if it is later determined that a member of the board  
17 is ineligible for board membership due to having been  
18 convicted of a felony.

19         2. The bylaws shall provide the method of calling  
20 meetings of unit owners, including annual meetings. Written  
21 notice, which notice must include an agenda, shall be mailed  
22 or hand delivered to each unit owner at least 14 days prior to  
23 the annual meeting and shall be posted in a conspicuous place  
24 on the condominium property at least 14 continuous days  
25 preceding the annual meeting. Upon notice to the unit owners,  
26 the board shall by duly adopted rule designate a specific  
27 location on the condominium property or association property  
28 upon which all notices of unit owner meetings shall be posted;  
29 however, if there is no condominium property or association  
30 property upon which notices can be posted, this requirement  
31 does not apply. Unless a unit owner waives in writing the

1 right to receive notice of the annual meeting ~~by mail~~, such  
2 ~~the notice of the annual meeting~~ shall be hand delivered or  
3 mailed ~~sent by mail~~ to each unit owner. Notice for meetings  
4 and notice for all other purposes shall be mailed to each unit  
5 owner at the address last furnished to the association by the  
6 unit owner, or hand delivered to each unit owner. However, if  
7 ~~where~~ a unit is owned by more than one person, the association  
8 shall provide notice, for meetings and all other purposes, to  
9 that one address which the developer initially identifies for  
10 that purpose and thereafter as one or more of the owners of  
11 the unit shall so advise the association in writing, or if no  
12 address is given or the owners of the unit do not agree, to  
13 the address provided on the deed of record. An officer of the  
14 association, or the manager or other person providing notice  
15 of the association meeting, shall provide an affidavit or  
16 United States Postal Service certificate of mailing, to be  
17 included in the official records of the association affirming  
18 that the notice was mailed or hand delivered, in accordance  
19 with this provision, ~~to each unit owner at the address last~~  
20 ~~furnished to the association.~~

21 3. The members of the board ~~of administration~~ shall be  
22 elected by written ballot or voting machine. Proxies shall in  
23 no event be used in electing the board ~~of administration~~,  
24 either in general elections or elections to fill vacancies  
25 caused by recall, resignation, or otherwise, unless otherwise  
26 provided in this chapter. Not less than 60 days before a  
27 scheduled election, the association shall mail or deliver,  
28 whether by separate association mailing or included in another  
29 association mailing or delivery including regularly published  
30 newsletters, to each unit owner entitled to a vote, a first  
31 notice of the date of the election. Any unit owner or other

1 eligible person desiring to be a candidate for the board of  
2 ~~administration~~ must give written notice to the association not  
3 less than 40 days before a scheduled election. Together with  
4 the written notice and agenda as set forth in subparagraph 2.,  
5 the association shall mail or deliver a second notice of the  
6 election to all unit owners entitled to vote therein, together  
7 with a ballot which shall list all candidates. Upon request of  
8 a candidate, the association shall include an information  
9 sheet, no larger than 8 1/2 inches by 11 inches, which must  
10 be furnished by the candidate not less than 35 days before the  
11 election, to be included with the mailing of the ballot, with  
12 the costs of mailing or delivery and copying to be borne by  
13 the association. ~~However,~~The association is not liable ~~has no~~  
14 ~~liability~~ for the contents of the information sheets prepared  
15 by the candidates. In order to reduce costs, the association  
16 may print or duplicate the information sheets on both sides of  
17 the paper. The division shall by rule establish voting  
18 procedures consistent with the provisions contained herein,  
19 including rules providing for the secrecy of ballots.  
20 Elections shall be decided by a plurality of those ballots  
21 cast. There shall be no quorum requirement; however, at least  
22 20 percent of the eligible voters must cast a ballot in order  
23 to have a valid election of members of the board of  
24 ~~administration~~. No unit owner shall permit any other person to  
25 vote his or her ballot, and any such ballots improperly cast  
26 shall be deemed invalid, provided any unit owner who violates  
27 this provision may be fined by the association in accordance  
28 with s. 718.303. A unit owner who needs assistance in casting  
29 the ballot for the reasons stated in s. 101.051 may obtain  
30 assistance in casting the ballot. ~~Any unit owner violating~~  
31 ~~this provision may be fined by the association in accordance~~

1 ~~with s. 718.303.~~The regular election shall occur on the date  
2 of the annual meeting. The provisions of this subparagraph  
3 shall not apply to timeshare condominium associations.  
4 Notwithstanding the provisions of this subparagraph, an  
5 election is ~~and balloting are~~ not required unless more  
6 candidates file notices of intent to run or are nominated than  
7 board vacancies exist ~~on the board~~.

8           4. Any approval by unit owners called for by this  
9 chapter or the applicable declaration or bylaws, including,  
10 but not limited to, the approval requirement in s. 718.111(8),  
11 shall be made at a duly noticed meeting of unit owners and  
12 shall be subject to all requirements of this chapter or the  
13 applicable condominium documents relating to unit owner  
14 decisionmaking, except that unit owners may take action by  
15 written agreement, without meetings, on matters for which  
16 action by written agreement without meetings is expressly  
17 allowed by the applicable bylaws or declaration or any statute  
18 that provides for such action.

19           5. Unit owners may waive notice of specific meetings  
20 if allowed by the applicable bylaws or declaration or any  
21 statute.

22           6. Unit owners shall have the right to participate in  
23 meetings of unit owners with reference to all designated  
24 agenda items. However, the association may adopt reasonable  
25 rules governing the frequency, duration, and manner of unit  
26 owner participation.

27           7. Any unit owner may tape record or videotape a  
28 meeting of the unit owners subject to reasonable rules adopted  
29 by the division.

30           8. Unless otherwise provided in the bylaws, any  
31 vacancy occurring on the board before the expiration of a term

1 may be filled by the affirmative vote of the majority of the  
2 remaining directors, even if the remaining directors  
3 constitute less than a quorum, or by the sole remaining  
4 director. In the alternative, a board may hold an election to  
5 fill the vacancy, in which case the election procedures must  
6 conform to the requirements of subparagraph 3. unless the  
7 association has opted out of the statutory election process,  
8 in which case the bylaws of the association control. Unless  
9 otherwise provided in the bylaws, a board member appointed or  
10 elected under this section shall fill the vacancy for the  
11 unexpired term of the seat being filled. Filling vacancies  
12 created by recall is governed by paragraph (j) and rules  
13 adopted by the division.

14

15 Notwithstanding subparagraphs (b)2. and (d)3., an association  
16 may, by the affirmative vote of a majority of the total voting  
17 interests, provide for different voting and election  
18 procedures in its bylaws, which vote may be by a proxy  
19 specifically delineating the different voting and election  
20 procedures. The different voting and election procedures may  
21 provide for elections to be conducted by limited or general  
22 proxy.

23 (e) Budget meeting.--

24 1. Any meeting at which a proposed annual budget of an  
25 association will be considered by the board or unit owners  
26 shall be open to all unit owners. At least 14 days prior to  
27 such a meeting, the board shall hand deliver to each unit  
28 owner, or mail to each unit owner at the address last  
29 furnished to the association by the unit owner, a notice of  
30 such meeting and a copy of the proposed annual budget. An  
31 officer or manager of the association, or other person

1 providing notice of such meeting, shall execute an affidavit  
2 evidencing compliance with such notice requirement and such  
3 affidavit shall be filed among the official records of the  
4 association.

5 2.a. If a board adopts in any fiscal year an annual  
6 budget which requires assessments against unit owners which  
7 exceed 115 percent of assessments for the preceding fiscal  
8 year, the board shall conduct a special meeting of the unit  
9 owners to consider a substitute budget if the board receives,  
10 within 21 days after adoption of the annual budget, a written  
11 request for a special meeting from at least 10 percent of all  
12 voting interests. The special meeting shall be conducted  
13 within 60 days after adoption of the annual budget. At least  
14 14 days prior to such special meeting, the board shall hand  
15 deliver to each unit owner, or mail to each unit owner at the  
16 address last furnished to the association, a notice of the  
17 meeting. An officer or manager of the association, or other  
18 person providing notice of such meeting shall execute an  
19 affidavit evidencing compliance with this notice requirement  
20 and such affidavit shall be filed among the official records  
21 of the association. Unit owners may consider and adopt a  
22 substitute budget at the special meeting. A substitute budget  
23 is adopted if approved by a majority of all voting interests  
24 unless the bylaws require adoption by a greater percentage of  
25 voting interests. If there is not a quorum at the special  
26 meeting or a substitute budget is not adopted, the annual  
27 budget previously adopted by the board shall take effect as  
28 scheduled.

29 b. Any determination of whether assessments exceed 115  
30 percent of assessments for the prior fiscal year shall exclude  
31 any authorized provision for reasonable reserves for repair or

1 replacement of the condominium property, anticipated expenses  
2 of the association which the board does not expect to be  
3 incurred on a regular or annual basis, or assessments for  
4 betterments to the condominium property.

5 c. If the developer controls the board, assessments  
6 shall not exceed 115 percent of assessments for the prior  
7 fiscal year unless approved by a majority of all voting  
8 interests.~~The board of administration shall hand deliver to~~  
9 ~~each unit owner, or mail to each unit owner at the address~~  
10 ~~last furnished to the association, a meeting notice and copies~~  
11 ~~of the proposed annual budget of common expenses not less than~~  
12 ~~14 days prior to the meeting of the unit owners or the board~~  
13 ~~of administration at which the budget will be considered.~~  
14 ~~Evidence of compliance with this 14-day notice must be made by~~  
15 ~~an affidavit executed by an officer of the association or the~~  
16 ~~manager or other person providing notice of the meeting and~~  
17 ~~filed among the official records of the association. The~~  
18 ~~meeting must be open to the unit owners. If an adopted budget~~  
19 ~~requires assessments against the unit owners in any fiscal or~~  
20 ~~calendar year which exceed 115 percent of the assessments for~~  
21 ~~the preceding year, the board, upon written application of 10~~  
22 ~~percent of the voting interests to the board, shall call a~~  
23 ~~special meeting of the unit owners within 30 days upon not~~  
24 ~~less than 10 days' written notice to each unit owner. At the~~  
25 ~~special meeting, unit owners shall consider and enact a~~  
26 ~~budget. Unless the bylaws require a larger vote, the adoption~~  
27 ~~of the budget requires a vote of not less than a majority vote~~  
28 ~~of all the voting interests. The board of administration may~~  
29 ~~propose a budget to the unit owners at a meeting of members or~~  
30 ~~in writing, and if the budget or proposed budget is approved~~  
31 ~~by the unit owners at the meeting or by a majority of all the~~

1 ~~voting interests in writing, the budget is adopted. If a~~  
2 ~~meeting of the unit owners has been called and a quorum is not~~  
3 ~~attained or a substitute budget is not adopted by the unit~~  
4 ~~owners, the budget adopted by the board of directors goes into~~  
5 ~~effect as scheduled. In determining whether assessments~~  
6 ~~exceed 115 percent of similar assessments in prior years, any~~  
7 ~~authorized provisions for reasonable reserves for repair or~~  
8 ~~replacement of the condominium property, anticipated expenses~~  
9 ~~by the condominium association which are not anticipated to be~~  
10 ~~incurred on a regular or annual basis, or assessments for~~  
11 ~~betterments to the condominium property must be excluded from~~  
12 ~~the computation. However, as long as the developer is in~~  
13 ~~control of the board of administration, the board may not~~  
14 ~~impose an assessment for any year greater than 115 percent of~~  
15 ~~the prior fiscal or calendar year's assessment without~~  
16 ~~approval of a majority of all the voting interests.~~

17 (f) Annual budget.--

18 1. The proposed annual budget of common expenses shall  
19 be detailed and shall show the amounts budgeted by accounts  
20 and expense classifications, including, if applicable, but not  
21 limited to, those expenses listed in s. 718.504(21)~~s.~~  
22 ~~718.504(20)~~. A multicondominium association shall adopt a  
23 separate budget of common expenses for each condominium the  
24 association operates and shall adopt a separate budget of  
25 common expenses for the association.In addition, if the  
26 association maintains limited common elements with the cost to  
27 be shared only by those entitled to use the limited common  
28 elements as provided for in s. 718.113(1), the budget or a  
29 schedule attached thereto shall show amounts budgeted  
30 therefor. If, after turnover of control of the association to  
31

1 the unit owners, any of the expenses listed in s. 718.504(21)  
2 ~~s. 718.504(20)~~ are not applicable, they need not be listed.

3         2. In addition to annual operating expenses, the  
4 budget shall include reserve accounts for capital expenditures  
5 and deferred maintenance. These accounts shall include, but  
6 are not limited to, roof replacement, building painting, and  
7 pavement resurfacing, regardless of the amount of deferred  
8 maintenance expense or replacement cost, and for any other  
9 item for which the deferred maintenance expense or replacement  
10 cost exceeds \$10,000. The amount to be reserved shall be  
11 computed by means of a formula which is based upon estimated  
12 remaining useful life and estimated replacement cost or  
13 deferred maintenance expense of each reserve item. The  
14 association may adjust replacement reserve assessments  
15 annually to take into account any changes in estimates or  
16 extension of the useful life of a reserve item caused by  
17 deferred maintenance. This subsection does not apply to an  
18 adopted budget ~~budgets~~ in which the members of an association  
19 have determined, by a majority vote at a duly called meeting  
20 of the association, ~~and voting determined for a fiscal year to~~  
21 provide no reserves or less reserves ~~less adequate~~ than  
22 required by this subsection. However, prior to turnover of  
23 control of an association by a developer to unit owners other  
24 than a developer pursuant to s. 718.301, the developer may  
25 vote to waive the reserves or reduce the funding of reserves  
26 for the first 2 fiscal years of the association's operation ~~of~~  
27 ~~the association,~~ beginning with the fiscal year in which the  
28 initial declaration is recorded, after which time reserves may  
29 be waived or reduced only upon the vote of a majority of all  
30 nondeveloper voting interests voting in person or by limited  
31 proxy at a duly called meeting of the association. If a

1 meeting of the unit owners has been called to determine  
2 whether to waive or reduce the funding of ~~to provide no~~  
3 ~~reserves or reserves less adequate than required~~, and no such  
4 result is achieved ~~not attained~~ or a quorum is not attained,  
5 the reserves as included in the budget shall go into effect.  
6 After the turnover, the developer may vote its voting interest  
7 to waive or reduce the funding of reserves.

8           3. Reserve funds and any interest accruing thereon  
9 shall remain in the reserve account or accounts, and shall be  
10 used only for authorized reserve expenditures unless their use  
11 for other purposes is approved in advance by a majority vote  
12 at a duly called meeting of the association. Prior to turnover  
13 of control of an association by a developer to unit owners  
14 other than the developer pursuant to s. 718.301, the  
15 developer-controlled association shall not vote to use  
16 reserves for purposes other than that for which they were  
17 intended without the approval of a majority of all  
18 nondeveloper voting interests, voting in person or by limited  
19 proxy at a duly called meeting of the association.

20           4. In a multicondominium association, the only voting  
21 interests which are eligible to vote on questions that involve  
22 waiving or reducing the funding of reserves, or using existing  
23 reserve funds for purposes other than purposes for which the  
24 reserves were intended, are the voting interests of the units  
25 subject to assessment to fund the reserves in question.

26           Section 54. Subsection (2) of section 718.113, Florida  
27 Statutes, is amended to read:

28           718.113 Maintenance; limitation upon improvement;  
29 display of flag; hurricane shutters.--

30           (2)(a) Except as otherwise provided in this section,  
31 there shall be no material alteration or substantial additions

1 to the common elements or to real property which is  
2 association property, except in a manner provided in the  
3 declaration. If the declaration does not specify the  
4 procedure for approval of material alterations or substantial  
5 additions, 75 percent of the total voting interests of the  
6 association must approve the alterations or additions.

7 (b) There shall not be any material alteration of, or  
8 substantial addition to, the common elements of any  
9 condominium operated by a multicondominium association unless  
10 approved in the manner provided in the declaration of the  
11 affected condominium or condominiums. If a declaration does  
12 not specify a procedure for approving such an alteration or  
13 addition, the approval of 75 percent of the total voting  
14 interests of each affected condominium is required. This  
15 subsection does not prohibit a provision in any declaration,  
16 articles of incorporation, or bylaws requiring the approval of  
17 unit owners in any condominium operated by the same  
18 association or requiring board approval before a material  
19 alteration or substantial addition to the common elements is  
20 permitted.

21 (c) There shall not be any material alteration or  
22 substantial addition made to association real property  
23 operated by a multicondominium association, except as provided  
24 in the declaration, articles of incorporation, or bylaws. If  
25 the declaration, articles of incorporation, or bylaws do not  
26 specify the procedure for approving an alteration or addition  
27 to association real property, the approval of 75 percent of  
28 the total voting interests of the association is required.

29 Section 55. Section 718.115, Florida Statutes, is  
30 amended to read:

31 718.115 Common expenses and common surplus.--

1           (1)(a) Common expenses include the expenses of the  
2 operation, maintenance, repair, replacement, or protection of  
3 the common elements and association property, costs of  
4 carrying out the powers and duties of the association, and any  
5 other expense, whether or not included in the foregoing,  
6 designated as common expense by this chapter, the declaration,  
7 the documents creating the association, or the bylaws. Common  
8 expenses also include reasonable transportation services,  
9 insurance for directors and officers, road maintenance and  
10 operation expenses, in-house communications, and security  
11 services, which are reasonably related to the general benefit  
12 of the unit owners even if such expenses do not attach to the  
13 common elements or property of the condominium. However, such  
14 common expenses must either have been services or items  
15 provided on or after ~~from~~ the date ~~the control of the board of~~  
16 ~~administration~~ of the association is ~~was~~ transferred from the  
17 developer to the unit owners or must be services or items  
18 provided for in the condominium documents or bylaws.

19           (b) The common expenses of a condominium within a  
20 multicondominium are the common expenses directly attributable  
21 to the operation of that condominium. The common expenses of a  
22 multicondominium association do not include the common  
23 expenses directly attributable to the operation of any  
24 specific condominium or condominiums within the  
25 multicondominium.

26           (c) The common expenses of a multicondominium  
27 association may include categories of expenses related to the  
28 property or common elements within a specific condominium in  
29 the multicondominium if such property or common elements are  
30 areas in which all members of the multicondominium association  
31 have use rights or from which all members receive tangible

1 economic benefits. Such common expenses of the association  
2 shall be identified in the declaration or bylaws of each  
3 condominium within the multicondominium association.

4 (d)~~(b)~~ If so provided in the declaration, the cost of  
5 a master antenna television system or duly franchised cable  
6 television service obtained pursuant to a bulk contract shall  
7 be deemed a common expense. If the declaration does not  
8 provide for the cost of a master antenna television system or  
9 duly franchised cable television service obtained under a bulk  
10 contract as a common expense, the board ~~of administration~~ may  
11 enter into such a contract, and the cost of the service will  
12 be a common expense but allocated on a per-unit basis rather  
13 than a percentage basis if the declaration provides for other  
14 than an equal sharing of common expenses, and any contract  
15 entered into before July 1, 1998, in which the cost of the  
16 service is not equally divided among all unit owners, may be  
17 changed by vote of a majority of the voting interests present  
18 at a regular or special meeting of the association, to  
19 allocate the cost equally among all units. The contract shall  
20 be for a term of not less than 2 years.

21 1. Any contract made by the board after the effective  
22 date hereof for a community antenna system or duly franchised  
23 cable television service may be canceled by a majority of the  
24 voting interests present at the next regular or special  
25 meeting of the association. Any member may make a motion to  
26 cancel said contract, but if no motion is made or if such  
27 motion fails to obtain the required majority at the next  
28 regular or special meeting, whichever is sooner, following the  
29 making of the contract, then such contract shall be deemed  
30 ratified for the term therein expressed.

31

1           2. Any such contract shall provide, and shall be  
2 deemed to provide if not expressly set forth, that any hearing  
3 impaired or legally blind unit owner who does not occupy the  
4 unit with a non-hearing-impaired or sighted person, or any  
5 unit owner receiving supplemental security income under Title  
6 XVI of the Social Security Act or food stamps as administered  
7 by the Department of Children and Family Services pursuant to  
8 s. 414.31, may discontinue the service without incurring  
9 disconnect fees, penalties, or subsequent service charges, and  
10 as to such units, the owners shall not be required to pay any  
11 common expenses charge related to such service. If less than  
12 all members of an association share the expenses of cable  
13 television, the expense shall be shared equally by all  
14 participating unit owners. The association may use the  
15 provisions of s. 718.116 to enforce payment of the shares of  
16 such costs by the unit owners receiving cable television.

17           ~~(e)(c)~~ The expense of installation, replacement,  
18 operation, repair, and maintenance of hurricane shutters by  
19 the board pursuant to s. 718.113(5) shall constitute a common  
20 expense as defined herein and shall be collected as provided  
21 in this section. Notwithstanding the provisions of s.  
22 718.116(9), a unit owner who has previously installed  
23 hurricane shutters in accordance with s. 718.113(5) or  
24 laminated glass architecturally designed to function as  
25 hurricane protection which complies with the applicable  
26 building code shall receive a credit equal to the pro rata  
27 portion of the assessed installation cost assigned to each  
28 unit. However, such unit owner shall remain responsible for  
29 the pro rata share of expenses for hurricane shutters  
30 installed on common elements and association property by the  
31 board pursuant to s. 718.113(5), and shall remain responsible

1 for a pro rata share of the expense of the replacement,  
2 operation, repair, and maintenance of such shutters.

3 (f)~~(d)~~ If any unpaid share of common expenses or  
4 assessments is extinguished by foreclosure of a superior lien  
5 or by a deed in lieu of foreclosure thereof, the unpaid share  
6 of common expenses or assessments are common expenses  
7 collectible from all the unit owners in the condominium in  
8 which the unit is located.

9 (2) Except as otherwise provided by this chapter,  
10 funds for ~~the~~ payment of the common expenses of a condominium  
11 shall be collected by assessments against the units in that  
12 condominium ~~unit owners~~ in the proportions or percentages  
13 provided in that condominium's ~~the~~ declaration. In a  
14 residential condominium, or mixed-use condominium created  
15 after January 1, 1996, each unit's share ~~unit owners' shares~~  
16 of the common expenses of the condominium and common surplus  
17 of the condominium shall be the same as the unit's appurtenant  
18 ~~in the same proportions as their~~ ownership interest in the  
19 common elements.

20 (3) Common surplus is owned by unit owners in the same  
21 shares as their ownership interest in the common elements.

22 (4)(a) Funds for payment of the common expenses of a  
23 condominium within a multicondominium shall be collected as  
24 provided in subsection (2). Common expenses of a  
25 multicondominium association shall be funded by assessments  
26 against all unit owners in the association in the proportion  
27 or percentage set forth in the declaration as required by s.  
28 718.104(4)(h) or s. 718.110(12), as applicable.

29 (b) In a multicondominium association, the total  
30 common surplus owned by a unit owner consists of that owner's  
31 share of the common surplus of the association plus that

1 owner's share of the common surplus of the condominium in  
2 which the owner's unit is located, in the proportion or  
3 percentage set forth in the declaration as required by s.  
4 718.104(4)(h) or s. 718.110(12), as applicable.

5 Section 56. Subsection (9) of section 718.116, Florida  
6 Statutes, is amended to read:

7 (Substantial rewording of subsection. See  
8 s. 718.116(9), F.S., for present text.)

9 718.116 Assessments; liability; lien and priority;  
10 interest; collection.--

11 (9)(a) A unit owner may not be excused from payment of  
12 the unit owner's share of common expenses unless all other  
13 unit owners are likewise proportionately excluded from  
14 payment, except as provided in subsection (1) and in the  
15 following cases:

16 1. If authorized by the declaration, a developer who  
17 is offering units for sale may elect to be excused from  
18 payment of assessments against those unsold units for a stated  
19 period of time after the declaration is recorded. However,  
20 the developer must pay common expenses incurred during such  
21 period which exceed regular periodic assessments against other  
22 unit owners in the same condominium. The stated period must  
23 terminate no later than the first day of the fourth calendar  
24 month following the month in which the first closing occurs of  
25 a purchase contract for a unit in that condominium. If a  
26 developer-controlled association has maintained all insurance  
27 coverage required by s. 718.111(11)(a), common expenses  
28 incurred during the stated period resulting from a natural  
29 disaster or an act of God occurring during the stated period,  
30 which are not covered by proceeds from insurance maintained by  
31 the association, may be assessed against all unit owners

1 owning units on the date of such natural disaster or act of  
2 God, and their respective successors and assigns, including  
3 the developer with respect to units owned by the developer. In  
4 the event of such an assessment, all units shall be assessed  
5 in accordance with s. 718.115(2).

6 2. A developer who owns condominium units, and who is  
7 offering the units for sale, may be excused from payment of  
8 assessments against those unsold units for the period of time  
9 the developer has guaranteed to all purchasers or other unit  
10 owners in the same condominium that assessments will not  
11 exceed a stated dollar amount and that the developer will pay  
12 any common expenses that exceed the guaranteed amount. Such  
13 guarantee may be stated in the purchase contract, declaration,  
14 prospectus, or written agreement between the developer and a  
15 majority of the unit owners other than the developer and may  
16 provide that after the initial guarantee period, the developer  
17 may extend the guarantee for one or more stated periods. If a  
18 developer-controlled association has maintained all insurance  
19 coverage required by s. 718.111(11)(a), common expenses  
20 incurred during a guarantee period, as a result of a natural  
21 disaster or an act of God occurring during the same guarantee  
22 period, which are not covered by the proceeds from such  
23 insurance, may be assessed against all unit owners owning  
24 units on the date of such natural disaster or act of God, and  
25 their successors and assigns, including the developer with  
26 respect to units owned by the developer. Any such assessment  
27 shall be in accordance with s. 718.115(2) or (4), as  
28 applicable.

29 (b) If the purchase contract, declaration, prospectus,  
30 or written agreement between the developer and a majority of  
31 unit owners other than the developer, provides for the

1 developer to be excused from payment of assessments under  
2 paragraph (a), only regular periodic assessments for common  
3 expenses as provided for in the declaration and prospectus and  
4 disclosed in the estimated operating budget shall be used for  
5 payment of common expenses during any period in which the  
6 developer is excused. Accordingly, no funds which are  
7 receivable from unit purchasers or unit owners and payable to  
8 the association, including capital contributions or startup  
9 funds collected from unit purchasers at closing, may be used  
10 for payment of such common expenses.

11 (c) If a developer of a multicondominium is excused  
12 from payment of assessments under paragraph (a), the  
13 developer's financial obligation to the multicondominium  
14 association during any period in which the developer is  
15 excused from payment of assessments is as follows:

16 1. The developer shall pay the common expenses of a  
17 condominium affected by a guarantee, including the funding of  
18 reserves as provided in the adopted annual budget of that  
19 condominium, which exceed the regular periodic assessments at  
20 the guaranteed level against all other unit owners within that  
21 condominium.

22 2. The developer shall pay the common expenses of a  
23 multicondominium association, including the funding of  
24 reserves as provided in the adopted annual budget of the  
25 association, which are allocated to units within a condominium  
26 affected by a guarantee and which exceed the regular periodic  
27 assessments against all other unit owners within that  
28 condominium.

29 Section 57. Subsection (11) is added to section  
30 718.117, Florida Statutes, to read:

31 718.117 Termination.--

1           (11) This section does not apply to the termination of  
2 a condominium incident to a merger of that condominium with  
3 one or more other condominiums under s. 718.110(7).

4           Section 58. Subsection (8) of section 718.403, Florida  
5 Statutes, is amended to read:

6           718.403 Phase condominiums.--

7           (8) Upon recording the declaration of condominium or  
8 amendments adding phases pursuant to this section, the  
9 developer shall file the recording information with the  
10 division within 120 Calendar ~~30 working~~ days on a form  
11 prescribed by the division.

12           Section 59. Section 718.405, Florida Statutes, is  
13 created to read:

14           718.405 Multicondominiums; multicondominium  
15 associations.--

16           (1) An association may operate more than one  
17 condominium if the declaration for each condominium to be  
18 operated by that association provides for participation in a  
19 multicondominium, in conformity with this section, and  
20 discloses or describes:

21           (a) The manner or formula by which the assets,  
22 liabilities, common surplus, and common expenses of the  
23 association will be apportioned among the units within the  
24 condominiums operated by the association, in accordance with  
25 s. 718.104(4)(g) or (h), as applicable.

26           (b) Whether unit owners in any other condominium, or  
27 any other persons, will or may have the right to use  
28 recreational areas or any other facilities or amenities that  
29 are common elements of the condominium, and, if so, the  
30 specific formula by which the other users will share the  
31 common expenses related to those facilities or amenities.

1           (c) Recreational and other commonly used facilities or  
2 amenities which the developer has committed to provide that  
3 will be owned, leased by, or dedicated by a recorded plat to  
4 the association but which are not included within any  
5 condominium operated by the association. The developer may  
6 reserve the right to add additional facilities or amenities if  
7 the declaration and prospectus for each condominium to be  
8 operated by the association contains the following statement  
9 in conspicuous type and in substantially the following form:  
10 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT  
11 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

12           (d) The voting rights of the unit owners in the  
13 election of directors and in other multicondominium  
14 association affairs when a vote of the owners is taken,  
15 including, but not limited to, a statement as to whether each  
16 unit owner will have a right to personally cast his or her own  
17 vote in all matters voted upon.

18           (2) If any declaration requires a developer to convey  
19 additional lands or facilities to a multicondominium  
20 association and the developer fails to do so within the time  
21 specified, or within a reasonable time if none is specified in  
22 the declaration, any unit owner or the association may enforce  
23 that obligation against the developer or bring an action  
24 against the developer for specific performance or for damages  
25 that result from the developer's failure or refusal to convey  
26 the additional lands or facilities.

27           (3) The declaration for each condominium to be  
28 operated by a multicondominium association may not, at the  
29 time of the initial recording of the declaration, contain any  
30 provision with respect to allocation of the association's  
31 assets, liabilities, common surplus, or common expenses which

1 is inconsistent with this chapter or the provisions of a  
2 declaration for any other condominium then being operated by  
3 the multicondominium association.

4 (4) This section does not prevent or restrict the  
5 formation of a multicondominium by the merger or consolidation  
6 of two or more condominium associations. Mergers or  
7 consolidations of associations shall be accomplished in  
8 accordance with this chapter, the declarations of the  
9 condominiums being merged or consolidated, and chapter 617.  
10 Section 718.110(4) does not apply to amendments to  
11 declarations necessary to effect a merger or consolidation.

12 Section 60. Section 718.5019, Florida Statutes, is  
13 repealed.

14 Section 61. Present subsections (15) through (27) of  
15 section 718.504, Florida Statutes, are redesignated as  
16 subsections (16) through (28), respectively, and a new  
17 subsection (15) is added to that section, to read:

18 718.504 Prospectus or offering circular.--Every  
19 developer of a residential condominium which contains more  
20 than 20 residential units, or which is part of a group of  
21 residential condominiums which will be served by property to  
22 be used in common by unit owners of more than 20 residential  
23 units, shall prepare a prospectus or offering circular and  
24 file it with the Division of Florida Land Sales, Condominiums,  
25 and Mobile Homes prior to entering into an enforceable  
26 contract of purchase and sale of any unit or lease of a unit  
27 for more than 5 years and shall furnish a copy of the  
28 prospectus or offering circular to each buyer. In addition to  
29 the prospectus or offering circular, each buyer shall be  
30 furnished a separate page entitled "Frequently Asked Questions  
31 and Answers," which shall be in accordance with a format

1 approved by the division and a copy of the financial  
2 information required by s. 718.111. This page shall, in  
3 readable language, inform prospective purchasers regarding  
4 their voting rights and unit use restrictions, including  
5 restrictions on the leasing of a unit; shall indicate whether  
6 and in what amount the unit owners or the association is  
7 obligated to pay rent or land use fees for recreational or  
8 other commonly used facilities; shall contain a statement  
9 identifying that amount of assessment which, pursuant to the  
10 budget, would be levied upon each unit type, exclusive of any  
11 special assessments, and which shall further identify the  
12 basis upon which assessments are levied, whether monthly,  
13 quarterly, or otherwise; shall state and identify any court  
14 cases in which the association is currently a party of record  
15 in which the association may face liability in excess of  
16 \$100,000; and which shall further state whether membership in  
17 a recreational facilities association is mandatory, and if so,  
18 shall identify the fees currently charged per unit type. The  
19 division shall by rule require such other disclosure as in its  
20 judgment will assist prospective purchasers. The prospectus or  
21 offering circular may include more than one condominium,  
22 although not all such units are being offered for sale as of  
23 the date of the prospectus or offering circular. The  
24 prospectus or offering circular must contain the following  
25 information:

26 (15) If the condominium is or may become part of a  
27 multicondominium, the following information must be provided:

28 (a) A statement in conspicuous type in substantially  
29 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
30 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
31 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately

1 following this statement, the location in the prospectus or  
2 offering circular and its exhibits where the multicondominium  
3 aspects of the offering are described must be stated.

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

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

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

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

24 Section 62. Paragraph (j) of subsection (1) of section  
25 718.501, Florida Statutes, is repealed.

26 Section 63. If any provision of this act or the  
27 application thereof to any person or circumstance is held  
28 invalid, the invalidity does not affect other provisions or  
29 applications of the act which can be given effect without the  
30 invalid provision or application, and to this end the  
31 provisions of this act are declared severable.

1           Section 64. This act shall take effect upon becoming a  
2 law; however, all documents filed and approved in accordance  
3 with chapter 721, Florida Statutes, prior to the effective  
4 date of this act, or any amendments to such documents made  
5 subsequent to the date this act becomes a law that are  
6 otherwise in compliance with chapter 721, Florida Statutes,  
7 prior to the effective date of this act, shall be deemed to be  
8 in compliance with the filing requirements of chapter 721,  
9 Florida Statutes.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31