

By the Committee on Regulated Industries and Senator Webster

315-2015A-00

1 A bill to be entitled
2 An act relating to vacation and timeshare
3 plans; amending s. 719.103, F.S.; providing for
4 governance of a timeshare cooperative; defining
5 the term "timeshare estate" for purposes of ch.
6 719, F.S., the Cooperative Act; amending s.
7 719.107, F.S.; providing for joint and several
8 liability for payments of assessments and
9 charges with respect to a timeshare unit;
10 amending s. 719.114, F.S.; providing for
11 assessing timeshare estates for purposes of ad
12 valorem taxes and special assessments; amending
13 s. 719.3026, F.S.; exempting certain contracts
14 from provisions governing products and
15 services; amending s. 719.401, F.S.; specifying
16 the term of the leasehold for a timeshare
17 cooperative; amending s. 719.503, F.S.;
18 requiring that certain additional disclosures
19 be made prior to the sale or transfer of a
20 timeshare estate; amending s. 719.504, F.S.;
21 requiring that the creation and sale of a
22 timeshare estate with respect to a cooperative
23 unit be disclosed in the prospectus or offering
24 circular; amending s. 721.03, F.S.; revising
25 provisions with respect to the scope of the
26 Florida Vacation Plan and Timesharing Act;
27 amending s. 721.05, F.S.; providing
28 definitions; amending s. 721.06, F.S.; revising
29 requirements with respect to contracts for the
30 purchase of timeshare interests; amending s.
31 721.065, F.S.; providing for resale listings;

1 providing legislative intent; providing for the
2 deposit of certain advance fees in a trust
3 account; providing requirements with respect to
4 resale; providing penalties; amending s.
5 721.07, F.S.; revising provisions relating to
6 public offering statements; providing
7 conditions for the delivery of a purchaser
8 public offering statement which is not yet
9 approved by the Division of Florida Land Sales,
10 Condominiums, and Mobile Homes of the
11 Department of Business and Professional
12 Regulation; amending s. 721.075, F.S.; revising
13 language with respect to incidental benefits;
14 amending s. 721.08, F.S.; revising provisions
15 relating to escrow accounts; providing
16 additional criteria with respect to compliance
17 with certain conditions for the release of
18 escrow funds; providing requirements with
19 respect to unclaimed escrow funds; amending s.
20 721.09, F.S.; revising provisions relating to
21 reservation agreements; amending s. 721.10,
22 F.S.; revising provisions relating to
23 cancellation; amending s. 721.11, F.S.;
24 providing a filing fee with respect to
25 advertising materials filed with the division;
26 revising provisions relating to advertising
27 materials; providing additional criteria for
28 advertising materials; amending s. 721.111,
29 F.S.; revising provisions relating to prize and
30 gift promotional offers; amending s. 721.12,
31 F.S., relating to recordkeeping by a seller;

1 amending s. 721.13, F.S.; revising provisions
2 relating to management; providing additional
3 powers of the board of administration of the
4 owners' association; amending s. 721.14, F.S.,
5 relating to discharge of the managing entity;
6 amending s. 721.15, F.S.; revising provisions
7 relating to assessments for common expenses;
8 providing requirements with respect to
9 insurance; amending s. 721.16, F.S.; revising
10 provisions relating to liens for overdue
11 assessments and liens for labor performed on,
12 or materials furnished to a timeshare unit;
13 providing a lien for certain damages done by a
14 guest; amending s. 721.165, F.S.; providing
15 penalties for failure to obtain certain
16 insurance; amending s. 721.17, F.S.; revising
17 provisions relating to transfer of interest;
18 amending s. 721.18, F.S., relating to exchange
19 programs; amending s. 721.19, F.S., relating to
20 provisions requiring the purchase or lease of
21 timeshare property by owners' associations or
22 purchasers; amending s. 721.20, F.S.; revising
23 provisions relating to licensing requirements;
24 amending s. 721.21, F.S., relating to
25 purchasers' remedies; amending s. 721.24, F.S.;
26 revising provisions relating to firesafety;
27 amending s. 721.26, F.S.; revising provisions
28 relating to regulation by the division;
29 amending s. 721.27, F.S.; revising provisions
30 relating to the annual fee for each timeshare
31 unit in the plan; creating s. 721.29, F.S.;

1 providing for the protection of purchasers'
2 rights when recording is not available in
3 certain jurisdictions; amending s. 721.51,
4 F.S.; revising provisions relating to
5 legislative purpose and scope concerning
6 vacation clubs; amending s. 721.52, F.S.;
7 revising the definition of the term "multisite
8 timeshare plan"; amending s. 721.53, F.S.;
9 providing an additional piece of information
10 which the developer may provide to the division
11 prior to offering an accommodation or facility
12 as a part of a multisite timeshare plan;
13 amending s. 721.55, F.S.; revising provisions
14 relating to the public offering statement for a
15 multisite timeshare plan; amending s. 721.551,
16 F.S., relating to the delivery of a multisite
17 timeshare plan public offering statement;
18 amending s. 721.552, F.S., relating to
19 additions, substitutions, or deletions of
20 component site accommodations or facilities;
21 repealing s. 721.553, F.S., relating to the
22 portrayal of proposed component sites; amending
23 s. 721.56, F.S.; revising provisions relating
24 to the management of multisite timeshare plans;
25 amending s. 721.81, F.S.; revising legislative
26 purpose with respect to the Timeshare Lien
27 Foreclosure Act; amending s. 721.82, F.S.;
28 revising the definition of the term "assessment
29 lien"; amending s. 721.84, F.S., relating to
30 the appointment of a resident agent; amending
31 s. 721.85, F.S., relating to service to notice

1 address or on registered agent; amending s.
2 721.86, F.S.; including a cross-reference;
3 amending s. 718.103, F.S.; conforming a
4 cross-reference; providing severability;
5 providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Subsection (21) of section 719.103, Florida
10 Statutes, is amended, and present subsections (23) through
11 (26) are renumbered as subsections (24) through (27),
12 respectively, and a new subsection (23) is added to that
13 section, to read:

14 719.103 Definitions.--As used in this chapter:

15 (21) "Residential cooperative" means a cooperative
16 consisting of cooperative units, any of which are intended for
17 use as a private residence. A cooperative is not a residential
18 cooperative if the use of the units is intended as primarily
19 commercial or industrial and not more than three units are
20 intended to be used for private residence, domicile, or
21 homestead, or if the units are intended to be used as housing
22 for maintenance, managerial, janitorial, or other operational
23 staff of the cooperative. If a cooperative is a residential
24 cooperative under this definition, but has units intended to
25 be commercial or industrial, then the cooperative is a
26 residential cooperative with respect to those units intended
27 for use as a private residence, domicile, or homestead, but
28 not a residential cooperative with respect to those units
29 intended for use commercially or industrially. With respect to
30 a timeshare cooperative, the timeshare instrument as defined
31

1 in s. 721.05 shall govern the intended use of each unit in the
2 cooperative.

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

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

10 719.107 Common expenses; assessment.--

11 (1)(a) Common expenses include the expenses of the
12 operation, maintenance, repair, or replacement of the
13 cooperative property; costs of carrying out the powers and
14 duties of the association; and any other expense, whether or
15 not included in this paragraph, designated as common expense
16 by this chapter or the cooperative documents.

17 (b) If so provided in the bylaws, the cost of a master
18 antenna television system or duly franchised cable television
19 service obtained pursuant to a bulk contract shall be deemed a
20 common expense, and if not obtained pursuant to a bulk
21 contract, such cost shall be considered common expense if it
22 is designated as such in a written contract between the board
23 of administration and the company providing the master
24 television antenna system or the cable television service.
25 The contract shall be for a term of not less than 2 years.

26 1. Any contract made by the board after April 2, 1992,
27 for a community antenna system or duly franchised cable
28 television service may be canceled by a majority of the voting
29 interests present at the next regular or special meeting of
30 the association. Any member may make a motion to cancel the
31 contract, but if no motion is made or if such motion fails to

1 obtain the required majority at the next regular or special
2 meeting, whichever is sooner, following the making of the
3 contract, then such contract shall be deemed ratified for the
4 term therein expressed.

5 2. Any such contract shall provide, and shall be
6 deemed to provide if not expressly set forth, that any hearing
7 impaired or legally blind unit owner who does not occupy the
8 unit with a nonhearing impaired or sighted person may
9 discontinue the service without incurring disconnect fees,
10 penalties, or subsequent service charges, and as to such
11 units, the owners shall not be required to pay any common
12 expenses charge related to such service. If less than all
13 members of an association share the expenses of cable
14 television, the expense shall be shared equally by all
15 participating unit owners. The association may use the
16 provisions of s. 719.108 to enforce payment of the shares of
17 such costs by the unit owners receiving cable television.

18 (c) If any unpaid share of common expenses or
19 assessments is extinguished by foreclosure of a superior lien
20 or by a deed in lieu of foreclosure thereof, the unpaid share
21 of common expenses or assessments are common expenses
22 collectible from all the unit owners in the cooperative in
23 which the unit is located.

24 (d) With respect to each timeshare unit, each owner of
25 a timeshare estate therein is jointly and severally liable for
26 the payment of all assessments and other charges levied
27 against or with respect to that unit pursuant to the
28 cooperative documents, except to the extent that the
29 cooperative documents provide to the contrary. This paragraph
30 does not apply to any unit that is not committed to a
31 timeshare plan.

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

3 719.114 Separate taxation of cooperative parcels;
4 survival of contractual provisions after tax sale.--

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

8 Section 4. Section 719.3026, Florida Statutes, is
9 amended to read:

10 719.3026 Contracts for products and services; in
11 writing; bids; exceptions.--Associations with less than 100
12 units may opt out of the provisions of this section if
13 two-thirds of the unit owners vote to do so, which opt-out may
14 be accomplished by a proxy specifically setting forth the
15 exception from this section.

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

30 (2)(a)1. Notwithstanding the foregoing, contracts with
31 employees of the association, and contracts for attorney,

1 accountant, architect, community association manager,
2 timeshare management firm, engineering, and landscape
3 architect services shall not be subject to the provisions of
4 this section.

5 2. A contract executed before January 1, 1992, and any
6 renewal thereof, is not subject to the competitive bid
7 requirements of this section. If a contract was awarded under
8 the competitive bid procedures of this section, any renewal of
9 that contract is not subject to such competitive bid
10 requirements if the contract contains a provision that allows
11 the board to cancel the contract on 30 days' notice.
12 Materials, equipment, or services provided to a cooperative
13 pursuant to a local government franchise agreement by a
14 franchise holder are not subject to the competitive bid
15 requirement. A contract with a manager, if made by a
16 competitive bid, may be made for up to 3 years. A condominium
17 whose declaration or bylaws provides for competitive bidding
18 for services may operate under the provisions of that
19 declaration or bylaws in lieu of this section if those
20 provisions are not less stringent than the requirements of
21 this section.

22 (b) This section does not limit the ability of an
23 association to obtain needed products and services in an
24 emergency.

25 (c) This section does not apply if the business entity
26 with which the association desires to enter into a contract is
27 the only source of supply within the county serving the
28 association.

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

31 719.401 Leaseholds.--

1 (1) A cooperative may be created on lands held under
2 lease or may include recreational facilities or other common
3 elements or commonly used facilities on a leasehold, if, on
4 the date the first unit is conveyed by the developer to a bona
5 fide purchaser, the lease has an unexpired term of at least 50
6 years. However, if the cooperative constitutes a timeshare
7 cooperative created pursuant to chapter 721, the lease must
8 have an unexpired term of at least 30 years. If rent under the
9 lease is payable by the association or by the unit owners, the
10 lease shall include the following requirements:

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

27 (b) The lease shall not contain a reservation of the
28 right of possession or control of the leased property by the
29 lessor or any person other than unit owners or the
30 association, and shall not create rights to possession or use
31 of the leased property in any parties other than the

1 association or unit owners of the cooperative to be served by
2 the leased property, unless the reservations and rights
3 created are conspicuously disclosed. Any provision for use of
4 the leased property by anyone other than unit owners of the
5 cooperatives to be served by the leased property shall require
6 the other users to pay a fair and reasonable share of the
7 maintenance and repair obligations and other exactions due
8 from users of the leased property.

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

21 (d)1. In any action by the lessor to enforce a lien
22 for rent payable or in any action by the association or a unit
23 owner with respect to the obligations of the lessee or the
24 lessor under the lease, the unit owner or the association may
25 raise any issue or interpose any defenses, legal or equitable,
26 that he or she or it may have with respect to the lessor's
27 obligations under the lease. If the unit owner or the
28 association initiates any action or interposes any defense
29 other than payment of rent under the lease, the unit owner or
30 the association shall, upon service of process upon the
31 lessor, pay into the registry of the court any allegedly

1 accrued rent and the rent which accrues during the pendency of
2 the proceeding, when due. If the unit owner or the
3 association fails to pay the rent into the registry of the
4 court, it shall constitute an absolute waiver of the unit
5 owner's or association's defenses other than payment, and the
6 lessor shall be entitled to default. The unit owner or the
7 association shall notify the lessor of any deposits. When the
8 unit owner or the association has deposited the required funds
9 into the registry of the court, the lessor may apply to the
10 court for disbursement of all or part of the funds shown to be
11 necessary for the payment of taxes, mortgage payments,
12 maintenance and operating expenses, and other necessary
13 expenses incident to maintaining and equipping the leased
14 facilities or necessary for the payment of other expenses
15 arising out of personal hardship resulting from the loss of
16 rental income from the leased facilities. The court, after an
17 evidentiary hearing, may award all or part of the funds on
18 deposit to the lessor for such purpose. The court shall
19 require the lessor to post bond or other security, as a
20 condition to the release of funds from the registry, when the
21 value of the leased land and improvements, apart from the
22 lease itself, is inadequate to fully secure the sum of
23 existing encumbrances on the leased property and the amounts
24 released from the court registry.

25 2. When the association or unit owners have deposited
26 funds into the registry of the court pursuant to this
27 subsection, and the unit owners and association have otherwise
28 complied with their obligations under the lease or agreement,
29 other than paying rent into the registry of the court rather
30 than to the lessor, the lessor cannot hold the association or
31 unit owners in default on their rental payments nor may the

1 lessor file liens or initiate foreclosure proceedings against
2 unit owners. If the lessor, in violation of this subsection,
3 attempts such liens or foreclosures, then the lessor may be
4 liable for damages plus attorney's fees and costs which the
5 association or unit owners incurred in satisfying those liens
6 or foreclosures.

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

9 (e) If the lease is of recreational facilities or
10 other commonly used facilities that are not completed, rent
11 shall not commence until some of the facilities are completed.
12 Until all of the facilities leased are completed, rent shall
13 be prorated and paid only for the completed facilities in the
14 proportion that the value of the completed facilities bears to
15 the estimated value, when completed, of all of the facilities
16 that are leased. The facilities shall be complete when they
17 have been constructed, finished, and equipped and are
18 available for use.

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

30 2. If the lessor wishes to sell his or her interest
31 and has received a bona fide offer to purchase it, the lessor

1 shall send the association and each unit owner a copy of the
2 executed offer. For 90 days following receipt of the offer by
3 the association or unit owners, the association or unit owners
4 have the option to purchase the interest on the terms and
5 conditions in the offer. The option shall be exercised, if at
6 all, by notice in writing given to the lessor within the
7 90-day period. If the association or unit owners do not
8 exercise the option, the lessor shall have the right, for a
9 period of 60 days after the 90-day period has expired, to
10 complete the transaction described in the offer to purchase.
11 If for any reason such transaction is not concluded within the
12 60 days, the offer shall have been abandoned, and the
13 provisions of this subsection shall be reimposed.

14 3. The option shall be exercised upon approval by
15 owners of two-thirds of the units served by the leased
16 property.

17 4. The provisions of this paragraph shall not apply to
18 a nonresidential cooperative and shall not apply if the lessor
19 is the Government of the United States or the State of Florida
20 or any political subdivision thereof or, in the case of an
21 underlying land lease, a person or entity which is not the
22 developer or directly or indirectly owned or controlled by the
23 developer and did not obtain, directly or indirectly,
24 ownership of the leased property from the developer.

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

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

30 2. That, upon the foreclosure of any mortgage held by
31 an institutional lender or upon delivery of a deed in lieu of

1 foreclosure, the lien for the unit owner's share of the rent
2 or other exactions shall not be extinguished but shall be
3 foreclosed and unenforceable against the mortgagee with
4 respect to that unit's share of the rent and other exactions
5 which mature or become due and payable on or before the date
6 of the final judgment of foreclosure, in the event of
7 foreclosure, or on or before the date of delivery of the deed
8 in lieu of foreclosure. The lien may, however, automatically
9 and by operation of the lease or other instrument, reattach to
10 the unit and secure the payment of the unit's proportionate
11 share of the rent or other exactions coming due subsequent to
12 the date of final decree of foreclosure or the date of
13 delivery of the deed in lieu of foreclosure.

14

15 This paragraph does not apply if the lessor is the Government
16 of the United States or the State of Florida or any political
17 subdivision thereof or any agency or political subdivision
18 thereof.

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

22 719.503 Disclosure prior to sale.--

23 (1) DEVELOPER DISCLOSURE.--

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

27 1. The following legend in conspicuous type: THIS
28 AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF
29 THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE
30 OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY
31 BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR

1 HER BY THE DEVELOPER UNDER SECTION 719.503, FLORIDA STATUTES.
2 THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN
3 NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER
4 THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH
5 MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS
6 ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE
7 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE
8 TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER
9 THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S
10 RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

11 2. The following caveat in conspicuous type shall be
12 placed upon the first page of the contract: ORAL
13 REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE
14 REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT
15 REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND
16 THE DOCUMENTS REQUIRED BY SECTION 719.503, FLORIDA STATUTES,
17 TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

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

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

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

28 6. If the contract is for the sale or lease of a unit
29 that is subject to a lien for rent payable under a lease of a
30 recreational facility or other common areas, the contract
31 shall contain within the text the following statement in

1 conspicuous type: THIS CONTRACT IS FOR THE TRANSFER OF A UNIT
2 THAT IS SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF
3 COMMON AREAS. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF
4 THE LIEN.

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

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

21 (3) OTHER DISCLOSURE.--

22 (b) Sales brochures, if any, shall be provided to each
23 purchaser, and the following caveat in conspicuous type shall
24 be placed on the inside front cover or on the first page
25 containing text material of the sales brochure, or otherwise
26 conspicuously displayed: ORAL REPRESENTATIONS CANNOT BE
27 RELIED UPON AS CORRECTLY STATING REPRESENTATIONS OF THE
28 DEVELOPER. FOR CORRECT REPRESENTATIONS, MAKE REFERENCE TO
29 THIS BROCHURE AND TO THE DOCUMENTS REQUIRED BY SECTION
30 719.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A
31 BUYER OR LESSEE. If timeshare estates have been or may be

1 created with respect to any unit in the cooperative, the sales
2 brochure for sales of timeshare estates in such units must
3 contain the following statement in conspicuous type: UNITS IN
4 THIS COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES.

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

7 719.504 Prospectus or offering circular.--Every
8 developer of a residential cooperative which contains more
9 than 20 residential units, or which is part of a group of
10 residential cooperatives which will be served by property to
11 be used in common by unit owners of more than 20 residential
12 units, shall prepare a prospectus or offering circular and
13 file it with the Division of Florida Land Sales, Condominiums,
14 and Mobile Homes prior to entering into an enforceable
15 contract of purchase and sale of any unit or lease of a unit
16 for more than 5 years and shall furnish a copy of the
17 prospectus or offering circular to each buyer. In addition to
18 the prospectus or offering circular, each buyer shall be
19 furnished a separate page entitled "Frequently Asked Questions
20 and Answers," which must be in accordance with a format
21 approved by the division. This page must, in readable
22 language: inform prospective purchasers regarding their
23 voting rights and unit use restrictions, including
24 restrictions on the leasing of a unit; indicate whether and in
25 what amount the unit owners or the association is obligated to
26 pay rent or land use fees for recreational or other commonly
27 used facilities; contain a statement identifying that amount
28 of assessment which, pursuant to the budget, would be levied
29 upon each unit type, exclusive of any special assessments, and
30 which identifies the basis upon which assessments are levied,
31 whether monthly, quarterly, or otherwise; state and identify

1 any court cases in which the association is currently a party
2 of record in which the association may face liability in
3 excess of \$100,000; and state whether membership in a
4 recreational facilities association is mandatory and, if so,
5 identify the fees currently charged per unit type. The
6 division shall by rule require such other disclosure as in its
7 judgment will assist prospective purchasers. The prospectus or
8 offering circular may include more than one cooperative,
9 although not all such units are being offered for sale as of
10 the date of the prospectus or offering circular. The
11 prospectus or offering circular must contain the following
12 information:

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

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

23 Section 8. Section 721.03, Florida Statutes, is
24 amended to read:

25 721.03 Scope of chapter.--

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

31

1 (a) With respect to a timeshare plan ~~plans~~ containing
2 accommodations or facilities located in this state which has
3 previously been filed with and approved by the division and
4 which is ~~are~~ offered for sale in other jurisdictions within
5 the jurisdictional limits of the United States, ~~that regulate~~
6 the offering or sale of the timeshare plan in ~~plans~~, such
7 jurisdictions ~~offers~~ shall not be subject to the provisions of
8 this chapter ss. 721.06, 721.08-721.12, and 721.20 to the
9 extent that such activity is regulated in the other United
10 States jurisdictions, but only after the division has received
11 and accepted satisfactory evidence that the timeshare plan has
12 been filed and accepted by the appropriate agency in the other
13 jurisdictions. The director of the division shall also have
14 the discretion to require all or a portion of the disclosures
15 required by s. 721.07 or s. 721.55 to be made in connection
16 with offers made in the other United States jurisdictions.

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

- 27 1. The name and address of the timeshare plan.
- 28 2. The name and address of the developer and seller,
29 if any.

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

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

6 5. The term of the timeshare plan.

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

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

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

16 9. A copy of the provision of the purchase contract to
17 be utilized in offering the timeshare plan containing so long
18 as the seller files the information required by s. 721.07 or
19 s. 721.55 with, and obtains the approval of, the division.
20 ~~This exemption becomes effective upon the filing of such~~
21 ~~information with the division, if approval is obtained within~~
22 ~~6 months after the initial filing at which time the exemption~~
23 ~~will expire unless the division stipulates otherwise or~~
24 ~~approves the filing. The fees set forth in s. 721.07(4) apply~~
25 ~~to all filings made hereunder. Each purchase contract utilized~~
26 ~~in any offer of a timeshare plan that occurs outside the~~
27 ~~jurisdictional limits of the United States shall contain the~~
28 following disclosure in conspicuous type immediately above the
29 space provided for the purchaser's signature:
30
31

1 The offering of this timeshare plan outside the jurisdictional
2 limits of the United States of America is exempt from
3 regulation under Florida law, and any such purchase is not
4 protected by the State of Florida. However, the management
5 and operation of any accommodations or facilities located in
6 Florida is subject to Florida law and may give rise to
7 enforcement action regardless of the location of any offer.

8
9 ~~Purchaser should note that ... (name of developer or other
10 person or entity) ... at ... (address) ... has a ... (describe
11 developer's or other person's or entity's actual interest) ...
12 in the accommodations and facilities of the timeshare plan.~~

13
14 ~~(c) The exemption provided in paragraph (a) shall not
15 apply unless and until a claim of exemption from regulation
16 containing the information required by paragraph (a) and s.
17 721.51(3)(b) and accompanied by the fee required by s.
18 721.51(3)(b) is filed with and approved by the division. The
19 division may adopt rules designating those provisions of ss.
20 721.07 and 721.55 which need not be addressed in the filings
21 required in paragraph (b).~~

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

25 1. The offering for sale in this state of timeshare
26 accommodations and facilities located outside the state is ~~are~~
27 subject only to the provisions of ss. 721.01-721.12, 721.18,
28 721.20, 721.21, 721.26, ~~and~~ 721.28, and part II.

29 2. The division shall not require a developer of All
30 timeshare accommodations or facilities located outside of this
31 state to make changes in any timeshare instrument to conform

1 to the provisions of s. 721.07 or s. 721.55. The division
2 shall have the power to require disclosure of those provisions
3 of the timeshare instrument that do not conform to s. 721.07
4 or s. 721.55 as the director determines is necessary to
5 fairly, meaningfully, and effectively disclose all aspects of
6 the timeshare plan.

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

31

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

7 5. Notwithstanding any other provision of this
8 paragraph, the offer, in this state, of an additional interest
9 to existing purchasers in the same timeshare plan or the same
10 component site of a multisite timeshare plan with
11 accommodations and facilities located outside of this state
12 shall not be ~~which are located outside the state but offered~~
13 ~~for sale in this state as part of a vacation club are also~~
14 subject to the provisions of this chapter if the offer
15 complies with the provisions of s. 721.11(4)~~part ff.~~

16 ~~(2)(3)~~ When a timeshare plan is subject to both the
17 provisions of this chapter and the provisions of chapter 718
18 or chapter 719, the plan shall meet the requirements of both
19 chapters unless exempted as provided in this section. The
20 division shall have the authority to adopt rules
21 differentiating between timeshare condominiums and
22 nontimeshare condominiums, and between timeshare cooperatives
23 and nontimeshare cooperatives, in the interpretation and
24 implementation of chapters 718 and 719, respectively. In the
25 event of a conflict between the provisions of this chapter and
26 the provisions of chapter 718 or chapter 719, the provisions
27 of this chapter shall prevail.

28 ~~(3)(4)~~ A timeshare plan which is subject to the
29 provisions of chapter 718 or chapter 719, if fully in
30 compliance with the provisions of this chapter, is exempt from
31 the following:

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

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

5 (c) Sections 718.503 and 719.503, relating to
6 disclosure prior to sale.

7 (d) Sections 718.504 and 719.504, relating to
8 prospectus or offering circular.

9 (e) Part VI of chapter 718 and part VI of chapter 719,
10 relating to conversion of existing improvements to the
11 condominium or cooperative form of ownership, respectively,
12 provided that a developer converting existing improvements to
13 a timeshare condominium or timeshare cooperative must comply
14 with ss. 718.606, 718.608, 718.61, and 718.62, or ss. 719.606,
15 719.608, 719.61, and 719.62, if applicable, and, if the
16 existing improvements received a certificate of occupancy more
17 than 18 months before such conversion, one of the following:

18 1. The accommodations and facilities shall be
19 renovated and improved to a condition such that the remaining
20 useful life in years of the roof, plumbing, air-conditioning,
21 and any component of the structure which has a useful life
22 less than the useful life of the overall structure is equal to
23 the useful life of accommodations or facilities that would
24 exist if such accommodations and facilities were newly
25 constructed and not previously occupied.

26 2. The developer shall fund reserve accounts for
27 capital expenditures and deferred maintenance for the roof,
28 plumbing, air-conditioning, and any component of the structure
29 the useful life of which is less than the useful life of the
30 overall structure. The reserve accounts shall be funded for
31 each component in an amount equal to the product of the

1 estimated current replacement cost of such component as of the
2 date of such conversion (as disclosed and substantiated by a
3 certificate under the seal of an architect or engineer
4 authorized to practice in this state) multiplied by a fraction
5 the numerator of which shall be the remaining life of the
6 component in years (as disclosed and substantiated by a
7 certificate under the seal of an architect or engineer
8 authorized to practice in this state) and the denominator of
9 which shall be the total useful life of the component in years
10 (as disclosed and substantiated by a certificate under the
11 seal of an architect or engineer authorized to practice in
12 this state). Alternatively, the reserve accounts may be funded
13 for each component in an amount equal to the amount that,
14 except for the application of this subsection, would be
15 required to be maintained pursuant to s. 718.618(1) or s.
16 719.618(1). The developer shall fund the reserve accounts
17 contemplated in this subparagraph out of the proceeds of each
18 sale of a timeshare interest, on a pro rata basis, in an
19 amount not less than a percentage of the total amount to be
20 deposited in the reserve account equal to the percentage of
21 ownership allocable to the timeshare interest sold. When an
22 owners' association makes an expenditure of reserve account
23 funds before the developer has initially sold all timeshare
24 interests, the developer shall make a deposit in the reserve
25 account if the reserve account is insufficient to pay the
26 expenditure. Such deposit shall be at least equal to that
27 portion of the expenditure which would be charged against the
28 reserve account deposit that would have been made for any such
29 timeshare interest had the timeshare interest been initially
30 sold. When a developer deposits amounts in excess of the
31

1 minimum reserve account funding, later deposits may be reduced
2 to the extent of the excess funding.

3 3. The developer shall provide each purchaser with a
4 warranty of fitness and merchantability pursuant to s.
5 718.618(6) or s. 719.618(6).

6 ~~(4)(5)~~ The treatment of timeshare estates for ad
7 valorem tax purposes and special assessments shall be as
8 prescribed in chapters 192 through 200.

9 ~~(5)(6)~~ Membership camping plans shall be subject to
10 the provisions of ss. 509.501-509.512 and not to the
11 provisions of this chapter.

12 ~~(6)(7)~~ Unless otherwise provided herein, this chapter
13 shall not apply to the offering of any timeshare plan under
14 which the prospective purchaser's total financial obligation
15 will be ~~\$3,000~~~~\$1,500~~ or less during the entire term of the
16 plan.

17 ~~(7)(8)~~ Every escrow agent or trustee required under
18 this chapter, or under chapter 192 as it relates to timeshare
19 plans, must be independent.

20 ~~(8)(9)~~ With respect to any accommodation or facility
21 of a timeshare plan which is situated upon personal property,
22 the division shall have the authority to adopt rules
23 interpreting and implementing the provisions of this chapter
24 as they apply to such accommodation or facility, or as they
25 apply to any other laws of this state, of the several states,
26 or of the United States with respect to such accommodation or
27 facility.

28 (9) Notwithstanding the provisions of any other law,
29 s. 687.03 shall govern with respect to the rate of interest
30 permitted for any loan, advance of money, line of credit,
31

1 forbearance to enforce the collection of any sum of money, or
2 other obligation in connection with a timeshare license.

3 (10) A developer or seller may not offer any number of
4 timeshare interests that would cause the total number of
5 timeshare interests offered to exceed a one-to-one purchaser
6 to accommodation ratio.

7 Section 9. Section 721.05, Florida Statutes, is
8 amended to read:

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

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

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

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

27 (4) "Closing" means:

28 (a) For any plan selling timeshare estates, conveyance
29 of the legal or beneficial title to a timeshare estate period
30 as evidenced by the delivery of a deed for conveyance of legal
31 title, or other instrument for conveyance of beneficial title,

1 to the purchaser or to the clerk of the court for recording or
2 conveyance of the equitable title to a timeshare estate period
3 as evidenced by the irretrievable delivery of an agreement for
4 deed to the clerk of the court for recording.

5 (b) For any plan selling timeshare licenses, the final
6 execution and delivery by all parties of the last document
7 necessary for vesting in the purchaser the full rights
8 available under the plan.

9 (5) "Common expenses" means:

10 (a) Those expenses properly incurred for the
11 maintenance, operation, and repair of the accommodations or
12 facilities, or both, constituting the timeshare plan.

13 (b) Any other expenses designated as common expenses
14 in a timeshare instrument.

15 (c) Any past due and uncollected ad valorem taxes
16 assessed against a timeshare development pursuant to s.
17 192.037.

18 (6) "Completion of construction" means:

19 (a)1. That a certificate of occupancy has been issued
20 for the entire building in which the timeshare unit being sold
21 is located, or for the improvement, or that the equivalent
22 authorization has been issued, by the governmental body having
23 jurisdiction; or

24 2. In a jurisdiction in which no certificate of
25 occupancy or equivalent authorization is issued, that the
26 construction, finishing, and equipping of the building or
27 improvements according to the plans and specifications have
28 been substantially completed; and

29 (b) That all accommodations and facilities of the
30 timeshare plan are available for use in a manner identical in
31 all material respects to the manner portrayed by the

1 promotional material, advertising, and registered public
2 offering statements filed ~~with the division.~~

3 ~~(c) Notwithstanding the provisions of paragraph (b), a~~
4 ~~seller of a timeshare plan that is not a multisite timeshare~~
5 ~~plan may portray possible accommodations or facilities to~~
6 ~~prospective purchasers in advertising material or a public~~
7 ~~offering statement filed with the division without such~~
8 ~~accommodations or facilities being available for use by~~
9 ~~purchasers so long as the advertising material or public~~
10 ~~offering statement complies with the provisions of s.~~
11 ~~721.11(4).~~

12 ~~(d) Notwithstanding the provisions of paragraph (b), a~~
13 ~~developer of a timeshare plan that is not a multisite~~
14 ~~timeshare plan may portray the general geographic location of~~
15 ~~possible accommodations or facilities to prospective~~
16 ~~purchasers by disseminating oral or written statements~~
17 ~~regarding same to broadcast or print media with no obligation~~
18 ~~on the developer's part to actually construct such~~
19 ~~accommodations or facilities or to file such accommodations~~
20 ~~and facilities with the division, but only so long as such~~
21 ~~oral or written statements are not considered advertising~~
22 ~~material pursuant to s. 721.11(3)(e). For purposes of this~~
23 ~~paragraph, the term "general geographic location" means the~~
24 ~~boundaries of a state or country.~~

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

28 (7) "Conspicuous type" means:

29 (a) Type in upper and lower case letters two point
30 sizes larger than the largest nonconspicuous type, exclusive
31

1 of headings, on the page on which it appears but in at least
2 10-point type; or

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

8
9 Where conspicuous type is required, it must be separated on
10 all sides from other type and print. Conspicuous type may be
11 utilized in contracts for purchase or public offering
12 statements only where required by law or as authorized by the
13 division.

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

16 (9) "Developer" includes:

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

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

24 (c) A "concurrent developer," which means any person
25 acting concurrently with the persons in this subsection with
26 the purpose of offering timeshare interests ~~periods~~ in the
27 ordinary course of business.

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

29 1. An owner of a timeshare interest ~~period~~ who has
30 acquired the timeshare interest ~~period~~ for his or her own use
31 and occupancy and who later offers it for resale; provided

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

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

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

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

27 (e) A successor or concurrent developer shall be
28 exempt from any liability inuring to a predecessor or
29 concurrent developer of the same timeshare plan, except as
30 provided in s. 721.15(7), provided that this exemption shall
31 not apply to any of the successor or concurrent developer's

1 responsibilities, duties, or liabilities with respect to the
2 timeshare plan which accrue after the date the successor or
3 concurrent developer became a successor or concurrent
4 developer, and provided that such transfer does not constitute
5 a fraudulent transfer. In addition to other provisions of law,
6 a transfer by a predecessor developer to a successor or
7 concurrent developer shall be deemed fraudulent if the
8 predecessor developer made the transfer:

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

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

13
14 The provisions of this paragraph shall not be construed to
15 relieve any successor or concurrent developer from the
16 obligation to comply with the provisions of any applicable
17 timeshare instrument.

18 (10) "Division" means the Division of Florida Land
19 Sales, Condominiums, and Mobile Homes of the Department of
20 Business and Professional Regulation.

21 (11) "Enrolled" means paid membership in an exchange
22 program or membership in an exchange program evidenced by
23 written acceptance or confirmation of membership.

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

27 (13) "Escrow agent" includes only:

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

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

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

10 (d) A title insurance agent that is licensed pursuant
11 to s. 626.8417, or a title insurance agency that is licensed
12 pursuant to s. 626.8418, or a title insurer authorized to
13 transact business in this state pursuant to s. 624.401 ~~so long~~
14 ~~as the agent or agency has posted a fidelity bond issued by a~~
15 ~~company authorized and licensed to do business in this state~~
16 ~~as surety in the amount of \$50,000.~~

17
18 ~~If an escrow agent is required to post a \$50,000 fidelity bond~~
19 ~~pursuant to this section, the escrow agent shall only be~~
20 ~~required to post and maintain one such bond, regardless of the~~
21 ~~number of escrow accounts maintained by that agent for any~~
22 ~~number of developers, managing entities, or timeshare plans at~~
23 ~~any given time.~~

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

26 (15) "Exchange program" means any method, arrangement,
27 or procedure for the voluntary exchange of the right to use
28 and occupy accommodations and facilities among purchasers. The
29 term does not include the assignment of the right to use and
30 occupy accommodations and facilities to purchasers pursuant to
31 a particular multisite timeshare plan's reservation system.

1 Any method, arrangement, or procedure that otherwise meets
2 this definition, wherein the purchaser's total contractual
3 financial obligation exceeds \$3,000 per any individual,
4 recurring timeshare period, shall be regulated as a multisite
5 timeshare plan in accordance with part II.

6 (16) "Facility" means any amenity, including any
7 structure, furnishing, fixture, equipment, service,
8 improvement, or real or personal property, improved or
9 unimproved, other than the accommodation of the timeshare
10 plan, which is made available to the purchasers of a timeshare
11 plan. The term does not include an incidental benefit as
12 defined in this section.

13 (17) "Incidental benefit" means an accommodation,
14 product, service, discount, or other benefit which is offered
15 to a prospective purchaser of a timeshare plan or to a
16 purchaser of a timeshare plan prior to the expiration of his
17 or her initial 10-day voidability period pursuant to s.
18 721.10; which is not an exchange program as defined in
19 subsection (15); and which complies with the provisions of s.
20 721.075. The term shall not include an offer of the use of
21 the accommodations and facilities of the timeshare plan on a
22 free or discounted one-time basis.

23 (18) "Independent," for purposes of determining
24 eligibility of escrow agents and trustees pursuant to s.
25 721.03~~(7)(8)~~, means that:

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

30 (b) There is no financial relationship, other than the
31 payment of fiduciary fees or as otherwise provided in this

1 subsection, between the escrow agent or trustee and the
2 developer, seller, or managing entity, or any officer,
3 director, affiliate, or subsidiary thereof.

4 (c) Compensation paid by the developer to an escrow
5 agent or trustee for services rendered shall not be paid from
6 funds in the escrow or trust account unless and until the
7 developer is otherwise entitled to receive the disbursement of
8 such funds from the escrow or trust account pursuant to this
9 chapter.

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

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

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

16 3. The escrow agent or trustee provides the developer
17 with routine banking services which do not include
18 construction or receivables financing or any other lending
19 activities; or

20 4. The escrow agent or trustee performs closings for
21 the developer or seller or issues owner's or lender's title
22 insurance commitments or policies in connection with such
23 closings.

24 (19) "Interestholder" means a developer, an owner of
25 the underlying fee, a mortgagee, judgment creditor, or other
26 lienor, or any other person having an interest in or lien or
27 encumbrance against the accommodations or facilities of the
28 timeshare plan.

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

31

1 (21) "Memorandum of agreement" means a written
2 document, in recordable form, which includes the names of the
3 ~~purchaser and seller~~ and the purchasers, a legal description
4 of the timeshare property and all timeshare interests to be
5 included in such document ~~period~~, and a description of the
6 type of timeshare license sold by the seller.

7 (22) "Offer to sell," "offer for sale," "offered for
8 sale," or "offer" means the solicitation, advertisement, or
9 inducement, or any other method or attempt, to encourage any
10 person to acquire the opportunity to participate in a
11 timeshare plan.

12 (23) "One-to-one purchaser to accommodation ratio"
13 means the ratio of the number of purchasers eligible to use
14 the accommodations of a timeshare plan on a given day to the
15 number of accommodations available for use within the plan on
16 that day, such that the total number of purchasers eligible to
17 use the accommodations of the timeshare plan during a given
18 calendar year never exceeds the total number of accommodations
19 available for use in the timeshare plan during that year. For
20 purposes of calculation under this subsection, each purchaser
21 must be counted at least once, and no individual timeshare
22 unit may be counted more than 365 times per calendar year (or
23 more than 366 times per leap year). A purchaser who is
24 delinquent in the payment of timeshare plan assessments shall
25 continue to be considered eligible to use the accommodations
26 of the timeshare plan for purposes of this subsection
27 notwithstanding any application of s. 721.13(6).

28 (24) "Owner of the underlying fee" means any person
29 having an interest in the real property underlying the
30 accommodations or facilities of the timeshare plan at or
31 subsequent to the time of creation of the timeshare plan ~~or~~

1 ~~any person who purchases 15 or more timeshare periods for~~
2 ~~resale in the ordinary course of business.~~

3 (25) "Owners' association" means the association made
4 up of all purchasers of a timeshare plan who have purchased
5 timeshare estates.

6 (26) "Public offering statement" means the written
7 materials describing a single-site timeshare plan or a
8 multisite timeshare plan, including a text and any exhibits
9 attached thereto as required by ss. 721.07, 721.55, and
10 721.551. The term "public offering statement" shall refer to
11 both a registered public offering statement and a purchaser
12 public offering statement.

13 ~~(27)~~(26) "Purchaser" means any person, other than a
14 developer, who by means of a voluntary transfer acquires a
15 legal or equitable interest in a timeshare plan other than as
16 security for an obligation.

17 (28) "Purchaser public offering statement" means that
18 portion of the registered public offering statement which must
19 be delivered to purchasers pursuant to s. 721.07(6) or s.
20 721.551.

21 (29) "Registered public offering statement" means a
22 public offering statement that has been filed with the
23 division pursuant to s. 721.07(5) or s. 721.55.

24 ~~(30)~~(27) "Regulated short-term product" means a
25 contractual right, offered by the seller, to use
26 accommodations of a timeshare plan or other accommodations,
27 provided that:

28 (a) The agreement to purchase the short-term right to
29 use is executed in this state on the same day that the
30 prospective purchaser receives an offer to acquire an interest

31

1 in a timeshare plan and does not execute a purchase contract,
2 after attending a sales presentation; and

3 (b) The acquisition of the right to use includes an
4 agreement that all or a portion of the consideration paid by
5 the prospective purchaser for the right to use will be applied
6 to or credited against the price of a future purchase of a
7 timeshare interest, or that the cost of a future purchase of a
8 timeshare interest will be fixed or locked in at a specified
9 price.

10 ~~(31)(28)~~ "Seller" means any developer or any other
11 person, or any agent or employee thereof, who offers timeshare
12 interests ~~periods~~ in the ordinary course of business. The
13 term "seller" does not include:

14 (a) 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; however,
17 ~~provided that~~ a rebuttable presumption shall exist that an
18 owner who has acquired more than seven timeshare interests
19 ~~periods~~ did not acquire them for his or her own use and
20 occupancy;

21 (b) A managing entity, ~~that is~~ not otherwise a seller,
22 which offers, or engages a third party to offer on its behalf,
23 timeshare interests of a timeshare plan in its own right and
24 that offers timeshare periods for its own account in a
25 timeshare plan that which it manages, provided that such offer
26 complies to existing purchasers of that timeshare plan, or a
27 managing entity which complies with the provisions of s.
28 721.065; or

29 (c) A person who owns or is conveyed, assigned, or
30 transferred more than seven timeshare interests ~~periods~~ ~~from a~~
31 ~~developer in a single voluntary or involuntary transaction and~~

1 who subsequently conveys, assigns, or transfers all acquired
2 ~~of the timeshare interests periods received from the developer~~
3 to a single purchaser in a single transaction, which
4 transaction may occur in stages; or

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

13 (32)(29) "Timeshare estate" means a right to occupy a
14 timeshare unit, coupled with a freehold estate or an estate
15 for years with a future interest in a timeshare property or a
16 specified portion thereof. The term shall also mean an
17 interest in a condominium unit pursuant to s. 718.103, an
18 interest in a cooperative unit pursuant to s. 719.103, or an
19 interest in a trust that complies in all respects with the
20 provisions of s. 721.08(2)(c)3.

21 (33)(30) "Timeshare instrument" means one or more
22 documents, by whatever name denominated, creating or governing
23 the operation of a timeshare plan.

24 (34) "Timeshare interest" means a timeshare estate or
25 timeshare license.

26 (35)(31) "Timeshare license" means a right to occupy a
27 timeshare unit, which right is neither coupled with a freehold
28 interest, nor coupled with an estate for years with a future
29 interest, in a timeshare property.

30 (36)(32) "Timeshare period" means the period or
31 periods of time when a purchaser of a timeshare interest ~~plan~~

1 is afforded the opportunity to use the accommodations or
2 facilities, or both, of a timeshare plan.

3 (37)~~(33)~~ "Timeshare plan" means any arrangement, plan,
4 scheme, or similar device, other than an exchange program,
5 whether by membership, agreement, tenancy in common, sale,
6 lease, deed, rental agreement, license, or right-to-use
7 agreement or by any other means, whereby a purchaser, for
8 consideration, receives ownership rights in or a right to use
9 accommodations, and facilities, if any, for a period of time
10 less than a full year during any given year, but not
11 necessarily for consecutive years.

12 (38)~~(34)~~ "Timeshare property" means one or more
13 timeshare units subject to the same timeshare instrument,
14 together with any other property or rights to property
15 appurtenant to those timeshare units. Notwithstanding anything
16 to the contrary contained in chapter 718 or chapter 719, the
17 timeshare instrument for a timeshare condominium or
18 cooperative may designate personal property, contractual
19 rights, affiliation agreements of component sites of vacation
20 clubs, exchange companies, or reservation systems, or any
21 other agreements or personal property, as common elements or
22 limited common elements of the timeshare condominium or
23 cooperative.

24 (39)~~(35)~~ "Timeshare unit" means an accommodation of a
25 timeshare plan which is divided into timeshare periods. Any
26 timeshare unit in which a door or doors connecting two or more
27 separate rooms are capable of being locked to create two or
28 more private dwellings shall constitute only one timeshare
29 unit for purposes of this chapter, unless the timeshare
30 instrument provides that timeshare interests may be separately
31 conveyed in such locked-off portions.

1 ~~(40)(36)~~ "Vacation ownership plan" means any timeshare
2 plan consisting exclusively of timeshare estates.

3 ~~(41)(37)~~ "Vacation plan" or "vacation membership plan"
4 means any timeshare plan consisting exclusively of timeshare
5 licenses or consisting of a combination of timeshare licenses
6 and timeshare estates.

7 Section 10. Section 721.06, Florida Statutes, is
8 amended to read:

9 721.06 Contracts for purchase of timeshare interests
10 ~~periods~~.--

11 (1) Each seller shall utilize, and furnish each
12 purchaser a fully completed and executed copy of, a contract
13 pertaining to the sale, which contract shall include the
14 following information:

15 (a) The actual date the contract is executed by each
16 party.

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

19 (c) The ~~total financial obligation of the purchaser,~~
20 ~~including the~~ initial purchase price and any additional
21 charges to which the purchaser may be subject in connection
22 with the purchase of the timeshare interest, such as
23 financing, or which will be collected from the purchaser on or
24 before closing, such as the current year's annual assessment
25 for common expenses.

26 (d) Any annually recurring use charge and the next
27 year's estimated annual assessment for common expenses and for
28 ad valorem taxes or, if an estimate for next year's assessment
29 is unavailable, the current year's actual annual assessment
30 for common expenses and for ad valorem taxes.~~reservation,~~
31 ~~maintenance, management, and recreation charges.~~

1 (e)(d) The estimated date of completion of
2 construction of each accommodation or facility promised to be
3 completed which is not completed at the time the contract is
4 executed and the estimated date of closing.

5 (f)(e) A brief description of the nature and duration
6 of the timeshare interest period being sold, including whether
7 any interest in real property is being conveyed and the
8 specific number of years constituting the term of the
9 timeshare plan.

10 (g)(f) Immediately prior to the space reserved in the
11 contract for the signature of the purchaser, in conspicuous
12 type, substantially the following statements:

13
14 You may cancel this contract without any penalty or
15 obligation within 10 calendar days after the date you sign
16 this contract, ~~and within 10 calendar days after the date you~~
17 ~~receive the approved public offering statement, whichever is~~
18 ~~later.~~

19 If you decide to cancel this contract, you must notify
20 the seller developer in writing of your intent to cancel.
21 Your notice of cancellation shall be effective upon the date
22 sent and shall be sent to ...(Name of Seller Developer)... at
23 ...(Address of Seller Developer).... Any attempt to obtain a
24 waiver of your cancellation right is void and of no effect
25 unlawful. While you may execute all closing documents in
26 advance, the closing, as evidenced by delivery of the deed or
27 other document, before expiration of your 10-day cancellation
28 period, is prohibited.

29
30 (h)(g) If a timeshare estate license is being
31 conveyed, the following statement in conspicuous type:

1
2 ~~You may also cancel this contract at any time after the~~
3 ~~accommodations or facilities are no longer available as~~
4 ~~provided in this contract and the public offering statement.~~

5
6 ~~(h) If a timeshare estate is being conveyed, the~~
7 ~~following statement in conspicuous type:~~

8
9 For the purpose of ad valorem assessment, taxation and
10 special assessments, the managing entity will be considered
11 the taxpayer as your agent pursuant to section 192.037,
12 Florida Statutes.

13
14 (i) A statement that, in the event the purchaser
15 cancels the contract during a 10-day cancellation period, the
16 developer will refund to the purchaser the total amount of all
17 payments made by the purchaser under the contract, reduced by
18 the proportion of any contract benefits the purchaser has
19 actually received under the contract prior to the effective
20 date of the cancellation. The statement shall further provide
21 that the refund will be made within 20 days after receipt of
22 notice of cancellation or within 5 days after receipt of funds
23 from the purchaser's cleared check, whichever is later. A
24 seller and a purchaser shall agree in writing on a specific
25 value for each contract benefit received by the purchaser for
26 purposes of this paragraph. The term "contract benefit" shall
27 not include purchaser public offering statements or other
28 documentation or materials that must be furnished to a
29 purchaser pursuant to statute or rule.

30 (j) If the timeshare interest period is being sold
31 pursuant to an agreement for deed, a statement that the

1 signing of the agreement for deed does not entitle the
2 purchaser to receive a deed until all payments under the
3 agreement have been made.

4 (k) Unless the developer is at the time of offering
5 the plan the owner in fee simple absolute of the
6 accommodations and facilities of the timeshare plan, free and
7 clear of all liens and encumbrances, a statement that the
8 developer is not the sole owner of the underlying fee of such
9 ~~the~~ accommodations or facilities without liens or
10 encumbrances, which statement shall include:

11 1. The names and addresses of all persons or entities
12 having an ownership interest or other interest in the
13 accommodations or facilities; and

14 2. The actual interest of the developer in the
15 accommodations or facilities. As an alternative to including
16 the statement in the purchase contract, a seller may include a
17 reference in the purchase contract to the location in the
18 purchaser public offering statement text of such information.

19 ~~(l) If the contract is for the sale or transfer of a~~
20 ~~timeshare period in which the accommodations or facilities are~~
21 ~~subject to a lease, the following statement within the text in~~
22 ~~conspicuous type: This timeshare period is subject to a lease~~
23 ~~(or sublease). A copy of the executed lease shall be attached~~
24 ~~as an exhibit.~~

25 (l)(m) If the purchaser will receive an interest in a
26 multisite timeshare plan pursuant to part II, a the following
27 statement shall be provided in conspicuous type in
28 substantially the following form:

29
30 The developer is required to provide the managing
31 entity of the multisite timeshare plan~~(or multisite vacation~~

1 ~~ownership plan or multisite vacation plan or vacation club)~~
2 with a copy of the approved public offering statement text and
3 exhibits filed with the division and any approved amendments
4 thereto, and any other component site documents as described
5 in section 721.07 or section 721.55, Florida Statutes, which
6 are not required to be ~~not~~ filed with the division, to be
7 maintained by the managing entity for inspection as part of
8 the books and records of the plan.

9
10 (m)~~(n)~~ The following statement in conspicuous type:

11
12 Any resale of this timeshare interest must be
13 accompanied by certain disclosures in accordance with section
14 721.065, Florida Statutes.

15
16 (n) A description of any rights reserved by the
17 developer to alter or modify the offering prior to closing.

18 (2) An agreement for deed shall be recorded by the
19 developer within 30 days after the day it is executed by the
20 purchaser. The developer shall pay all recording costs
21 associated therewith.

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

25 ~~(4) A developer may not offer any number of timeshare~~
26 ~~estates or timeshare licenses that would cause the total~~
27 ~~number of estates or licenses offered to exceed a one-to-one~~
28 ~~purchaser to accommodation ratio.~~

29 Section 11. Section 721.065, Florida Statutes, is
30 amended to read:

31 721.065 Resale purchase agreements.--

1 (1) An owner who acquires a timeshare interest period
2 for her or his own use and occupancy and later offers it for
3 resale, or any agent of such person, must utilize a resale
4 purchase agreement which complies with the provisions of
5 subsection (2) to effectuate any resale of the timeshare
6 interest period. A managing entity, not otherwise a
7 developer, which sells, or engages a third party to sell on
8 its behalf, 50 or fewer timeshare interests which, for its own
9 account, offers fewer than 20 timeshare periods in the
10 timeshare plan that ~~which~~ it manages in a given calendar year
11 to persons who are not existing purchasers of that timeshare
12 plan may also use a resale purchase agreement which complies
13 with subsection (2) in lieu of complying with the provisions
14 of ss. 721.06-721.12 and 721.20. A managing entity, not
15 otherwise a developer, which sells, or engages a third party
16 to sell on its behalf, timeshare interests in the timeshare
17 plan that it manages to persons who are existing purchasers of
18 that timeshare plan may also use a resale purchase agreement
19 in compliance with subsection (2) in lieu of complying with
20 the provisions of ss. 721.06-721.12 and 721.20.For purposes
21 of this subsection, a rebuttable presumption shall exist that
22 an owner who has acquired more than seven timeshare interests
23 ~~periods~~ did not acquire them for her or his own use and
24 occupancy.

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

27 (a) The name and address of the timeshare plan and of
28 the managing entity of the timeshare plan.

29 (b) The following statements in conspicuous type
30 located immediately prior to the disclosure required by
31 paragraph (c):

1
2 The current year's assessment for common expenses allocable to
3 the timeshare interest period you are purchasing is \$.....
4 This assessment, which may be increased from time to time by
5 the managing entity of the timeshare plan, is payable in full
6 each year on or before This assessment
7 (includes/does not include) yearly ad valorem real estate
8 taxes, which (are/are not) billed and collected separately.
9 (If ad valorem real property taxes are not included in the
10 current year's assessment for common expenses, the following
11 statement must be included: The most recent annual assessment
12 for ad valorem real estate taxes for the timeshare interest
13 ~~period~~ you are purchasing is \$.....) (If there are any
14 delinquent assessments for common expenses or ad valorem taxes
15 outstanding with respect to the timeshare interest period in
16 question, the following statement must be included: A
17 delinquency in the amount of \$.... for unpaid common expenses
18 or ad valorem taxes currently exists with respect to the
19 timeshare interest period you are purchasing, together with a
20 per diem charge of \$.... for interest and late charges.) For
21 the purpose of ad valorem assessment, taxation, and special
22 assessments, the managing entity will be considered the
23 taxpayer as your agent pursuant to section 192.037, Florida
24 Statutes. Each owner is personally liable for the payment of
25 her or his assessments for common expenses, and failure to
26 timely pay these assessments may result in restriction or loss
27 of your use and/or ownership rights.
28
29 There are many important documents relating to the timeshare
30 plan which you should review prior to purchasing a timeshare
31 interest period, including the declaration of condominium or

1 covenants and restrictions; the association articles and
2 bylaws; the current year's operating and reserve budgets; and
3 any rules and regulations affecting the use of timeshare plan
4 accommodations and facilities.

5
6 (c) The following statement in conspicuous type
7 located immediately prior to the space in the contract
8 reserved for the signature of the purchaser:

9
10 You may cancel this contract without any penalty or obligation
11 within 10 days after the date you sign this contract. If you
12 decide to cancel this contract, you must notify the seller in
13 writing of your intent to cancel. Your notice of cancellation
14 shall be effective upon the date sent and shall be sent to the
15 seller at ...(address).... Any attempt to obtain a waiver of
16 your cancellation right is void and of no effect. While you
17 may execute all closing documents in advance, the closing, as
18 evidenced by delivery of the deed or other document, before
19 expiration of your 10-day cancellation period, is prohibited.

20
21 (d) The year in which the purchaser will first be
22 entitled to occupancy of a timeshare period associated with
23 the timeshare interest that is the subject of the resale
24 purchase agreement.

25 (3) If a resale purchase agreement utilized by a
26 person described in subsection (1) does not comply with the
27 provisions of subsection (2), the contract shall be voidable
28 at the option of the purchaser for a period of 1 year after
29 the date of closing.

30 Section 12. Section 721.07, Florida Statutes, is
31 amended to read:

1 721.07 Public offering statement.--Prior to offering
2 any timeshare plan, the developer must submit file a
3 registered public offering statement to ~~with~~ the division for
4 approval as prescribed by s. 721.03, s. 721.55, or this
5 section. Until the division approves such filing, any
6 contract regarding the sale of that ~~the~~ timeshare plan ~~which~~
7 ~~is the subject of the public offering statement~~ is voidable by
8 the purchaser.

9 (1) The division shall, upon receiving a registered
10 public offering statement from a developer, mail to the
11 developer an acknowledgment of receipt. The failure of the
12 division to send such acknowledgment will not, however,
13 relieve the developer from the duty of complying with this
14 section.

15 (2)(a) Within 45 days after receipt of a registered
16 public offering statement which is subject only to this part
17 and is submitted in proper form as prescribed by rule, or
18 within 120 days after receipt of a registered public offering
19 statement which is subject to part II and is submitted in
20 proper form as prescribed by rule, the division shall
21 determine whether the proposed registered public offering
22 statement is adequate to meet the requirements of this section
23 and shall notify the developer by mail that the division has
24 either approved the statement or found specified deficiencies
25 in the statement. If the division fails to approve the
26 statement or specify deficiencies in the statement within the
27 period specified in this paragraph, the filing will be deemed
28 approved.

29 (b) If the developer fails to respond to any cited
30 deficiencies within 20 days after receipt of the division's
31 deficiency notice, the division may reject the filing.

1 Subsequent to such rejection, a new filing fee pursuant to
2 subsection (4) and a new division initial review period
3 pursuant to paragraph (a) shall apply to any refiling or
4 further review of the rejected filing.

5 (c) Within 20 days after receipt of the developer's
6 timely and complete response to any deficiency notice, the
7 division shall notify the developer by mail that the division
8 has either approved the filing, found additional specified
9 deficiencies in it, or determined that any previously
10 specified deficiency has not been corrected. If the division
11 fails to approve or specify additional deficiencies within 20
12 days after receipt of the developer's timely and complete
13 response, the filing will be deemed approved.

14 (d) A developer shall have the authority to deliver to
15 purchasers any purchaser public offering statement that is not
16 yet approved by the division, provided that the following
17 shall apply:

18 1. At the time the developer delivers an unapproved
19 purchaser public offering statement to a purchaser pursuant to
20 this paragraph, the developer shall deliver a fully completed
21 and executed copy of the purchase contract required by s.
22 721.06 which contains the following statement in conspicuous
23 type in substantially the following form, which shall replace
24 the statements required by s. 721.06(1)(g):

25
26 The developer is delivering to you a public offering statement
27 that has been filed with but not yet approved by the Division
28 of Florida Land Sales, Condominiums, and Mobile Homes. Any
29 revisions to the unapproved public offering statement you have
30 received must be delivered to you, but only if the revisions
31 materially alter or modify the offering in a manner adverse to

1 you. After the division approves the public offering
2 statement, you will receive notice of the approval from the
3 developer and the required revisions, if any.

4
5 Your statutory right to cancel this transaction without any
6 penalty or obligation expires 10 calendar days after the date
7 you signed your purchase contract or 10 calendar days after
8 you receive revisions required to be delivered to you, if any,
9 whichever is later.

10
11 2. After receipt of approval from the division and
12 prior to closing, if any revisions made to the documents
13 contained in the purchaser public offering statement
14 materially alter or modify the offering in a manner adverse to
15 a purchaser, the developer shall send the purchaser such
16 revisions together with a notice containing a statement in
17 conspicuous type in substantially the following form:

18
19 The unapproved public offering statement previously delivered
20 to you, together with the enclosed revisions, has been
21 approved by the Division of Florida Land Sales, Condominiums,
22 and Mobile Homes. Accordingly, your cancellation right expires
23 10 calendar days after you sign your purchase contract or 10
24 calendar days after you receive these revisions, whichever is
25 later. If you have any questions regarding your cancellation
26 rights, you may contact the division at [insert division's
27 current address].

28
29 3. After receipt of approval from the division and
30 prior to closing, if no revisions have been made to the
31 documents contained in the unapproved purchaser public

1 offering statement, or if such revisions do not materially
2 alter or modify the offering in a manner adverse to a
3 purchaser, the developer shall send the purchaser a notice
4 containing a statement in conspicuous type in substantially
5 the following form:

6
7 The unapproved public offering statement previously delivered
8 to you has been approved by the Division of Florida Land
9 Sales, Condominiums, and Mobile Homes. Revisions made to the
10 unapproved public offering statement, if any, are either not
11 required to be delivered to you or are not deemed by the
12 developer, in its opinion, to materially alter or modify the
13 offering in a manner that is adverse to you. Accordingly, your
14 cancellation right expired 10 days after you signed your
15 purchase contract. A complete copy of the approved public
16 offering statement is available through the managing entity
17 for inspection as part of the books and records of the plan.
18 If you have any questions regarding your cancellation rights,
19 you may contact the division at [insert division's current
20 address].~~The division is authorized to enter into an~~
21 ~~agreement with another state for the purpose of facilitating~~
22 ~~the processing of out-of-state timeshare instruments or other~~
23 ~~component site documents pursuant to subsection (5) or part II~~
24 ~~and for the purpose of facilitating the referral of consumer~~
25 ~~complaints to the appropriate state.~~

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

1 ~~may require a developer to obtain and provide to the division~~
2 ~~existing documentation certified by another state relating to~~
3 ~~an out-of-state filing, timeshare instrument, or component~~
4 ~~site document and attesting to the compliance of same with the~~
5 ~~laws of that state. The division may accept evidence of the~~
6 ~~approval 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. The division may refuse to~~
11 ~~approve the inclusion of any out-of-state filing, timeshare~~
12 ~~instrument, or component site document as part of a public~~
13 ~~offering statement based upon the inability of the developer~~
14 ~~to establish the compliance of same with the laws of another~~
15 ~~state.~~

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

31

1 2. For filings only subject to this part, each
2 approved amendment to the approved purchaser public offering
3 statement, other than an amendment made only for the purpose
4 of the addition of a phase or phases to the timeshare plan in
5 the manner described in the timeshare instrument or any
6 amendment that does not materially alter or modify the
7 offering in a manner that is adverse to a purchaser, shall be
8 delivered to a purchaser no later than 10 days prior to
9 closing. For filings made under part II, each approved
10 amendment to the multisite timeshare plan purchaser public
11 offering statement, other than an amendment made only for the
12 purpose of the addition, substitution, or deletion of a
13 component site pursuant to part II or the addition of a phase
14 or phases to a component site of a multisite timeshare plan in
15 the manner described in the timeshare instrument or any
16 amendment that does not materially alter or modify the
17 offering in a manner that is adverse to a purchaser, shall be
18 delivered to a purchaser no later than 10 days prior to
19 closing.

20 3. Amendments made to a timeshare instrument for a
21 component site located in this state are not required to ~~shall~~
22 ~~only~~ be delivered to ~~those~~ purchasers who do not ~~will~~ receive
23 a timeshare estate or a specific timeshare license in that
24 component site. Amendments made to a timeshare instrument for
25 a component site not located in this state are not required to
26 be delivered to purchasers.

27 (b) At the time that any amendments required to be
28 delivered to purchasers, as provided in paragraph (a), are
29 delivered to purchasers, the developer shall provide to those
30 purchasers who have not closed a written statement that ~~if any~~
31 ~~of such amendments materially alter or modify the offering in~~

1 ~~a manner which is adverse to the purchaser,~~ the purchaser or
2 lessee will have a 10-day voidability period.

3 (4)(a) Upon the filing of a registered public offering
4 statement, the developer shall pay a filing fee of \$2 for each
5 7 days of annual use availability in each timeshare unit that
6 may be offered as a part of the proposed timeshare plan
7 pursuant to the filing. ~~Commencing January 1, 1995, the~~
8 ~~division may by rule increase the filing fee up to a maximum~~
9 ~~of \$3 for each 7 days of annual use availability in each~~
10 ~~timeshare unit that is offered as a part of the proposed~~
11 ~~timeshare plan.~~

12 (b) Upon the filing of an amendment to an approved
13 registered public offering statement, other than an amendment
14 adding a phase to the timeshare plan, the developer shall pay
15 a filing fee of \$100.

16 (5) Every registered public offering statement ~~filed~~
17 ~~with the division~~ for a timeshare plan which is not a
18 multisite ~~multistate~~ timeshare plan shall contain the
19 information required by this subsection. The division is
20 authorized to provide by rule the method by which a developer
21 must provide such information to the division.

22 (a) A cover page stating only:

23 1. The name of the timeshare plan; and
24 2. The following statement, in conspicuous type: This
25 public offering statement contains important matters to be
26 considered in acquiring a timeshare interest ~~period~~. The
27 statements contained in this public offering statement ~~herein~~
28 are only summary in nature. A prospective purchaser should
29 refer to all references, accompanying exhibits ~~hereto~~,
30 contract documents, and sales materials. You should not rely
31 upon oral representations as being correct. Refer to this

1 document and accompanying exhibits for correct
2 representations. The seller is prohibited from making any
3 representations other than those contained in the contract and
4 this public offering statement.

5 (b) A listing of all statements required to be in
6 conspicuous type in the public offering statement ~~statements~~
7 and in all exhibits thereto.

8 (c) A separate index of the contents and exhibits of
9 the public offering statement.

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

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

16 1. Its name and location.

17 2. An explanation of the form of timeshare ownership
18 that is being offered, including a statement as to whether any
19 interest in the underlying real property will be conveyed to
20 the purchaser. If the plan is being created or being sold on a
21 leasehold, a description of the material terms of the lease
22 shall be included ~~the location of the lease in the exhibits to~~
23 ~~the public offering statement shall be stated.~~ If the plan is
24 a plan in which timeshare estates are sold as interests in a
25 trust pursuant to the requirements of this chapter, a full and
26 accurate description of the trust arrangement and the
27 trustee's duties shall be included.

28 3. An explanation of the manner in which the
29 apportionment of common expenses and ownership of the common
30 elements has been determined.

31

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

3 1. The number of timeshare buildings, ~~the number of~~
4 ~~units in each building, the number of timeshare periods in~~
5 ~~each unit, the total number of timeshare periods~~ declared as
6 part of the timeshare plan and filed with the division, and
7 ~~being offered,~~ the number of bathrooms and bedrooms in each
8 type of timeshare unit, and the total number of units and unit
9 weeks.

10 2. The latest date estimated for completion of
11 constructing, finishing, and equipping the timeshare units
12 declared as part of the timeshare plan and filed with the
13 division.

14 3. The estimated maximum number of units and timeshare
15 periods that will use the accommodations and facilities. If
16 the maximum number of timeshare units or timeshare periods
17 will vary, a description of the basis for variation must be
18 included ~~and the minimum amount of dollars per timeshare~~
19 ~~period to be spent for additional recreational facilities or~~
20 ~~for enlargement of such facilities. If the addition or~~
21 ~~enlargement of facilities will result in a material increase~~
22 ~~of a purchaser's maintenance expense or rental expense, the~~
23 ~~maximum increase and limitations thereon shall be stated.~~

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

26 ~~4.5.~~ The duration, in years, of the timeshare plan.

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

30
31

- 1 1. The intended purpose, if not apparent from the
2 description.~~Each room and its intended purposes, location~~
3 ~~capacity in numbers of people.~~
- 4 2. ~~Each swimming pool and its general location,~~
5 ~~approximate size, depths, and capacity; its approximate deck~~
6 ~~size and capacity; and whether the pool is heated.~~
- 7 3. ~~Each additional facility; the number of each such~~
8 ~~facility; and its approximate location, approximate size, and~~
9 ~~approximate capacity.~~
- 10 4. ~~A general description of the items of personal~~
11 ~~property and the approximate numbers of each item of personal~~
12 ~~property that the developer is committing to furnish for each~~
13 ~~room or other facility or, in the alternative, a~~
14 ~~representation as to the minimum amount of expenditure that~~
15 ~~will be made to purchase the personal property for the~~
16 ~~facility.~~
- 17 2.5. ~~The estimated date when each room or other~~
18 ~~facility will be available for use by the purchaser.~~
- 19 6. ~~An identification of each room, accommodation, or~~
20 ~~other facility to be used by purchasers that will not be owned~~
21 ~~by the purchasers or the association.~~
- 22 7. ~~A reference to the location in the disclosure~~
23 ~~materials of the lease or other agreements providing for the~~
24 ~~use of those facilities.~~
- 25 8. ~~A description of the terms of the lease or other~~
26 ~~agreement, including the length of its term; the rent payable,~~
27 ~~directly or indirectly, by each purchaser; and the total rent~~
28 ~~payable to the lessor, stated in weekly, monthly, and annual~~
29 ~~amounts for the entire term of the lease; and a description of~~
30 ~~any option to purchase the property under any such lease,~~
31 ~~including the time the option may be exercised, the purchase~~

1 ~~price or how it is to be determined, the manner of payment,~~
2 ~~and whether the option may be exercised for a purchaser's~~
3 ~~share or only as to the entire leased property.~~

4 ~~3.9. A statement as to whether the facilities will~~
5 ~~developer may provide additional facilities not described~~
6 ~~above; the general locations and types of such facilities;~~
7 ~~improvements or changes that may be made; the approximate~~
8 ~~dollar amounts to be expended; and the estimated maximum~~
9 ~~additional common expense or cost to the individual purchaser~~
10 ~~that may be charged during the first annual period of~~
11 ~~operation of the modified or added facilities.~~

12 ~~(h) A description of the recreational and other~~
13 ~~commonly used facilities which will not be used exclusively by~~
14 ~~purchasers of the timeshare plan, and, if not, a statement as~~
15 ~~to whether the purchasers of the timeshare plan are required~~
16 ~~to pay and which require the payment of any portion of the~~
17 ~~maintenance and expenses of such facilities, either directly~~
18 ~~or indirectly, by the purchasers. The description shall~~
19 ~~include, but not be limited to, the following:~~

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

21 ~~2. Facilities not committed to be built except under~~
22 ~~certain conditions, and a statement of those conditions or~~
23 ~~contingencies.~~

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

31

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

5 ~~5. A general description of the items of personal~~
6 ~~property and the approximate numbers of each item of personal~~
7 ~~property that the developer is committing to furnish for each~~
8 ~~room or other facility or, in the alternative, a~~
9 ~~representation as to the minimum amount of expenditure that~~
10 ~~will be made to purchase the personal property for the~~
11 ~~facility.~~

12 ~~6. If there are leases, descriptions thereof,~~
13 ~~including the length of their terms, the rents payable, and~~
14 ~~descriptions of any options to purchase.~~

15 ~~(h)(i)1. If any recreational facilities or other~~
16 ~~facilities offered by the developer for use by purchasers are~~
17 ~~to be leased or have club memberships ~~membership~~ associated~~
18 ~~with them, other than participation in a vacation club,one of~~
19 ~~the following statements in conspicuous type: There is a~~
20 ~~recreational facilities lease associated with one or more~~
21 ~~facilities of the ~~this~~ timeshare plan; or, There is a club~~
22 ~~membership associated with one or more facilities of the ~~this~~~~
23 ~~timeshare plan. ~~There shall be a reference to the location in~~~~
24 ~~~~the disclosure materials where the recreation lease or club~~~~
25 ~~~~membership is described in detail.~~~~

26 ~~2. If it is mandatory that purchasers ~~unit owners~~ pay~~
27 ~~fees, rent, dues, or other charges under a ~~recreational~~~~
28 ~~facilities lease or club membership for the use of the~~
29 ~~facilities, other than participation in a vacation club,the~~
30 ~~applicable statement in conspicuous type in substantially the~~
31 ~~following form:~~

1 a. Membership in a ~~the recreational~~ facilities club is
2 mandatory for purchasers;

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

6 c. Purchasers or the association(s) are required to
7 pay their share of the rent or costs and expenses of
8 maintenance, management, upkeep, and replacement, ~~rent, and~~
9 ~~fees~~ under the ~~recreational~~ facilities lease (or the other
10 instruments providing the facilities); or

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

14
15 Immediately following the applicable statement a description
16 of the lease or other instrument shall be stated, including a
17 description of terms of the payment of rent or costs and
18 expenses of maintenance, management, upkeep, and replacement
19 of the facilities, the location in the disclosure materials
20 ~~where the development is described in detail shall be stated.~~

21 3. If the purchasers are required to pay a use ~~if the~~
22 ~~developer, or any other person other than the purchasers and~~
23 ~~other persons having use rights in the facilities, reserves,~~
24 ~~or is entitled to receive, any rent, fee, or other payment for~~
25 ~~the use of the facilities, not including the rent or~~
26 maintenance, management, upkeep, or replacement costs and
27 expenses, the following statement in conspicuous type: The
28 purchasers or the association(s) must pay ~~rent or land use~~
29 ~~fees for one or more recreational or other commonly used~~
30 facilities. Immediately following this statement a
31 description of the use fees shall be included, the location in

1 ~~the disclosure materials where the rent or land use fees are~~
2 ~~described in detail shall be stated.~~

3 4. ~~If, in any recreation format, whether leasehold,~~
4 ~~club, or other,~~ any person other than the association has the
5 right to a lien on the timeshare interests ~~periods~~ to secure
6 the payment of assessments, rent, or other exactions, a
7 statement in conspicuous type in substantially the following
8 form:

9 a. There is a lien or lien right against each
10 timeshare interest ~~period~~ to secure the payment of rent and
11 other exactions under the facilities ~~recreation~~ lease. A
12 purchaser's failure to make these payments may result in
13 foreclosure of the lien; or

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

20
21 Immediately following the applicable statement, a description
22 of the lien right shall be included ~~the location in the~~
23 ~~disclosure materials where the lien or lien right is described~~
24 ~~in detail shall be stated.~~

25 ~~(i)(j)~~ If the developer or any other person has the
26 right to increase or add to the ~~recreational~~ facilities at any
27 time after the establishment of the timeshare plan, without
28 the consent of the purchasers or association being required, a
29 statement in conspicuous type in substantially the following
30 form: ~~Recreational~~ Facilities may be expanded or added without
31 consent of the purchasers or the association(s). Immediately

1 following this statement, a description of the location in the
2 ~~disclosure materials where~~ such reserved rights ~~are described~~
3 shall be included ~~stated~~.

4 (j)~~(k)~~ An explanation of the status of the title to
5 the real property underlying the timeshare plan, including a
6 statement of the existence of any lien, defect, judgment,
7 mortgage, or other encumbrance affecting the title to the
8 property, and how such lien, defect, judgment, mortgage, or
9 other encumbrance will be removed or satisfied prior to
10 closing.

11 (k)~~(l)~~ A description of any judgment against the
12 developer, the managing entity, or owner of the underlying
13 fee, which judgment is material to the timeshare plan; the
14 status of any pending suit to which the developer, the
15 managing entity, or owner of the underlying fee is a party,
16 which suit is material to the timeshare plan; and any other
17 suit which is material to the timeshare plan of which the
18 developer, managing entity, or owner of the underlying fee has
19 actual knowledge. If no judgments or pending suits exist,
20 there shall be a statement of such fact.

21 (l)~~(m)~~ A description of all unusual and material
22 circumstances, features, and characteristics of the real
23 property.

24 (m)~~(n)~~ A description of any financing to be offered to
25 purchasers by the developer or any person or entity in which
26 the developer has a financial interest, together with a
27 disclosure that the description of such financing may be
28 changed by the developer and that any change in the financing
29 offered to prospective purchasers will not be deemed to be a
30 material change.

31

1 (n)~~(o)~~ A detailed explanation of any financial
2 arrangements which have been provided for completion of all
3 promised improvements.

4 ~~(p)~~ A statement as to whether the plan of the
5 developer includes a program of leasing units or timeshare
6 periods rather than selling them, or leasing and selling them
7 subject to such leases. If so, there shall be a description
8 of the plan, including the number and identification of the
9 units and the provisions and term of the proposed leases, and
10 a statement in conspicuous type that: The units (or timeshare
11 periods) may be transferred subject to a lease.

12 (o)~~(q)~~ The name and address of the managing entity; a
13 statement whether the seller may change the managing entity or
14 its control and, if so, the manner by which the seller may
15 change the managing entity; a statement of the arrangements
16 for management, maintenance, and operation of the
17 accommodations and facilities and of other property that will
18 serve the purchasers; and a description of the management
19 arrangement and any contracts for these purposes having a term
20 in excess of 1 year, including the names of the contracting
21 parties, the term of the contract, the nature of the services
22 included, and the compensation, stated for a month and for a
23 year, and provisions for increases in the compensation.
24 ~~Copies of all described contracts shall be attached as~~
25 ~~exhibits.~~

26 (p)~~(r)~~ If ~~the developer, or~~ any person other than the
27 purchasers ~~purchaser,~~ has the right to retain control of the
28 board of administration of the association for a period of
29 time which may exceed 1 year after the closing of the sale of
30 a majority of the timeshare interests ~~units~~ in that timeshare
31 plan to persons other than successors or concurrent developers

1 and the plan is one in which all purchasers automatically
2 become members of the association, a statement in conspicuous
3 type in substantially the following form: The developer (or
4 other person) has the right to retain control of the
5 association after a majority of the timeshare interests units
6 have been sold. Immediately following this statement, a
7 description of the applicable transfer of control provisions
8 of the timeshare plan shall be included ~~the location in the~~
9 ~~disclosure materials where this right to control is described~~
10 ~~in detail shall be stated.~~

11 (q)~~(s)~~1. If there are any restrictions upon the sale,
12 transfer, conveyance, or leasing of a timeshare interest
13 period, a statement in conspicuous type in substantially the
14 following form: The sale, lease, or transfer of timeshare
15 interests periods is restricted or controlled. Immediately
16 following this statement, a description of the nature of the
17 ~~location in the disclosure materials where~~ the restriction,
18 limitation, or control on the sale, lease, or transfer of
19 timeshare interests periods ~~is described in detail~~ shall be
20 included ~~stated.~~

21 2. The following statement in conspicuous type in
22 substantially the following form: The purchase of a timeshare
23 interest period should be based upon its value as a vacation
24 experience or for spending leisure time, and not considered
25 for purposes of acquiring an appreciating investment or with
26 an expectation that the timeshare interest period may be
27 resold.

28 (r)~~(t)~~ If the timeshare plan is part of a phase
29 project, a statement to that effect and a complete description
30 of the phasing. Notwithstanding any provisions of s. 718.110
31 or s. 719.1055, a developer may develop a timeshare

1 condominium or a timeshare cooperative in phases if the
2 original declaration of condominium or cooperative documents
3 submitting the initial phase to condominium ownership or
4 cooperative ownership or an amendment to the declaration of
5 condominium or cooperative documents which has been approved
6 by all of the unit owners and unit mortgagees provides for
7 phasing. Notwithstanding any provisions of s. 718.403 or s.
8 719.403 to the contrary, the original declaration of
9 condominium or cooperative documents, or an amendment to the
10 declaration of condominium or cooperative documents adopted
11 pursuant to this subsection, need only generally describe the
12 developer's phasing plan and the land which may become part of
13 the condominium or cooperative, and, in conjunction therewith,
14 the developer may also reserve all rights to vary his or her
15 phasing plan as to phase boundaries, plot plans and floor
16 plans, timeshare unit types, timeshare unit sizes and
17 timeshare unit type mixes, numbers of timeshare units, and
18 ~~recreational areas~~ and facilities with respect to each
19 subsequent phase. There shall be no time limit during which a
20 developer of a timeshare condominium or timeshare cooperative
21 must complete his or her phasing plan, and the developer shall
22 not be required to notify owners of existing timeshare estates
23 of his or her decision not to add one or more proposed phases.

24 (s)~~(u)~~ A description of the material restrictions, if
25 any, to be imposed on timeshare interests ~~periods~~ concerning
26 the use of any of the accommodations or facilities, including
27 statements as to whether there are restrictions upon children
28 and pets or a reference to, ~~and references to the volumes and~~
29 ~~pages of the timeshare plan documents where such restrictions~~
30 ~~are found; or, if such restrictions are contained elsewhere,~~
31 ~~then~~ a copy of the documents containing the restrictions which

1 shall be attached as an exhibit. If there are no
2 restrictions, there shall be a statement of such fact.

3 ~~(t)(v)~~ If there is any land that is offered by the
4 developer for use by the purchasers and which is neither owned
5 by them nor leased to them, the association, or any entity
6 controlled by the purchasers, a statement describing the land,
7 how it will serve the timeshare plan, and the nature and term
8 of service. ~~Immediately following this statement, the~~
9 ~~location in the disclosure materials where the declaration or~~
10 ~~other instrument creating such servitude is found shall be~~
11 ~~stated.~~

12 ~~(w)~~ ~~A description of the manner in which utility and~~
13 ~~other services, including, but not limited to, sewage and~~
14 ~~waste disposal, water supply, and storm drainage, will be~~
15 ~~provided and the names of the persons or entities furnishing~~
16 ~~them.~~

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

21 1. The estimated annual expenses of the timeshare plan
22 collectible from purchasers by assessments. The estimated
23 payments by the purchaser for assessments shall also be stated
24 in the estimated amounts for the times when they will be due.
25 Expenses shall also be shown for the shortest timeshare period
26 offered for sale by the developer. If the timeshare plan
27 provides for the offer and sale of units to be used on a
28 nontimeshare basis, the estimated monthly and annual expenses
29 of such units shall be set forth in a separate schedule.

30 2. The estimated weekly, monthly, and annual expenses
31 of the purchaser of each timeshare interest period, other than

1 assessments payable to the managing entity. Expenses which
2 are personal to purchasers that are not uniformly incurred by
3 all purchasers or that are not provided for or contemplated by
4 the timeshare plan documents may be excluded from this
5 estimate.

6 3. The estimated items of expenses of the timeshare
7 plan and the managing entity, except as excluded under
8 subparagraph 2., including, but not limited to, if applicable,
9 the following items, which shall be stated either as
10 management expenses collectible by assessments or as expenses
11 of the purchaser payable to persons other than the managing
12 entity:

13 a. Expenses for the managing entity:

14 (I) Administration of the managing entity.

15 (II) Management fees.

16 (III) Maintenance.

17 (IV) Rent for ~~recreational and other commonly used~~
18 facilities.

19 (V) Taxes upon timeshare property.

20 (VI) Taxes upon leased areas.

21 (VII) Insurance.

22 (VIII) Security provisions.

23 (IX) Other expenses.

24 (X) Operating capital.

25 (XI) Reserves for deferred maintenance and reserves
26 for capital expenditures. All reserves for any accommodations
27 and facilities located in this state shall be calculated by a
28 formula which is based upon estimated life and replacement
29 cost of each reserve item. Reserves for deferred maintenance
30 for such accommodations and facilities shall include accounts
31 for roof replacement, building painting, pavement resurfacing,

1 replacement of timeshare unit furnishings and equipment, and
2 any other component, the useful life of which is less than the
3 useful life of the overall structure. For any accommodations
4 and facilities located outside of this state, the developer
5 shall disclose the amount of reserves for deferred maintenance
6 or capital expenditures required by the law of the situs
7 state, if applicable, and maintained for such accommodations
8 and facilities.

9 (XII) Fees payable to the division.

10 b. Expenses for a purchaser:

11 (I) Rent for the timeshare unit, if subject to a
12 lease.

13 (II) Rent payable by the purchaser directly to the
14 lessor or agent under any ~~recreational lease~~ or lease for the
15 use of ~~commonly used~~ facilities, which use and payment is a
16 mandatory condition of ownership and is not included in the
17 common expenses ~~expense~~ or assessments for common maintenance
18 paid by the purchasers to the managing entity ~~association~~.

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

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

27 a. The specific time period measured in one or more
28 calendar or fiscal years during which the guarantee will be in
29 effect.

30 b. A statement that the developer will pay all common
31 expenses incurred in excess of the total revenues of the

1 timeshare plan pursuant to s. 721.15(2) if the developer has
2 excused himself or herself from the payment of assessments
3 during the guarantee period.

4 c. The level, expressed in total dollars, at which the
5 developer guarantees the budget. If the developer has
6 reserved the right to extend or increase the guarantee level
7 pursuant to s. 721.15(2), a disclosure must be included to
8 that effect.

9 6. If the developer intends to provide a trust fund to
10 defer or reduce the payment of annual assessments, a copy of
11 the trust instrument shall be attached as an exhibit and shall
12 include a description of such arrangement, including, but not
13 limited to:

14 a. The specific amount of such trust funds and the
15 source of the funds.

16 b. The name and address of the trustee.

17 c. The investment methods permitted by the trust
18 agreement.

19 d. A statement in conspicuous type that the funds from
20 the trust account may not cover all assessments and that there
21 is no guarantee that purchasers will not have to pay
22 assessments in the future.

23 7. The budget of a phase timeshare plan may contain a
24 note identifying the number of timeshare interests covered by
25 the budget, indicating the number of timeshare interests, if
26 any, estimated to be declared as part of the timeshare plan
27 during that calendar year, and projecting the common expenses
28 for the timeshare plan based upon the number of timeshare
29 interests estimated to be declared as part of the timeshare
30 plan during that calendar year.

31

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

6 (w)~~(z)~~ The identity of the developer and the chief
7 operating officer or principal directing the creation and sale
8 of the timeshare plan and a statement of the experience of
9 each in this field or, if no experience, a statement of that
10 fact.

11 ~~(aa) A statement of any service, maintenance, or~~
12 ~~recreation contracts or leases that may be canceled by the~~
13 ~~purchasers.~~

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

17 (y)~~(cc)~~ The name of any person who will or may have
18 the right to alter, amend, or add to the charges to which the
19 purchaser may be subject and the terms and conditions under
20 which such alterations, amendments, or additions may be
21 imposed.

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

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

26 (bb)~~(ff)~~ A statement as to whether the timeshare plan
27 is participating in an exchange program and, if so, the name
28 and address of the exchange company offering the exchange
29 program.

30 (cc) The existence of rules and regulations regarding
31 any reservation features governing a purchaser's ability to

1 make reservations for a timeshare period, including, if
2 applicable, a disclaimer in conspicuous type in substantially
3 the following form:

4
5 The right to reserve a timeshare period is subject to rules
6 and regulations of the timeshare plan reservation system.

7
8 (dd) If a developer is filing a timeshare plan that
9 includes a timeshare instrument or component site document
10 that was in conformance with the laws and rules in existence
11 at the time the timeshare plan was created but does not
12 conform to existing laws and rules that govern the timeshare
13 plan and the developer does not have the authority or power to
14 amend or change the timeshare instrument or component site
15 document to conform to such existing laws or rules as directed
16 by the division, a brief explanation of current law and the
17 conflict with the timeshare instrument or component site
18 document, preceded by disclaimer in conspicuous type in
19 substantially the following form:

20
21 Florida law has been amended and certain provisions in [insert
22 appropriate reference to timeshare instrument or component
23 site document] which were in conformance with Florida law as
24 it existed at the time the timeshare plan was created are not
25 in conformance with current Florida law. These documents may
26 be amended only by [insert appropriate reference to person or
27 entity that has the right to amend or change the timeshare
28 instrument or component site document]. The developer does not
29 warrant that such documents are in technical compliance with
30 all applicable Florida laws and regulations. All questions
31 regarding amendment of these documents should be directed to

1 [insert appropriate reference to person or entity that has the
2 right to amend or change the timeshare instrument or component
3 site document].

4
5 (ee)~~(gg)~~ Any other information that a ~~the~~ seller, with
6 the approval of the division, desires to include in the public
7 offering statement.

8 (ff)~~(hh)~~ Copies of the following documents and plans,
9 to the extent they are applicable, shall be included as
10 exhibits to the registered public offering statement; however,
11 if the timeshare plan has not been declared at the time of the
12 filing, the developer shall provide the following proposed
13 documents:

14 1. The declaration of condominium, ~~or the proposed~~
15 ~~declaration if the declaration has not been recorded.~~

16 2. The cooperative documents, ~~or the proposed~~
17 ~~cooperative documents if the documents have not been recorded.~~

18 3. The declaration of covenants and restrictions, ~~or~~
19 ~~proposed declaration if the declaration has not been recorded.~~

20 4. The articles of incorporation creating the
21 association.

22 5. The bylaws of the association.

23 6. The ground lease or other underlying lease of the
24 real property on which the timeshare plan is situated.

25 7. The management agreement and all maintenance and
26 other contracts regarding the management and operation of the
27 timeshare property which have terms in excess of 1 year.

28 8. The estimated operating budget for the timeshare
29 plan and the required schedule of purchasers' expenses.

30 9. The floor plan of each type of accommodation and
31 the plot plan showing the location of all accommodations and

1 facilities declared as part of the timeshare plan and filed
2 with the division.

3 ~~10. The lease for any facilities.The lease of~~
4 ~~recreational facilities and other facilities which will be~~
5 ~~used only by purchasers of the timeshare plan.~~

6 ~~11. The lease of facilities used by purchasers and~~
7 ~~others.~~

8 ~~12. The form of timeshare period lease, if the offer~~
9 ~~is of a leasehold.~~

10 ~~11.13.~~ A declaration of servitude of properties
11 serving the accommodations and ~~or~~ facilities, but not owned by
12 purchasers or leased to them or the association.

13 ~~12.14.~~ Any documents required by s. 721.03(3)(e) as
14 the result of the inclusion of a timeshare plan in the
15 conversion of a building ~~The statement of condition of the~~
16 ~~existing building or buildings, if the offering is of~~
17 ~~timeshare periods in an operation being converted to~~
18 ~~condominium or cooperative ownership.~~

19 ~~15. The statement of inspection for termite damage and~~
20 ~~treatment of the existing improvements, if the timeshare~~
21 ~~property is a conversion.~~

22 ~~13.16.~~ The form of agreement for sale or lease of
23 timeshare interests ~~periods~~.

24 ~~14.17.~~ The executed agreement for escrow of payments
25 made to the developer prior to closing and the form of any
26 agreement for escrow of ad valorem tax escrow payments to be
27 made into an ad valorem tax escrow account pursuant to s.
28 192.037(6).

29 ~~15.18.~~ The documents containing any restrictions on
30 use of the property required by paragraph (s) ~~(u)~~.

31

1 ~~16.19.~~ Any other documents or instruments creating
2 the timeshare plan.

3 ~~20. Any contract or lease to be signed by the~~
4 ~~purchasers.~~

5 ~~(gg)(ii)~~ Such other information as is necessary to
6 fairly, meaningfully, and effectively disclose all aspects of
7 the timeshare plan, including, but not limited to, any
8 disclosures made necessary by the operation of s.

9 721.03(8)~~(9)~~. However, if a developer has, in good faith,
10 attempted to comply with the requirements of this section, and
11 if, in fact, he or she has substantially complied with the
12 disclosure requirements of this chapter, nonmaterial errors or
13 omissions shall not be actionable.

14 ~~(hh)(jj)~~ Notwithstanding the provisions of this
15 subsection, the registered public offering statement for a
16 component site of a multisite timeshare plan filed pursuant to
17 this subsection may contain cross-references to information
18 contained in the related multisite timeshare plan registered
19 public offering statement filed pursuant to s. 721.55 in lieu
20 of repeating such information.

21 (6) The division is authorized to prescribe by rule
22 the form of the approved purchaser public offering statement
23 that must be furnished by the developer to each purchaser.
24 The form of the purchaser public offering statement ~~that is~~
25 ~~furnished to purchasers~~ must provide fair, meaningful, and
26 effective disclosure of all aspects of the timeshare plan. For
27 timeshare plans filed pursuant to this part, the developer
28 shall furnish each purchaser with the following:

29 (a) A copy of the purchaser public offering statement
30 text in the form approved by the division for delivery to
31 purchasers.

1 (b) Copies of the exhibits required to be filed with
2 the division pursuant to subparagraphs (5)~~(ff)(hh)~~1., 2., 4.,
3 5., 8., and 16 ~~19~~.

4 (c) A receipt for timeshare plan documents and a list
5 describing any exhibit to the registered public offering
6 statement filed with the division which is not delivered to
7 the purchaser. The division is authorized to prescribe by
8 rule the form of the receipt for timeshare plan documents and
9 the description of exhibits list that must be furnished to the
10 purchaser. The description of documents list utilized by a
11 developer shall be filed with the division for review as part
12 of the registered public offering statement ~~filing~~ pursuant to
13 this section. The developer shall be required to provide the
14 managing entity with a copy of the approved registered public
15 offering statement ~~text and exhibits filed with the division~~
16 and any approved amendments thereto to be maintained by the
17 managing entity as part of the books and records of the
18 timeshare plan pursuant to s. 721.13(3)(d).

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

22 (e) An executed copy of any document which the
23 purchaser signs.

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

27 Section 13. Section 721.075, Florida Statutes, is
28 amended to read:

29 721.075 Incidental benefits.--Incidental benefits
30 shall be offered only as provided in this section.

31

1 (1) Accommodations, facilities, products, services,
2 discounts, or other benefits which satisfy the requirements of
3 this subsection shall be subject to the provisions of this
4 section and exempt from the other provisions of this chapter
5 ~~part~~ which would otherwise apply to such accommodations or ~~and~~
6 facilities if and only if:

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

12 (b) No costs of acquisition, operation, maintenance,
13 or repair of the incidental benefit are passed on to
14 purchasers of the timeshare plan as common expenses of the
15 timeshare plan or as common expenses of a component site of a
16 multisite timeshare plan.

17 (c) The continued availability of the incidental
18 benefit is not necessary in order for any accommodation or
19 facility of the timeshare plan to be available for use by
20 purchasers of the timeshare plan in a manner consistent in all
21 material respects with the manner portrayed by any promotional
22 material, advertising, or purchaser public offering statement.

23 (d) The continued availability to purchasers of
24 timeshare plan accommodations on no greater than a one-to-one
25 purchaser to accommodation ratio is not dependent upon
26 continued availability of the incidental benefit.

27 (e) The incidental benefit will continue to be
28 available in the manner represented to prospective purchasers
29 for ~~no less than 6 months but less than 3 years~~ or less after
30 the first date that the timeshare plan is available for use by
31 the purchaser. ~~The developer shall not be required to make~~

1 ~~the incidental benefit available for longer than 18 months~~
2 ~~after the date of purchase.~~ Nothing herein shall prevent the
3 renewal or extension of the availability of an incidental
4 benefit.

5 (f) The aggregate represented value of all incidental
6 benefits offered by a developer to a purchaser may not exceed
7 15 percent of the purchase price paid by the purchaser for his
8 or her timeshare interest period.

9 (g) The incidental benefit is filed with the division
10 in conjunction with the filing of a timeshare plan or in
11 connection with a previously filed timeshare plan.

12 (2) Each purchaser shall execute a separate
13 acknowledgment and disclosure statement with respect to all
14 incidental benefits, which statement shall include the
15 following information:

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

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

25 (c) A statement that the incidental benefit is not
26 assignable or otherwise transferable by the prospective
27 purchaser or purchaser.

28 (d) The following disclosure in conspicuous type
29 immediately above the space for the purchaser's signature:
30
31

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

13
14 The acknowledgment and disclosure statement for any ~~each~~
15 incidental benefit shall be filed with the division prior to
16 use. Each purchaser shall receive a copy of his or her
17 executed acknowledgment and disclosure statement as a document
18 required to be provided to him or her pursuant to s.
19 721.10(1)(b).

20 (3)(a) In the event that an incidental benefit becomes
21 unavailable to purchasers in the manner represented by the
22 developer in the acknowledgment and disclosure statement, the
23 developer shall pay the purchaser the greater of twice the
24 verifiable retail value or twice the represented value of the
25 unavailable incidental benefit in cash within 30 days of the
26 date that the unavailability of the incidental benefit was
27 made known to the developer unless the developer has reserved
28 a substitution right pursuant to paragraph (b) ~~by making the~~
29 ~~required disclosure in the acknowledgment and disclosure~~
30 ~~statement~~ and timely makes the substitution as required by
31 paragraph (b). The developer shall promptly notify the

1 division upon learning of the unavailability of any incidental
2 benefit.

3 (b) If an incidental benefit becomes unavailable as a
4 result of events beyond the control of the developer, the
5 developer may reserve the right to substitute a replacement
6 incidental benefit of a type, quality, value, and term
7 reasonably similar to the unavailable incidental benefit. If
8 the developer reserves the right to substitute, the
9 acknowledgement and disclosure statement required pursuant to
10 paragraph (2)(a) shall contain the following conspicuous
11 disclosure by including the following language in the
12 disclosure required by paragraph (2)(d):

13
14 In the event any~~describe~~ incidental benefit described
15 in this statement ~~benefit~~ becomes unavailable as a result of
16 events beyond the control of the developer, the developer
17 reserves the right to substitute a replacement incidental
18 benefit of a type, quality, value, and term reasonably similar
19 to the unavailable incidental benefit.

20
21 The substituted incidental benefit shall be delivered to the
22 purchaser within 30 days after the date that the
23 unavailability of the incidental benefit was made known to the
24 developer.

25 (4) All purchaser remedies pursuant to s. 721.21 shall
26 be available for any violation of the provisions of this
27 section.

28 Section 14. Section 721.08, Florida Statutes, is
29 amended to read:

30 721.08 Escrow accounts; nondisturbance instruments;
31 alternate security arrangements; transfer of legal title.--

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

20 (2) One hundred percent of all funds or other property
21 which is received from or on behalf of purchasers of the
22 timeshare plan or timeshare interest ~~period~~ prior to the
23 occurrence of events required in this subsection shall be
24 deposited pursuant to an escrow agreement approved by the
25 division. The escrow agreement shall provide that the funds
26 or property may be released from escrow only as follows:

27 (a) Cancellation.--In the event a purchaser gives a
28 valid notice of cancellation pursuant to s. 721.10 or is
29 otherwise entitled to cancel the sale, the funds or property
30 received from or on behalf of the purchaser, or the proceeds
31 thereof, shall be returned to the purchaser. Such refund

1 shall be made within 20 days of demand therefor by the
2 purchaser or within 5 days after receipt of funds from the
3 purchaser's cleared check, whichever is later. If the
4 purchaser has received benefits under the contract prior to
5 the effective date of the cancellation, the funds or property
6 to be returned to the purchaser may be reduced by the
7 proportion of contract benefits actually received.

8 (b) Purchaser's default.--Following expiration of the
9 10-day cancellation period, if the purchaser defaults in the
10 performance of her or his obligations under the terms of the
11 contract to purchase or such other agreement by which ~~a~~ the
12 seller sells the timeshare interest ~~period~~, the developer
13 shall provide an affidavit to the escrow agent requesting
14 release of the escrowed funds or property and shall provide a
15 copy of such affidavit to the purchaser who has defaulted.
16 The developer's affidavit, as required herein, shall include:

17 1. A statement that the purchaser has defaulted and
18 that the developer has not defaulted;

19 2. A brief explanation of the nature of the default
20 and the date of its occurrence;

21 3. A statement that pursuant to the terms of the
22 contract the developer is entitled to the funds held by the
23 escrow agent; and

24 4. A statement that the developer has not received
25 from the purchaser any written notice of a dispute between the
26 purchaser and developer or a claim by the purchaser to the
27 escrow.

28 (c) Compliance with conditions.--

29 1. If the timeshare plan is one in which timeshare
30 licenses are to be sold and no cancellation or default has
31

1 | occurred, the escrow agent may release the escrowed funds or
2 | 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 | (IV) Either execution and recordation by each
9 | interestholder of the nondisturbance and notice to creditors
10 | instrument, as described in this section or, alternatively,
11 | transfer by the developer of legal title to the subject
12 | accommodations and facilities, or all use rights therein, to a
13 | trust satisfying the requirements of sub-subparagraph 3.b. and
14 | the execution and recordation by each other interestholder of
15 | the nondisturbance and notice to creditors instrument, as
16 | described in this section.
17 | b. A certified copy of the recorded nondisturbance and
18 | notice to creditors instrument that complies with subsection
19 | (3).
20 | c. One of the following:
21 | (I) A copy of a memorandum of agreement, as defined in
22 | s. 721.05(21), together with satisfactory evidence that the
23 | original memorandum of agreement has been irretrievably
24 | delivered for recording to the appropriate official
25 | responsible for maintaining the public records in the county
26 | in which the subject accommodations and ~~or~~ facilities are
27 | located. The original memorandum of agreement must be
28 | recorded within 180 days after the date on which the purchaser
29 | executed her or his purchase agreement.
30 | (II) A notice delivered for recording to the
31 | appropriate official responsible for maintaining the public

1 records in each county in which the subject accommodations and
2 facilities are located notifying all persons of the identity
3 of an independent escrow agent or trustee satisfying the
4 requirements of sub-subparagraph 3.b. that shall maintain
5 separate books and records, in accordance with good accounting
6 practices, for the timeshare plan in which timeshare licenses
7 are to be sold. The books and records shall indicate each
8 accommodation and facility that is subject to such a timeshare
9 plan and each purchaser of a timeshare license in the
10 timeshare plan.

11 2. If the timeshare plan is one in which timeshare
12 estates are to be sold, other than interests in a trust
13 pursuant to subparagraph 3., and no cancellation or default
14 has occurred, the escrow agent may release the escrowed funds
15 or property upon presentation of:

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

18 (I) Expiration of the cancellation period.

19 (II) Completion of construction.

20 (III) Closing.

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

24 c. Evidence that the timeshare estate is free and
25 clear of the claims of any interestholders, other than the
26 claims of interestholders that, through a recorded instrument,
27 are irrevocably made subject to the timeshare instrument and
28 the use rights of purchasers made available through the
29 timeshare instrument, or that are the subject of a recorded
30 nondisturbance and notice to creditors instrument that
31 complies with subsection (3).

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

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

9 (I) Expiration of the cancellation period.

10 (II) Completion of construction.

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

13 (IV) Closing.

14 b. Prior to the transfer by each interestholder of the
15 subject accommodations and facilities, or all use rights
16 therein, to a trust, any lien or other encumbrance against
17 such accommodations and facilities, or use rights therein,
18 shall be made subject to a nondisturbance and notice to
19 creditors instrument as described in this section. No transfer
20 pursuant to this sub-subparagraph shall become effective until
21 the trustee accepts such transfer and the responsibilities set
22 forth herein. A trust established pursuant to this
23 sub-subparagraph shall comply with the following provisions:

24 (I) The trustee shall be an individual or a business
25 entity authorized and qualified to conduct trust business in
26 this state. Any corporation authorized to do business in this
27 state may act as trustee in connection with a timeshare plan
28 pursuant to this chapter. The trustee must be independent from
29 any developer or managing entity of the timeshare plan or any
30 interestholder of any accommodation or facility of such plan.

31

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

4 (III) The trustee shall not convey, hypothecate,
5 mortgage, assign, lease, or otherwise transfer or encumber in
6 any fashion any interest in or portion of the timeshare
7 property with respect to which any purchaser has a right of
8 use or occupancy unless the timeshare plan is terminated
9 pursuant to the timeshare instrument, or such conveyance,
10 hypothecation, mortgage, assignment, lease, transfer, or
11 encumbrance is approved by a vote of two-thirds of all voting
12 interests of the timeshare plan and such decision is declared
13 by a court of competent jurisdiction to be in the best
14 interests of the purchasers of the timeshare plan. The trustee
15 shall notify the division in writing within 10 days of
16 receiving notice of the filing of any petition relating to
17 obtaining such a court order. The division shall have standing
18 to advise the court of the division's interpretation of the
19 statute as it relates to the petition.

20 (IV) All purchasers of the timeshare plan or the
21 owners' association of the timeshare plan shall be the express
22 beneficiaries of the trust. The trustee shall act as a
23 fiduciary to the beneficiaries of the trust. The personal
24 liability of the trustee shall be governed by s. 737.306. The
25 agreement establishing the trust shall set forth the duties of
26 the trustee. The trustee shall be required to furnish promptly
27 to the division upon request a copy of the complete list of
28 the names and addresses of the owners in the timeshare plan
29 and a copy of any other books and records of the timeshare
30 plan required to be maintained pursuant to s. 721.13 that are
31 in the possession, custody, or control of the trustee. All

1 expenses reasonably incurred by the trustee in the performance
2 of its duties, together with any reasonable compensation of
3 the trustee, shall be common expenses of the timeshare plan.

4 (V) The trustee shall not resign upon less than 90
5 days prior written notice to the managing entity and the
6 division. No resignation shall become effective until a
7 substitute trustee, approved by the division, is appointed by
8 the managing entity and accepts the appointment.

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

11 (VII) For trusts holding property in a timeshare plan
12 located outside this state, the trust holding such property
13 shall be deemed in compliance with the requirements of this
14 subparagraph if such trust is authorized and qualified to
15 conduct trust business under the laws of such jurisdiction and
16 the agreement or law governing such trust arrangement provides
17 substantially similar protections for the purchaser as are
18 required in this subparagraph for trusts holding property in a
19 timeshare plan in this state.

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

24 4. If the developer has previously provided a
25 certified copy of any document required by this paragraph
26 section, she or he may for all subsequent disbursements
27 substitute a true and correct copy of the certified copy,
28 provided no changes to the document have been made or are
29 required to be made.

30
31

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

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

7 (b) The instrument shall be effective as between the
8 timeshare purchaser and interestholder despite any rejection
9 or cancellation of the contract between the timeshare
10 purchaser and developer as a result of bankruptcy proceedings
11 of the developer; and

12 (c) So long as the interestholder has any interest in
13 the accommodations, facilities, or plan, the interestholder
14 will fully honor all the rights of the timeshare purchasers in
15 and to the timeshare plan, will honor the purchasers' right to
16 cancel their contracts and receive appropriate refunds, and
17 will comply with all other requirements of this chapter and
18 rules promulgated hereunder.

19
20 The instrument shall contain language sufficient to provide
21 subsequent creditors of the developer and interestholders with
22 notice of the existence of the timeshare plan and of the
23 rights of purchasers and shall serve to protect the interest
24 of the timeshare purchasers from any claims of subsequent
25 creditors. A copy of the recorded nondisturbance and notice
26 to creditors instrument, when required, shall be provided to
27 each timeshare purchaser at the time the purchase contract is
28 executed.

29 (4) In lieu of any escrow provisions required by this
30 act, the director of the division shall have the discretion to
31 permit deposit of the funds or other property in an escrow

1 account as required by the jurisdiction in which the sale took
2 place.

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

10 (b) Notwithstanding anything in chapter 718 or chapter
11 719 to the contrary, the director of the division shall have
12 the discretion to accept other assurances pursuant to
13 paragraph (a) in lieu of any requirement that completion of
14 construction of one or more accommodations or facilities of a
15 timeshare plan be accomplished prior to closing.

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

24 (7) Each escrow agent shall maintain separate books
25 and records for each timeshare plan and shall maintain such
26 books and records in accordance with good accounting
27 practices.

28 (8) An escrow agent holding escrowed funds pursuant to
29 this chapter that have not been claimed for a period of 5
30 years after the date of deposit shall make at least one
31 reasonable attempt to deliver such unclaimed funds to the

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

20 (9) For each transfer of the legal title to a
21 timeshare estate, the developer shall deliver an instrument
22 evidencing such transfer to the purchaser or to the clerk of
23 the court for recording.

24 (10)~~(8)~~ Any developer, seller, or escrow agent who
25 intentionally fails to comply with the provisions of this
26 section concerning the establishment of an escrow account,
27 deposits of funds into escrow, and withdrawal therefrom is
28 guilty of a felony of the third degree, punishable as provided
29 in s. 775.082, s. 775.083, or s. 775.084, or the successor
30 thereof. The failure to establish an escrow account or to
31 place funds therein as required in this section is prima facie

1 evidence of an intentional and purposeful violation of this
2 section.

3 Section 15. Section 721.09, Florida Statutes, is
4 amended to read:

5 721.09 Reservation agreements; escrows.--

6 (1)(a) Prior to filing the registered public offering
7 statement with the division, a seller shall not offer a
8 timeshare plan for sale but may accept reservation deposits
9 and advertise the reservation deposit program upon approval by
10 the division of a fully executed escrow agreement and
11 reservation agreement properly filed with the division.

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

17 (c) If the timeshare plan subject to the reservation
18 agreement has not been filed with the division under s.
19 721.07(5) or s. 721.55 within 180 ~~90~~ days after the date the
20 division approves the reservation agreement filing, the seller
21 must immediately cancel all outstanding reservation
22 agreements, refund all escrowed funds to prospective
23 purchasers, and discontinue accepting reservation deposits or
24 advertising the availability of reservation agreements.

25 (d) A seller who has filed a reservation agreement and
26 an escrow agreement under this section may advertise the
27 reservation agreement program if the advertising material
28 meets the following requirements:

29 1. The seller complies with the provisions of s.
30 721.11 with respect to such advertising material.

31

1 2. The advertising material is limited to a general
2 description of the proposed timeshare plan, including, but not
3 limited to, a general description of the type, number, and
4 size of accommodations and facilities and the name of the
5 proposed timeshare plan.

6 3. The advertising material contains a statement that
7 the advertising material is being distributed in connection
8 with an approved reservation agreement filing only and that
9 the seller cannot offer an interest in the timeshare plan for
10 sale until a registered public offering statement has been
11 filed with the division under this chapter.

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

14 (a) A statement that the escrow agent will grant a
15 prospective purchaser an immediate, unqualified refund of the
16 reservation deposit upon the written request of either the
17 purchaser or the seller directed to the escrow agent.

18 (b) A statement that the escrow agent may not
19 otherwise release moneys unless a contract is signed by the
20 purchaser, authorizing the transfer of the escrowed
21 reservation deposit as a deposit on the purchase price. Such
22 deposit shall then be subject to the requirements of s.
23 721.08.

24 (c) A statement of the obligation of the developer to
25 file a registered public offering statement with the division
26 prior to entering into binding contracts.

27 (d) A statement of the right of the purchaser to
28 receive the purchaser public offering statement required by
29 this chapter.

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

1 (f) A statement that the seller assures that the
2 purchase price represented in or pursuant to the reservation
3 agreement will be the price in the contract for the purchase
4 or that the price represented may be exceeded within a stated
5 amount or percentage or a statement that no assurance is given
6 as to the price in the contract for purchase.

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

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

12 (c) The escrow agent may invest the escrowed funds in
13 securities of the United States Government, or any agency
14 thereof, or in savings or time deposits in institutions
15 insured by an agency of the United States Government. The
16 interest generated by any such investments shall be payable to
17 the party entitled to receive the escrowed funds or property.

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

20 (e) Each escrow agent shall maintain separate books
21 and records for each timeshare plan and shall maintain such
22 books and records in accordance with good accounting
23 practices.

24 (f) Any seller or escrow agent who intentionally fails
25 to comply with the provisions of this section regarding
26 deposit of funds in escrow and withdrawal therefrom is guilty
27 of a felony of the third degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084, or the successor of any of
29 such sections. The failure to establish an escrow account or
30 to place funds therein as required in this section is prima
31

1 facie evidence of an intentional and purposeful violation of
2 this section.

3 Section 16. Section 721.10, Florida Statutes, is
4 amended to read:

5 721.10 Cancellation.--

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

9 (a) The execution date; or

10 (b) The day on which the purchaser received the last
11 of all documents required to be provided to him or her,
12 including the notice required by s. 721.07(2)(d)2., if
13 applicable.
14

15 This right of cancellation may not be waived by any purchaser
16 or by any other person on behalf of the purchaser.

17 Furthermore, no closing may occur until the cancellation
18 period of the timeshare purchaser has expired. Any attempt to
19 obtain a waiver of the cancellation right of the timeshare
20 purchaser, or to hold a closing prior to the expiration of the
21 cancellation period, is unlawful and such closing is voidable
22 at the option of the purchaser for a period of 1 year after
23 the expiration of the cancellation period. However, nothing
24 in this section precludes the execution of documents in
25 advance of closing for delivery after expiration of the
26 cancellation period.

27 (2) Any notice of cancellation shall be considered
28 given on the date postmarked if mailed, or when transmitted
29 from the place of origin if telegraphed, so long as the notice
30 is actually received by the developer or escrow agent. If
31 given by means of a writing transmitted other than by mail or

1 telegraph, the notice of cancellation shall be considered
2 given at the time of delivery at the place of business of the
3 developer.

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

28 Section 17. Section 721.11, Florida Statutes, is
29 amended to read:

30 721.11 Advertising materials; oral statements.--

31

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

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

29 ~~(b) The director of the division shall have the~~
30 ~~discretion to accept other assurances from the developer to~~
31 ~~assure the developer will comply with the provisions of this~~

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

23 ~~(c) A developer from whom other assurances have been~~
24 ~~accepted by the director of the division pursuant to paragraph~~
25 ~~(b) shall file all advertising material, including prize and~~
26 ~~gift promotional offers with the division at the time of use.~~
27 ~~All such advertising materials must be substantially in~~
28 ~~compliance with this chapter and in full compliance with the~~
29 ~~mandatory provisions of this chapter. In the event that any~~
30 ~~such material is not in compliance with this chapter, the~~
31 ~~division may require the developer to correct the deficiency~~

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

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

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

21 (b) ~~A transcript of~~ Any radio or television
22 advertisement.

23 (c) Any lodging or vacation certificate.

24 (d) ~~A transcript of~~ Any standard oral sales
25 presentation.

26 (e) Any billboard or other sign posted on or off the
27 premises, except that such billboard or sign shall not be
28 required to contain the disclosure set forth in paragraph
29 (5)(a) or paragraph (5)(b), unless it relates to a prize and
30 gift promotional offer. For purposes of this section, a
31 "sign" shall mean advertising which is affixed to real or

1 personal property and which is not disseminated by other than
2 visual means to prospective purchasers.

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

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

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

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

12 (a) Any stockholder communication such as an annual
13 report or interim financial report, proxy material,
14 registration statement, securities prospectus, registration,
15 property report, or other material required to be delivered to
16 a prospective purchaser by an agency of any other state or the
17 Federal Government.

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

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

28 (d) Any audio, written, or visual publication or
29 material relating to the promotion of the availability of any
30 accommodations or facilities, or both, for transient rental,
31 including any arrangement governed by part XI of chapter 559,

1 so long as a mandatory tour of a timeshare plan or attendance
2 at a mandatory sales presentation is not a term or condition
3 of the availability of such accommodations or facilities, or
4 both, and so long as the failure of any transient renter to
5 take a tour of a timeshare plan or attend a sales presentation
6 does not result in the transient renter receiving less than
7 what was promised to the transient renter in such materials
8 ~~any reduction in the level of services which would otherwise~~
9 ~~be available to such transient renter.~~

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

24 (f) Any promotional materials relating to a timeshare
25 plan that are not directed specifically at residents of this
26 state, regardless of whether such materials relate to
27 accommodations or facilities located in this state, provided
28 that such materials do not contain any statements that would
29 be in violation of subsection (4). For purposes of this
30 paragraph, a rebuttable presumption shall exist that
31 promotional materials are not directed specifically at

1 residents of this state if the materials include a disclaimer
2 in substantially the following form:

3
4 This offer is not directed to residents in any state [or the
5 offer is void in any states] in which a registration of the
6 timeshare plan is required but in which registration
7 requirements have not yet been met.

8
9 (g) Any materials delivered to a purchaser after the
10 purchase contract is executed that are not delivered for the
11 purpose of soliciting the sale of a timeshare interest in a
12 different timeshare plan or a different component site in a
13 multisite timeshare plan subject to part II, provided that
14 such materials do not contain any statements that would be in
15 violation of subsection (4).

16 (h) Any materials exclusively shown, displayed, or
17 presented in a sales center or during a sales presentation
18 provided that such materials do not contain any statements
19 that would be in violation of subsection (4) and that any
20 description of any facility that is not required to be built
21 or that has not been completed shall be conspicuously labeled
22 as "NEED NOT BE BUILT," "PROPOSED," or "UNDER CONSTRUCTION."
23 If the facility is labeled "NEED NOT BE BUILT" or "PROPOSED,"
24 the seller may indicate the estimated date that such facility
25 will be made part of the timeshare plan. If the facility is
26 labeled "UNDER CONSTRUCTION," the estimated date of completion
27 must be included.

28 (4) No advertising or oral statement made by any
29 seller shall:

30
31

1 (a) Misrepresent a fact or create a false or
2 misleading impression regarding the timeshare plan or
3 promotion thereof.

4 (b) Make a prediction of specific or immediate
5 increases in the price or value of timeshare interests
6 periods.

7 (c) Contain a statement concerning future price
8 increases by a ~~the~~ seller which are nonspecific or not bona
9 fide.

10 (d) Contain any asterisk or other reference symbol as
11 a means of contradicting or substantially changing any
12 previously made statement or as a means of obscuring a
13 material fact.

14 (e) Describe any facility ~~improvement to the timeshare~~
15 ~~plan~~ that is not required to be built or that is uncompleted
16 unless the improvement is conspicuously labeled as "NEED NOT
17 BE BUILT," "PROPOSED," or "UNDER CONSTRUCTION." If the
18 facility is labeled "NEED NOT BE BUILT" or "PROPOSED," the
19 seller may indicate the estimated date that such facility will
20 be made part of the timeshare plan. If the facility is labeled
21 "UNDER CONSTRUCTION," the estimated date of completion must be
22 included with the date of promised completion clearly
23 indicated.

24 (f) Misrepresent the size, nature, extent, qualities,
25 or characteristics of the offered accommodations or
26 facilities.

27 (g) Misrepresent the amount or period of time during
28 which the accommodations or facilities will be available to
29 any purchaser.

30 (h) Misrepresent the nature or extent of any
31 incidental benefit.

1 (i) Make any misleading or deceptive representation
2 with respect to the contents of the public offering statement
3 and the contract or the rights, privileges, benefits, or
4 obligations of the purchaser under the contract or this
5 chapter.

6 (j) Misrepresent the conditions under which a
7 purchaser may exchange the right to use accommodations or
8 facilities in one location for the right to use accommodations
9 or facilities in another location.

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

12 (l) Contain an offer or inducement to purchase which
13 purports to be limited as to quantity or restricted as to time
14 unless the numerical quantity or time limit applicable to the
15 offer or inducement is clearly stated.

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

19 (n) Purport to have resulted from a referral unless
20 the name of the person making the referral can be produced
21 upon demand of the division.

22 (o) Misrepresent the source of the advertising or
23 statement by leading a prospective purchaser to believe that
24 the advertising material is mailed by a governmental or
25 official agency, credit bureau, bank, or attorney, if that is
26 not the case.

27 (p) Misrepresent the value of any prize, gift, or
28 other item to be awarded in connection with any prize and gift
29 promotional offer, as described in s. 721.111, or any
30 incidental benefit.

31

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

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

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

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

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

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

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

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

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

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

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

1 actually received under the agreement prior to the effective
2 date of the cancellation; and

3 2. A statement that the specific value for each
4 benefit received by the prospective purchaser under the
5 agreement will be as agreed to between the prospective
6 purchaser and the seller.

7 (d) An agreement for purchase of a regulated
8 short-term product must contain substantially the following
9 statements in conspicuous type immediately above the space
10 reserved in the agreement for the signature of the prospective
11 purchaser:

12
13 You may cancel this agreement without any penalty or
14 obligation within 10 calendar days [or specify a longer time
15 period represented to the purchaser] after the date you sign
16 this agreement. If you decide to cancel this agreement, you
17 must notify the seller in writing of your intent to cancel.
18 Your notice of cancellation is effective upon the date sent
19 and must be sent to ...(Name of Seller)... at ...(Address of
20 Seller).... Any attempt to obtain a waiver of your
21 cancellation right is unlawful.

22 If you execute a purchase contract for a timeshare
23 interest period, section 721.08, Florida Statutes (escrow
24 accounts), will apply to any funds or other property received
25 from you or on your behalf. Section 721.10, Florida Statutes
26 (cancellation), will apply to the purchase and you will not be
27 entitled to a cancellation refund of the short-term product
28 [or specify an alternate refund policy under these
29 circumstances].

30
31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 721.111 Prize and gift promotional offers.--

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

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

23 849.0935(1)(a), in which no more than 10 prizes are promoted
24 and in which all promoted prizes are actually awarded. All
25 such drawings must meet all requirements of this chapter and
26 of ss. 849.092 and 849.094(1), (2), and (7).

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

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

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

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

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

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

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

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

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

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

29 (g)(h) Full disclosure of all pertinent information
30 concerning the use of lodging or vacation certificates,
31 including the terms and conditions of the campaign and the

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

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

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

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

27 (b) All rules, terms, requirements, and preconditions
28 which must be fulfilled or met before a prospective purchaser
29 may claim any prize, gift, or other item involved in the prize
30 and gift promotional plan, including whether the prospective
31

1 purchaser is required to attend a sales presentation in order
2 to receive the prize, gift, or other item.

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

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

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

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

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

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

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

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

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

30 (1) A copy of each contract for the sale of a
31 timeshare interest period, which contract has not been

1 canceled. If a timeshare estate is being sold, the seller is
2 required to retain a copy of the contract only until a deed of
3 conveyance, agreement for deed, or lease is recorded in the
4 office of the clerk of the circuit court in the county wherein
5 the plan is located.

6 Section 20. Section 721.13, Florida Statutes, is
7 amended to read:

8 721.13 Management.--

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

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

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

29 3. An owners' association that is the managing entity
30 of a timeshare plan that includes condominium units or
31 cooperative units shall not be considered a condominium

1 association pursuant to the provisions of chapter 718 or a
2 cooperative association pursuant to the provisions of chapter
3 719, unless such owners' association also operates the entire
4 condominium pursuant to s. 718.111 or the entire cooperative
5 pursuant to s. 719.104.

6 (c) With respect to any timeshare plan other than one
7 described in paragraph (b), any developer shall be considered
8 the managing entity of the timeshare plan unless and until
9 such developer clearly provides in the timeshare instrument
10 that a different party will serve as managing entity, which
11 party has acknowledged in writing that it has accepted the
12 duties and obligations of serving as managing entity. In the
13 event such other party subsequently resigns or otherwise
14 ceases to perform its duties as managing entity, any developer
15 shall again be considered the managing entity until the
16 developer arranges for a new managing entity pursuant to this
17 paragraph.

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

22 (e) Any managing entity performing community
23 association management must comply with part VIII of chapter
24 468.

25 (2)(a) The managing entity shall act in the capacity
26 of a fiduciary to the purchasers of the timeshare plan. No
27 penalty imposed by the division pursuant to s. 721.26 against
28 any managing entity for breach of fiduciary duty shall be
29 assessed as a common expense of any timeshare plan.

30 (b) The managing entity shall invest the operating and
31 reserve funds of the timeshare plan in accordance with s.

1 518.11(1); however, the managing entity shall give safety of
2 capital greater weight than production of income. In no event
3 shall the managing entity invest timeshare plan funds with a
4 developer or with any entity that is not independent of any
5 developer or any managing entity within the meaning of s.
6 721.05(18), and in no event shall the managing entity invest
7 timeshare plan funds in notes and mortgages related in any way
8 to the timeshare plan.

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

11 (a) Management and maintenance of all accommodations
12 and facilities constituting the timeshare plan.

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

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

31

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

18 (d)1. Maintenance of all books and records concerning
19 the timeshare plan so that all such books and records are
20 reasonably available for inspection by any purchaser or the
21 authorized agent of such purchaser. For purposes of this
22 subparagraph, the books and records of the timeshare plan
23 shall be considered "reasonably available" if copies of the
24 requested portions are delivered to the purchaser or the
25 purchaser's agent within 7 days of the date the managing
26 entity receives a written request for the records signed by
27 the purchaser. The managing entity may charge the purchaser a
28 reasonable fee for copying the requested information not to
29 exceed 25 cents per page. However, any purchaser or agent of
30 such purchaser shall be permitted to personally inspect and
31 examine the books and records wherever located at any

1 reasonable time, under reasonable conditions, and under the
2 supervision of the custodian of those records. The custodian
3 shall supply copies of the records where requested and upon
4 payment of the copying fee. No fees other than those set forth
5 in this section may be charged for the providing of,
6 inspection, or examination of books and records. All books and
7 financial records of the timeshare plan must be maintained in
8 accordance with generally accepted accounting practices.

9 2. If the books and records of the timeshare plan are
10 not maintained on the premises of the accommodations and
11 facilities of the timeshare plan, the managing entity shall
12 inform the division in writing of the location of the books
13 and records and the name and address of the person who acts as
14 custodian of the books and records at that location. In the
15 event that the location of the books and records changes, the
16 managing entity shall notify the division of the change in
17 location and the name and address of the new custodian within
18 30 days of the date the books and records are moved. The
19 purchasers shall be notified of the location of the books and
20 records and the name and address of the custodian in the copy
21 of the annual budget provided to them pursuant to paragraph
22 (c).

23 3. The division is authorized to adopt rules which
24 specify those items and matters that shall be included in the
25 books and records of the timeshare plan and which specify
26 procedures to be followed in requesting and delivering copies
27 of the books and records.

28 4. Notwithstanding any provision of chapter 718 or
29 chapter 719 to the contrary, the managing entity may not
30 furnish the name or address of any purchaser to any other
31 purchaser or authorized agent thereof unless the purchaser

1 whose name and address are requested first approves the
2 disclosure in writing.

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

26 (f) Making available for inspection by the division
27 any books and records of the timeshare plan upon the request
28 of the division. The division may enforce this paragraph by
29 making direct application to the circuit court.

30 (g) Scheduling occupancy of the timeshare units, when
31 purchasers are not entitled to use specific timeshare periods,

1 so that all purchasers will be provided the use and possession
2 of the accommodations and facilities of the timeshare plan
3 which they have purchased.

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

7 (i) 1. Entering into an ad valorem tax escrow agreement
8 prior to the receipt of any ad valorem tax escrow payments
9 into the ad valorem tax escrow account, as long as an
10 independent escrow agent is required by s. 192.037.

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

23 (j) Notwithstanding anything contained in chapter 718
24 or chapter 719 to the contrary, purchasers shall not have the
25 power to cancel contracts entered into by the managing entity
26 relating to a master or community antenna television system, a
27 franchised cable television service, or any similar paid
28 television programming service or bulk rate services
29 agreement.

30 (4) The managing entity shall maintain among its
31 records and provide to the division upon request a complete

1 list of the names and addresses of all purchasers and owners
2 of timeshare units in the timeshare plan. The managing entity
3 shall update this list no less frequently than quarterly.
4 Pursuant to paragraph (3)(d), the managing entity may not
5 publish this owner's list or provide a copy of it to any
6 purchaser or to any third party other than the division.
7 However, the managing entity shall mail ~~initiate a mailing~~ to
8 those persons listed on the owner's list materials provided by
9 any purchaser, upon the written request of that any purchaser,
10 if the purpose of the mailing is to advance legitimate
11 association business, such as a proxy solicitation for any
12 purpose, including the recall of one or more board members
13 elected by the owners or the discharge of the manager or
14 management firm. The use of any proxies solicited in this
15 manner must comply with the provisions of the timeshare
16 instrument and this chapter. A mailing requested for the
17 purpose of advancing legitimate association business shall
18 occur within 30 days after receipt of a request from a
19 purchaser. The board of administration of the association
20 shall be responsible for determining the appropriateness of
21 any mailing requested pursuant to this subsection, ~~and it~~
22 ~~shall be a violation of this chapter and of part VIII of~~
23 ~~chapter 468 for the board of administration and/or the manager~~
24 ~~or management firm to refuse to initiate any mailing requested~~
25 ~~for the purpose of advancing legitimate association business.~~
26 The purchaser who requests the mailing must reimburse the
27 association in advance for the association's actual costs in
28 performing the mailing. It shall be a violation of this
29 chapter and, if applicable, of pt. VIII of chapter 468, for
30 the board of administration or the manager or management firm
31 to refuse to mail any material requested by the purchaser to

1 be mailed, provided the sole purpose of the materials is to
2 advance legitimate association business. If the purpose of the
3 mailing is a proxy solicitation to recall one or more board
4 members elected by the owners or to discharge the manager or
5 management firm and the managing entity does not mail the
6 materials within 30 days after receipt of a request from a
7 purchaser, the circuit court in the county where the timeshare
8 plan is located may, upon application from the requesting
9 purchaser, summarily order the mailing of the materials solely
10 related to the recall of one or more board members elected by
11 the owners or the discharge of the manager or management firm.
12 The court shall dispose of an application on an expedited
13 basis. In the event of such an order, the court may order the
14 managing entity to pay the purchaser's costs, including
15 attorney's fees reasonably incurred to enforce the purchaser's
16 rights, unless the managing entity can prove it refused the
17 mailing in good faith because of a reasonable basis for doubt
18 about the legitimacy of the mailing.

19 (5) Any managing entity, or individual officer,
20 director, employee, or agent thereof, who willfully
21 misappropriates the property or funds of a timeshare plan
22 commits a felony of the third degree, punishable as provided
23 in s. 775.082, s. 775.083, or s. 775.084, or the successor
24 thereof.

25 (6)(a) The managing entity of any timeshare plan
26 located in this state, including, but not limited to, those
27 plans created with respect to a condominium pursuant to
28 chapter 718 or a cooperative pursuant to chapter 719, may deny
29 the use of the accommodations and facilities of the timeshare
30 plan, including the denial of the right to make a reservation
31 or the cancellation of a confirmed reservation for timeshare

1 periods in a floating reservation timeshare plan,to any
2 purchaser who is delinquent in the payment of any assessments
3 made by the managing entity against such purchaser for common
4 expenses or for ad valorem real estate taxes pursuant to this
5 chapter or pursuant to s. 192.037. Such denial of use shall
6 also extend to those parties claiming under the delinquent
7 purchaser described in paragraphs (b) and (c). For purposes
8 of this subsection, a purchaser shall be considered delinquent
9 in the payment of a given assessment only upon the expiration
10 of 60 days after the date the assessment is billed to the
11 purchaser or upon the expiration of 60 days after the date the
12 assessment is due, whichever is later. For purposes of this
13 subsection, an affiliated exchange program shall be any
14 exchange program which has a contractual relationship with the
15 creating developer or the managing entity of the timeshare
16 plan, or any exchange program that notifies the managing
17 entity in writing that it has members that are purchasers of
18 the timeshare plan, and the exchange companies operating such
19 affiliated exchange programs shall be affiliated exchange
20 companies. Any denial of use for failure to pay assessments
21 shall be implemented only pursuant to this subsection.

22 (b) A managing entity desiring to deny the use of the
23 accommodations and facilities of the timeshare plan to a
24 delinquent purchaser and to those claiming under the
25 purchaser, including his or her guests, lessees, and third
26 parties receiving use rights in the timeshare period in
27 question through a nonaffiliated exchange program, shall, no
28 less than 30 days after the date the assessment is due in
29 accordance with the timeshare instrument ~~prior to the first~~
30 ~~day of the purchaser's use period~~, notify the purchaser in
31 writing of the total amount of any delinquency which then

1 ~~exists or which will exist as of the first day of such use~~
2 ~~period~~, including any accrued interest and late charges
3 permitted to be imposed under the terms of ~~the public offering~~
4 ~~statement for~~ the timeshare plan or by law and including a per
5 diem amount, if any, to account for further accrual of
6 interest and late charges between the stated effective date of
7 the notice and the first date of use. The notice shall also
8 clearly state that the purchaser will not be permitted to use
9 his or her timeshare period, that the purchaser will not be
10 permitted to make a reservation in the timeshare plan's
11 reservation system, or that any confirmed reservation may be
12 cancelled, as applicable, until the total amount of such
13 delinquency is satisfied in full or until the purchaser
14 produces satisfactory evidence that the delinquency does not
15 exist. The notice shall be mailed to the purchaser at his or
16 her last known address as recorded in the books and records of
17 the timeshare plan, and the notice shall be effective to bar
18 the use of the purchaser and those claiming use rights under
19 the purchaser, including his or her guests, lessees, and third
20 parties receiving use rights in the timeshare period in
21 question through a nonaffiliated exchange program, until such
22 time as the purchaser is no longer delinquent. The notice
23 shall not be effective to bar the use of third parties
24 receiving use rights in the timeshare period in question
25 through an affiliated exchange program without the additional
26 notice to the affiliated exchange program required by
27 paragraph (c).

28 (c) In addition to giving notice to the delinquent
29 purchaser as required by paragraph (b), a managing entity
30 desiring to deny the use of the accommodations and facilities
31 of the timeshare plan to third parties receiving use rights in

1 the delinquent purchaser's timeshare period through any
2 affiliated exchange program shall notify the affiliated
3 exchange company in writing of the denial of use. The receipt
4 of such written notice by the affiliated exchange company
5 shall be effective to bar the use of all third parties
6 claiming through the affiliated exchange program, and such
7 notice shall be binding upon the affiliated exchange company
8 and all third parties claiming through the affiliated exchange
9 program until such time as the affiliated exchange company
10 receives notice from the managing entity that the purchaser is
11 no longer delinquent. However, any third party claiming
12 through the affiliated exchange program who has received a
13 confirmed assignment of the delinquent purchaser's use rights
14 from the affiliated exchange company prior to the expiration
15 of 48 hours after the receipt by the affiliated exchange
16 company of such written notice from the managing entity shall
17 be permitted by the managing entity to use the accommodations
18 and facilities of the timeshare plan to the same extent that
19 he or she would be allowed to use such accommodations and
20 facilities if the delinquent purchaser were not delinquent.

21 (d) Any costs reasonably incurred by the managing
22 entity in connection with its compliance with the requirements
23 of paragraphs (b) and (c), together with any costs reasonably
24 incurred by an affiliated exchange company in connection with
25 its compliance with the requirements of paragraph (c), may be
26 assessed by the managing entity against the delinquent
27 purchaser and collected in the same manner as if such costs
28 were common expenses of the timeshare plan allocable solely to
29 the delinquent purchaser. The costs incurred by the affiliated
30 exchange company shall be collected by the managing entity as
31 the agent for the affiliated exchange company. In no event

1 shall the total costs to be assessed against the delinquent
2 purchaser pursuant to this paragraph at any one time exceed 5
3 percent of the total amount of delinquency contained in the
4 notice given to the delinquent purchaser pursuant to paragraph
5 (b) per timeshare period or \$15 per timeshare period,
6 whichever is less.

7 (e) An exchange company may elect to deny exchange
8 privileges to any member whose use of the accommodations and
9 facilities of the member's timeshare plan is denied pursuant
10 to paragraph (b), and no exchange program or exchange company
11 shall be liable to any of its members or third parties on
12 account of any such denial of exchange privileges.

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

28 2. The notice of intent to rent, which may be included
29 in the notice required by paragraph (b), must state in
30 conspicuous type that:
31

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

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

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

20 3. In securing a rental pursuant to this paragraph,
21 the managing entity shall not be required to obtain the
22 highest nightly rental rate available, nor any particular
23 rental rate, and the managing entity shall not be required to
24 rent the entire timeshare period; however, the managing entity
25 must use reasonable efforts to secure a rental that is
26 commensurate with other rentals of similar timeshare periods
27 or use rights generally secured at that time.

28 (g) A managing entity shall have breached its
29 fiduciary duty described in subsection (2) in the event it
30 enforces the denial of use pursuant to paragraph (b) against
31 any one purchaser or group of purchasers without similarly

1 enforcing it against all purchasers, including all developers
2 and owners of the underlying fee; however, a managing entity
3 shall not be required to solicit rentals pursuant to paragraph
4 (f) for every delinquent purchaser. A managing entity shall
5 also have breached its fiduciary duty in the event an error in
6 the books and records of the timeshare plan results in a
7 denial of use pursuant to this subsection of any purchaser who
8 is not, in fact, delinquent. In addition to any remedies
9 otherwise available to purchasers of the timeshare plan
10 arising from such breaches of fiduciary duty, such breach
11 shall also constitute a violation of this chapter. In
12 addition, any purchaser receiving a notice of delinquency
13 pursuant to paragraph (b), or any third party claiming under
14 such purchaser pursuant to paragraph (b), may immediately
15 bring an action for injunctive or declaratory relief against
16 the managing entity seeking to have the notice invalidated on
17 the grounds that the purchaser is not, in fact, delinquent,
18 that the managing entity failed to follow the procedures
19 prescribed by this section, or on any other available grounds.
20 The prevailing party in any such action shall be entitled to
21 recover his or her reasonable attorney's fees from the losing
22 party.

23 (7) Unless the articles of incorporation, the bylaws,
24 or the provisions of this chapter provide for a higher quorum
25 requirement, the percentage of voting interests required to
26 make decisions and to constitute a quorum at a meeting of the
27 members of a timeshare condominium or owners' association
28 shall be 15 percent of the voting interests. If a quorum is
29 not present at any meeting of the owners'association at which
30 members of the board of administration are to be elected, the
31 meeting may be adjourned and reconvened within 90 days for the

1 sole purpose of electing members of the board of
2 administration, and the quorum for such adjourned meeting
3 shall be 15 percent of the voting interests. This provision
4 shall apply notwithstanding any provision of chapter 718 or
5 chapter 719 to the contrary.

6 (8) Notwithstanding anything to the contrary in s.
7 718.110, s. 718.113, s. 718.114, or s. 719.1055, the board of
8 administration of any owners' association that operates a
9 timeshare condominium pursuant to s. 718.111, or a timeshare
10 cooperative pursuant to s. 719.104, shall have the power to
11 make material alterations or substantial additions to the
12 accommodations or facilities of such timeshare condominium or
13 timeshare cooperative without the approval of the association.
14 However, if the timeshare condominium or timeshare cooperative
15 contains any residential units that are not subject to the
16 timeshare plan, such action by the board of administration
17 must be approved by a majority of the owners of such
18 residential units. Unless otherwise provided in the timeshare
19 instrument as originally recorded, no such amendment may
20 change the configuration or size of any accommodation in any
21 material fashion, or change the proportion or percentage by
22 which a member of the association shares the common expenses,
23 unless the record owners of the affected units or timeshare
24 interests and all record owners of liens on the affected units
25 or timeshare interests join in the execution of the amendment.

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

31

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

3 721.14 Discharge of managing entity.--

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

25 Section 22. Section 721.15, Florida Statutes, is
26 amended to read:

27 721.15 Assessments for common expenses.--

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

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

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

30 (2)(a) After the creation or provision of a managing
31 entity, the managing entity shall make an annual assessment

1 against each purchaser for the payment of common expenses,
2 based on the projected annual budget, in the amount specified
3 by the contract between the seller and the purchaser or in the
4 timeshare instrument.

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

1 all timeshare interests shall be assessed in accordance with
2 their ownership interest as required by paragraph (1)(a).

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

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

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

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

30 (5) Any assessments for common expenses which have not
31 been spent for common expenses during the year for which such

1 assessments were made shall be shown as an item on the annual
2 budget.

3 (6) Notwithstanding any contrary requirements of s.
4 718.112(2)(g) or s. 719.106(1)(g), for timeshare plans subject
5 to this chapter, assessments against purchasers need not be
6 made more frequently than annually.

7 (7) A purchaser, regardless of how her or his
8 timeshare estate or timeshare license has been acquired,
9 including a purchaser at a judicial sale, is personally liable
10 for all assessments for common expenses which come due while
11 the purchaser is the owner of such interest. A successor in
12 interest is jointly and severally liable with her or his
13 predecessor in interest for all unpaid assessments against
14 such predecessor up to the time of transfer of the timeshare
15 interest to such successor without prejudice to any right a
16 successor in interest may have to recover from her or his
17 predecessor in interest any amounts assessed against such
18 predecessor and paid by such successor. The predecessor in
19 interest shall provide the managing entity with a copy of the
20 recorded deed of conveyance if the interest is a timeshare
21 estate or a copy of the instrument of transfer if the interest
22 is a timeshare license, containing the name and mailing
23 address of the successor in interest within 15 days after the
24 date of transfer. The managing entity shall not be liable to
25 any person for any inaccuracy in the books and records of the
26 timeshare plan arising from the failure of the predecessor in
27 interest to timely and correctly notify the managing entity of
28 the name and mailing address of the successor in interest.
29 ~~Nothing in this subsection shall be construed to impair the~~
30 ~~operation of s. 718.116 for timeshare condominiums.~~

31

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

9 ~~(9)~~(a) Anything contained in chapter 718 or chapter
10 719 to the contrary notwithstanding, the managing entity of a
11 timeshare plan shall not commingle operating funds with
12 reserve funds; however, the managing entity may maintain
13 operating and reserve funds within a single account for a
14 period not to exceed 30 days after the date on which the
15 managing entity received payment of such funds.

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

27 Section 23. Section 721.16, Florida Statutes, is
28 amended to read:

29 721.16 Liens for overdue assessments; liens for labor
30 performed on, or materials furnished to, a timeshare unit.--
31

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

10 (2) The managing entity may bring an action in its
11 name to foreclose a lien under subsection (1)~~for assessments~~
12 in the manner a mortgage of real property is foreclosed and
13 may also bring an action to recover a money judgment for the
14 unpaid assessments without waiving any claim of lien.
15 ~~However, in the case of a timeshare plan in which no interest~~
16 ~~in real property is conveyed, the managing entity may bring an~~
17 ~~action under the Uniform Commercial Code.~~

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

1 shall be signed and acknowledged by an officer or agent of the
2 managing entity. Upon full payment, the person making the
3 payment is entitled to receive a satisfaction of the lien.

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

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

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

15 721.165 Insurance.--

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

27 Section 25. Section 721.17, Florida Statutes, is
28 amended to read:

29 721.17 Transfer of interest.--Except in the case of a
30 timeshare plan subject to the provisions of chapter 718 or
31 chapter 719, no developer or owner of the underlying fee shall

1 sell, lease, assign, mortgage, or otherwise transfer his or
2 her interest in the accommodations and ~~or~~ facilities of the
3 timeshare plan except by an instrument evidencing the transfer
4 recorded in the public records of the county in which such ~~the~~
5 accommodations and ~~or~~ facilities are located. The instrument
6 shall be executed by both the transferor and transferee and
7 shall state:

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

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

13 (3) That the transferee will fully honor the rights of
14 the purchasers to occupy and use the accommodations and
15 facilities as provided in their original contracts and the
16 timeshare instruments.

17 (4) That the transferee will fully honor all rights of
18 timeshare purchasers to cancel their contracts and receive
19 appropriate refunds.

20 (5) That the obligations of the transferee under such
21 instrument will continue to exist despite any cancellation or
22 rejection of the contracts between the developer and purchaser
23 arising out of bankruptcy proceedings.

24
25 Should any transfer of the interest of the developer or owner
26 of the underlying fee occur in a manner which is not in
27 compliance with this section, the terms set forth in this
28 section shall be presumed to be a part of the transfer and
29 shall be deemed to be included in the instrument of transfer.
30 Notice shall be mailed to each purchaser of record within 30
31 days of the transfer unless such transfer does not affect the

1 purchaser's rights in or use of the timeshare plan. Persons
2 who hold mortgages on the property constituting a timeshare
3 plan before the registered public offering statement of such
4 plan is approved by the division shall not be considered
5 transferees for the purposes of this section.

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

8 721.18 Exchange programs; filing of information and
9 other materials; filing fees; unlawful acts in connection with
10 an exchange program.--

11 (1) If a purchaser is offered the opportunity to
12 subscribe to an exchange program, the seller shall deliver to
13 the purchaser, together with the purchaser public offering
14 statement, and prior to the offering or execution of any
15 contract between the purchaser and the company offering the
16 exchange program, written information regarding such exchange
17 program; or, if the exchange company is dealing directly with
18 the purchaser, the exchange company shall deliver to the
19 purchaser, prior to the initial offering or execution of any
20 contract between the purchaser and the company offering the
21 exchange program, written information regarding such exchange
22 program. In either case, the purchaser shall certify in
23 writing to the receipt of such information. Such information
24 shall include, but is not limited to, the following
25 information, the form and substance of which shall first be
26 approved by the division in accordance with subsection (2):

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

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

30 (c) Whether the exchange company or any of its
31 officers or directors has any legal or beneficial interest in

1 any developer, seller, or managing entity for any timeshare
2 plan participating in the exchange program and, if so, the
3 name and location of the timeshare plan and the nature of the
4 interest.

5 (d) Unless otherwise stated, a statement that the
6 purchaser's contract with the exchange company is a contract
7 separate and distinct from the purchaser's contract with the
8 seller of the timeshare plan.

9 (e) Whether the purchaser's participation in the
10 exchange program is dependent upon the continued affiliation
11 of the timeshare plan with the exchange program.

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

14 (g) A complete and accurate description of the terms
15 and conditions of the purchaser's contractual relationship
16 with the exchange program and the procedure by which changes
17 thereto may be made.

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

20 (i) A complete and accurate description of all
21 limitations, restrictions, or priorities employed in the
22 operation of the exchange program, including, but not limited
23 to, limitations on exchanges based on seasonality, timeshare
24 unit size, or levels of occupancy, expressed in boldfaced
25 type, and, in the event that such limitations, restrictions,
26 or priorities are not uniformly applied by the exchange
27 program, a clear description of the manner in which they are
28 applied.

29 (j) Whether exchanges are arranged on a
30 space-available basis and whether any guarantees of
31

1 fulfillment of specific requests for exchanges are made by the
2 exchange program.

3 (k) Whether and under what circumstances a purchaser,
4 in dealing with the exchange program, may lose the use and
5 occupancy of her or his timeshare period in any properly
6 applied for exchange without her or his being provided with
7 substitute accommodations by the exchange program.

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

12 (m) The name and address of the site of each
13 accommodation or facility included in the timeshare plans
14 participating in the exchange program.

15 (n) The number of the timeshare units in each
16 timeshare plan which are available for occupancy and which
17 qualify for participation in the exchange program, expressed
18 within the following numerical groupings: 1-5; 6-10; 11-20;
19 21-50; and 51 and over.

20 (o) The number of currently enrolled purchasers for
21 each timeshare plan participating in the exchange program,
22 expressed within the following numerical groupings: 1-100;
23 101-249; 250-499; 500-999; and 1,000 and over; and a statement
24 of the criteria used to determine those purchasers who are
25 currently enrolled with the exchange program.

26 (p) The disposition made by the exchange company of
27 timeshare periods deposited with the exchange program by
28 purchasers enrolled in the exchange program and not used by
29 the exchange company in effecting exchanges.

30 (q) The following information, which shall be
31 independently audited by a certified public accountant or

1 accounting firm in accordance with the standards of the
2 Accounting Standards Board of the American Institute of
3 Certified Public Accountants and reported annually beginning
4 no later than July 1, 1982:

5 1. The number of purchasers currently enrolled in the
6 exchange program.

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

9 3. The percentage of confirmed exchanges, which is the
10 number of exchanges confirmed by the exchange program divided
11 by the number of exchanges properly applied for, together with
12 a complete and accurate statement of the criteria used to
13 determine whether an exchange request was properly applied
14 for.

15 4. The number of timeshare periods for which the
16 exchange program has an outstanding obligation to provide an
17 exchange to a purchaser who relinquished a timeshare period
18 during the year in exchange for a timeshare period in any
19 future year.

20 5. The number of exchanges confirmed by the exchange
21 program during the year.

22 (r) A statement in boldfaced type to the effect that
23 the percentage described in subparagraph (q)3. is a summary of
24 the exchange requests entered with the exchange program in the
25 period reported and that the percentage does not indicate the
26 probabilities of a purchaser's being confirmed to any specific
27 choice or range of choices.

28 Section 27. Section 721.19, Florida Statutes, is
29 amended to read:

30 721.19 Provisions requiring purchase or lease of
31 timeshare property by owners' association or purchasers ~~unit~~

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

10 Section 28. Section 721.20, Florida Statutes, is
11 amended to read:

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

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

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

25 ~~(2)(a) Pursuant to rules adopted by the division, each~~
26 ~~off-premises solicitor or other person who engages in the~~
27 ~~solicitation of prospective purchasers of units in a timeshare~~
28 ~~plan must purchase a timeshare occupational license for a fee~~
29 ~~of \$100. The license shall be issued to the solicitor for a~~
30 ~~2-year period and shall expire on the second anniversary of~~
31 ~~the date of issuance. Sellers of a timeshare plan who are~~

1 ~~licensed and in good standing under chapter 475 shall be~~
2 ~~exempt from licensure under this subsection upon filing proof~~
3 ~~of such licensure and good standing with the division prior to~~
4 ~~engaging in any solicitation activity. However, the division~~
5 ~~may deny, suspend, or revoke the exemption of such seller when~~
6 ~~the license issued under chapter 475 has been suspended or~~
7 ~~revoked.~~

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

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

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

25 (3) A solicitor who has violated the provisions of
26 chapter 468, chapter 718, chapter 719, this chapter, or the
27 rules of the division governing timesharing, ~~or when the~~
28 ~~holder of a license issued pursuant to chapter 475 has had his~~
29 ~~or her license suspended or revoked. If any occupational~~
30 ~~license expires by division rule while administrative charges~~
31 ~~are pending against the license, the proceedings against the~~

1 ~~license shall continue to conclusion as if the license were~~
2 ~~still in effect. In addition to those remedies available~~
3 ~~against the developer, the division may impose against an~~
4 ~~applicant or licensed solicitor a civil fine of up to \$500 in~~
5 ~~addition to, or in lieu of, a suspension or revocation~~
6 ~~provided for in this section for violation of the rules of the~~
7 ~~division.~~

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

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

20 ~~(4) County and municipal governments shall have the~~
21 ~~authority to adopt codes of conduct and regulations to govern~~
22 ~~solicitor activity conducted on public property, including~~
23 ~~providing for the imposition of penalties prescribed by a~~
24 ~~schedule of fines adopted by ordinance for violations of any~~
25 ~~such code of conduct or regulation. Any violation of any such~~
26 ~~adopted code of conduct or regulation shall not constitute a~~
27 ~~separate violation of this chapter. This subsection is not~~
28 ~~intended to restrict or invalidate any local code of conduct~~
29 ~~or regulation.~~

30 ~~(5)(3) This section does not apply to those~~
31 ~~individuals who offer for sale only timeshare interests~~

1 ~~periods~~ in timeshare property located outside this state and
2 who do not engage in any sales activity within this state or
3 to timeshare plans which are registered with the Securities
4 and Exchange Commission. For the purposes of this section,
5 both timeshare licenses and timeshare estates are considered
6 to be interests in real property.

7 (6)~~(4)~~ Notwithstanding the provisions of s. 475.452,
8 it is unlawful for any broker, salesperson, or
9 broker-salesperson to collect any advance fee for the listing
10 of any timeshare estate or timeshare license.

11 Section 29. Section 721.21, Florida Statutes, is
12 amended to read:

13 721.21 Purchasers' remedies.--An action for damages or
14 for injunctive or declaratory relief for a violation of this
15 chapter may be brought by any purchaser or owners'association
16 ~~of purchasers~~ against the developer, a seller, an escrow
17 agent, or the managing entity. The prevailing party in any
18 such action, or in any action in which the purchaser claims a
19 right of voidability based upon either a closing before the
20 expiration of the cancellation period or an amendment which
21 materially alters or modifies the offering in a manner adverse
22 to the purchaser, may be entitled to reasonable attorney's
23 fees. Relief under this section does not exclude other
24 remedies provided by law.

25 Section 30. Subsections (1) and (2) of section 721.24,
26 Florida Statutes, are amended to read:

27 721.24 Firesafety.--

28 (1) Any:

29 (a) Facility or accommodation of a timeshare plan, as
30 defined in this chapter, and chapter 718, or chapter 719,
31 which is of three stories or more and for which the

1 construction contract has been let after September 30, 1983,
2 with interior corridors which do not have direct access from
3 the timeshare unit to exterior means of egress, or

4 (b) Building over 75 feet in height that has direct
5 access from the timeshare unit to exterior means of egress and
6 for which the construction contract has been let after
7 September 30, 1983,

8
9 shall be equipped with an automatic sprinkler system installed
10 in compliance with the provisions prescribed in the National
11 Fire Protection Association publication NFPA No. 13 (1985),
12 "Standards for the Installation of Sprinkler Systems." The
13 sprinkler installation may be omitted in closets which are not
14 over 24 square feet in area and in bathrooms which are not
15 over 55 square feet in area, which closets and bathrooms are
16 located in timeshare units. Each timeshare unit shall be
17 equipped with an approved listed single-station smoke detector
18 meeting the minimum requirements of NFPA-74 (1984), "Standards
19 for the Installation, Maintenance and Use of Household Fire
20 Warning Equipment," powered from the building electrical
21 service, notwithstanding the number of stories in the
22 structure, if the contract for construction is let after
23 September 30, 1983. Single-station smoke detection is not
24 required when a timeshare unit's smoke detectors are connected
25 to a central alarm system which also alarms locally.

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

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

31

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

5 1. There is a minimum 1-hour separation between each
6 timeshare unit and between each timeshare unit and a corridor.

7 2. The building is constructed of noncombustible
8 materials.

9 3. The egress conditions meet the requirements of s.
10 5-3 of the Life Safety Code, NFPA 101 (1985).

11 4. The building has a complete automatic fire
12 detection system which meets the requirements of NFPA-72A
13 (1987) and NFPA-72E (1984), including smoke detectors in each
14 timeshare unit individually annunciating to a panel at a
15 supervised location.

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

18 721.26 Regulation by division.--The division has the
19 power to enforce and ensure compliance with the provisions of
20 this chapter, except for parts III and IV, using the powers
21 provided in this chapter, as well as the powers prescribed in
22 chapters 498, 718, and 719. In performing its duties, the
23 division shall have the following powers and duties:

24 (5) Notwithstanding any remedies available to
25 purchasers, if the division has reasonable cause to believe
26 that a violation of this chapter, or of any division rule or
27 order promulgated or issued pursuant to this chapter, has
28 occurred, the division may institute enforcement proceedings
29 in its own name against any regulated party, as such term is
30 defined in this subsection:

31

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

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

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

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

1 to an appropriate petition for receivership under this
2 subparagraph include, but are not limited to:

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

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

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

13
14 If, under the circumstances, it appears that the events giving
15 rise to the petition for receivership cannot be reasonably and
16 timely corrected in a cost-effective manner consistent with
17 the timeshare instrument, the receiver may petition the
18 circuit court to implement such amendments or revisions to the
19 timeshare instrument as may be necessary to enable the
20 managing entity to resume effective operation of the timeshare
21 plan, or to enter an order terminating the timeshare plan, or
22 to enter such further orders regarding the disposition of the
23 timeshare property as the court deems appropriate including
24 the disposition and sale of the timeshare property held by the
25 association or the purchasers. In the event of a receiver's
26 sale, all rights, title, and interest held by the association
27 or any purchaser shall be extinguished and title shall vest in
28 the buyer. This provision applies to timeshare estates and
29 timeshare licenses. All reasonable costs and fees of the
30 receiver relating to the receivership shall become common
31 expenses of the timeshare plan upon order of the court.

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

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

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

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

21 Section 32. Section 721.27, Florida Statutes, is
22 amended to read:

23 721.27 Annual fee for each timeshare unit ~~period~~ in
24 plan.--On January 1 of each year, each managing entity of a
25 timeshare plan located in this state shall collect as a common
26 expense and pay to the division an annual fee of \$2 for each 7
27 days of ~~equal to the aggregate filing fee calculated pursuant~~
28 ~~to s. 721.07(4)(a) or s. 721.58, whichever is applicable,~~
29 ~~based upon the total number of periods of 7-day annual use~~
30 availability that exist within the timeshare plan at that
31 time, subject to any limitations on the amount of such annual

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

11 Section 33. Section 721.29, Florida Statutes, is
12 created to read:

13 721.29 Recording.--If any timeshare plan
14 accommodations or facilities are located in any jurisdiction
15 that does not have recording laws or will not record any
16 document or instrument required to be recorded pursuant to
17 this chapter, the division shall have the discretion to accept
18 an alternative method of protecting purchasers' rights that
19 will be effective under the laws of that other jurisdiction.

20 Section 34. Section 721.51, Florida Statutes, is
21 amended to read:

22 721.51 Legislative purpose; scope.--

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

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

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

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

10 ~~1. The name and address of the multisite timeshare~~
11 ~~plan;~~

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

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

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

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

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

20
21 ~~The division is authorized to adopt rules requiring additional~~
22 ~~information to be furnished to the division or in the purchase~~
23 ~~contract in connection with the registration for exemption.~~

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

29 ~~(c) Each purchase contract utilized in offering a~~
30 ~~multisite timeshare plan for which an exemption is claimed~~
31 ~~pursuant to this subsection shall contain the following~~

1 ~~disclosure in conspicuous type immediately above the space~~
2 ~~provided for the purchaser's signature.~~

3
4 ~~The offering of this timeshare plan outside the~~
5 ~~jurisdictional limits of the United States of America is~~
6 ~~exempt from regulation under Florida law, and any purchase~~
7 ~~resulting from such an offer is not protected by the State of~~
8 ~~Florida. However, the management and operation of any~~
9 ~~accommodations or facilities located in Florida is subject to~~
10 ~~Florida law and may give rise to enforcement action regardless~~
11 ~~of the location of any offer.~~

12 Section 35. Subsection (4) of section 721.52, Florida
13 Statutes, is amended to read:

14 721.52 Definitions.--As used in this chapter part, the
15 term:

16 (4) "Multisite timeshare plan" means any method,
17 arrangement, or procedure with respect to which a purchaser
18 obtains, by any means, a recurring right to use and occupy
19 accommodations or facilities of more than one component site,
20 only through use of a reservation system, whether or not the
21 purchaser is able to elect to cease participating in the plan.
22 However, the term "multisite timeshare plan" shall not include
23 any method, arrangement, or procedure wherein:

24 (a) The contractually specified maximum total
25 financial obligation on the purchaser's part is \$3,000 or
26 less, during the entire term of the plan ~~\$1,500 or less,~~
27 ~~excluding the aggregate amount of any common expense~~
28 ~~assessments and special assessments levied by an owners'~~
29 ~~association or other person who is not an affiliate of the~~
30 ~~seller or the developer, provided that any such assessment~~
31 ~~obligations are fully described as accurately as possible in~~

1 ~~the purchaser's purchase contract, but including all other~~
2 ~~amounts paid by such purchaser for any purpose whatsoever,~~
3 ~~regardless of the term of such use and occupancy rights; or~~

4 (b) The term is for a period of 3 years or less,
5 regardless of the purchaser's contractually specified maximum
6 total financial obligation, if any. For purposes of
7 determining the term of such use and occupancy rights, the
8 period of any optional renewals which a purchaser, in his or
9 her sole discretion, may elect to exercise, whether or not for
10 additional consideration, shall be included.

11
12 Multisite timeshare plan does not mean an exchange program as
13 defined in s. 721.05. Timeshare estates may only be offered
14 in a multisite timeshare plan pursuant to s. 721.57.

15 Section 36. Paragraph (e) is added to subsection (1)
16 of section 721.53, Florida Statutes, to read:

17 721.53 Subordination instruments; alternate security
18 arrangements.--

19 (1) With respect to each accommodation or facility of
20 a multisite timeshare plan, the developer shall provide the
21 division with satisfactory evidence that one of the following
22 has occurred with respect to each interestholder prior to
23 offering the accommodation or facility as a part of the
24 multisite timeshare plan:

25 (e) The interestholder has transferred the subject
26 accommodation or facility or all use rights therein to a trust
27 that complies with this paragraph. Prior to such transfer, any
28 lien or other encumbrance against such accommodation or
29 facility shall be made subject to a nondisturbance and notice
30 to creditors instrument pursuant to paragraph (a) or a
31 subordination and notice to creditors instrument pursuant to

1 paragraph (b). No transfer pursuant to this paragraph shall
2 become effective until the trust accepts such transfer and the
3 responsibilities set forth herein. A trust established
4 pursuant to this paragraph shall comply with the following
5 provisions:

6 1. The trustee shall be an individual or a business
7 entity authorized and qualified to conduct trust business in
8 this state. Any corporation authorized to do business in this
9 state may act as trustee in connection with a timeshare plan
10 pursuant to this chapter. The trustee must be independent from
11 any developer or managing entity of the timeshare plan or any
12 interestholder of any accommodation or facility of such plan.
13 The same trustee may hold the accommodations and facilities,
14 or use rights therein, for one or more of the component sites
15 of the timeshare plan.

16 2. The trust shall be irrevocable so long as any
17 purchaser has a right to occupy any portion of the timeshare
18 property pursuant to the timeshare plan.

19 3. The trustee shall not convey, hypothecate,
20 mortgage, assign, lease, or otherwise transfer or encumber in
21 any fashion any interests in or portion of the timeshare
22 property with respect to which any purchaser has a right of
23 use or occupancy unless the timeshare plan is terminated
24 pursuant to the timeshare instrument, or the timeshare
25 property held in trust is deleted from a multisite timeshare
26 plan pursuant to s. 721.552(3), or such conveyance,
27 hypothecation, mortgage, assignment, lease, transfer, or
28 encumbrance is approved by 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.

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

16 5. The trustee shall not resign upon less than 90
17 days' prior written notice to the managing entity and the
18 division. No resignation shall become effective until a
19 substitute trustee, approved by the division, is appointed by
20 the managing entity and accepts the appointment.

21 6. The documents establishing the trust arrangement
22 shall constitute a part of the timeshare instrument.

23 7. For trusts holding property in component sites
24 located outside this state, the trust holding such property
25 shall be deemed in compliance with the requirements of this
26 paragraph, if such trust is authorized and qualified to
27 conduct trust business under the laws of such jurisdiction and
28 the agreement or law governing such trust arrangement provides
29 substantially similar protections for the purchaser as are
30 required in this paragraph for trusts holding property in a
31 component site located in this state.

1 8. The trustee shall have appointed a registered agent
2 in this state for service of process. In the event such a
3 registered agent is not appointed, service of process may be
4 served pursuant to s. 721.265.

5 Section 37. Section 721.55, Florida Statutes, is
6 amended to read:

7 721.55 Multisite timeshare plan public offering
8 statement.--Each registered public offering statement ~~filed~~
9 ~~with the division~~ for a multisite timeshare plan shall contain
10 the information required by this section and shall comply with
11 the provisions of s. 721.07, except as otherwise provided
12 therein. The division is authorized to provide by rule the
13 method by which a developer must provide such information to
14 the division. Each multisite timeshare plan registered public
15 offering statement shall contain the following information and
16 disclosures:

- 17 (1) A cover page containing:
18 (a) The name of the multisite timeshare plan.
19 (b) The following statement in conspicuous type:
20

21 This public offering statement contains important
22 matters to be considered in acquiring an interest in a
23 multisite timeshare plan (or multisite vacation ownership plan
24 or multisite vacation plan or vacation club). The statements
25 contained herein are only summary in nature. A prospective
26 purchaser should refer to all references, accompanying
27 exhibits ~~hereto~~, contract documents, and sales materials. The
28 prospective purchaser should not rely upon oral
29 representations as being correct and should refer to this
30 document and accompanying exhibits for correct
31 representations.

1
2 (2) A summary containing all statements required to be
3 in conspicuous type in the public offering statement and in
4 all exhibits thereto.

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

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

11 (a) A description of the multisite timeshare plan,
12 including its term, legal structure, and form of ownership.
13 For multisite timeshare plans in which the purchaser will
14 receive a timeshare estate pursuant to s. 721.57 or a specific
15 timeshare license as defined in s. 721.552(4), the description
16 must also include the term of each component site within the
17 multisite timeshare plan.

18 (b) A description of the structure and ownership of
19 the reservation system together with a disclosure of the
20 entity responsible for the operation of the reservation
21 system. The description shall include the financial terms of
22 any lease of the reservation system, if applicable. The
23 developer shall not be required to disclose the financial
24 terms of any such lease if such lease is prepaid in full for
25 the term of the multisite timeshare plan or to any extent that
26 neither purchasers nor the managing entity will be required to
27 make payments for the continued use of the system following
28 default by the developer or termination of the managing
29 entity.

30 (c)1. A description of the manner in which the
31 reservation system operates. The description shall include a

1 disclosure in compliance with the demand balancing standard
2 set forth in s. 721.56(6) and shall describe the developer's
3 efforts to comply with same in creating the reservation
4 system. The description shall also include a summary of the
5 rules and regulations governing access to and use of the
6 reservation system.

7 2. In lieu of describing the rules and regulations of
8 the reservation system in the public offering statement text,
9 the developer may attach the rules and regulations as a
10 separate public offering statement exhibit, together with a
11 cross-reference in the public offering statement text to such
12 exhibit.

13 ~~3. For each component site for which occupancy~~
14 ~~information is available, the developer shall disclose the~~
15 ~~average level of occupancy calculated by category of quarter~~
16 ~~or season for the calendar year including the date 2 years~~
17 ~~prior to the date on which the multisite timeshare plan is~~
18 ~~first offered. Every 2 years such averages must be revised~~
19 ~~and updated. In lieu of providing such information in the~~
20 ~~public offering statement text, the developer may provide the~~
21 ~~information in a public offering statement exhibit, together~~
22 ~~with a cross-reference in the public offering statement text~~
23 ~~to such exhibit.~~

24 (d) The existence of and an explanation regarding any
25 priority reservation features that affect a purchaser's
26 ability to make reservations for the use of a given
27 accommodation or facility on a first come, first served basis,
28 including, if applicable, the following statement in
29 conspicuous type:

30
31

1 Component sites contained in the multisite timeshare
2 plan (or multisite vacation ownership plan or multisite
3 vacation plan or vacation club) are subject to priority
4 reservation features which may affect your ability to obtain a
5 reservation.

6
7 (e) A summary of the material rules and regulations,
8 if any, other than the reservation system rules and
9 regulations, affecting the purchaser's use of each
10 accommodation and facility at each component site.

11 (f) If the provisions of s. 721.552 and the timeshare
12 instrument permit additions, substitutions, or deletions of
13 accommodations or facilities, the public offering statement
14 must include substantially the following information:

15 1. Additions.--

16 a. A description of the basis upon which new
17 accommodations and facilities may be added to the multisite
18 timeshare plan; by whom additions may be made; and the
19 anticipated effect of the addition of new accommodations and
20 facilities upon the reservation system, its priorities, its
21 rules and regulations, and the availability of existing
22 accommodations and facilities.

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

27 c. The developer shall also disclose any extent to
28 which the purchasers of the multisite timeshare plan will have
29 the right to consent to any proposed additions; if the
30 purchasers do not have the right to consent, the developer
31 must include the following disclosure in conspicuous type:

1
2 Accommodations and facilities may be added to this
3 multisite timeshare plan (or multisite vacation ownership plan
4 or multisite vacation plan or vacation club) without the
5 consent of the purchasers. The addition of accommodations and
6 facilities to the plan may result in the addition of new
7 purchasers who will compete with existing purchasers in making
8 reservations for the use of available accommodations and
9 facilities within the plan, and may also result in an increase
10 in the annual assessment against purchasers for common
11 expenses.

12
13 2. Substitutions.--

14 a. A description of the basis upon which new
15 accommodations and facilities may be substituted for existing
16 accommodations and facilities of the multisite timeshare plan;
17 by whom substitutions may be made; the basis upon which the
18 determination may be made to cause such substitutions to
19 occur; and any limitations upon the ability to cause
20 substitutions to occur.

21 b. The developer shall also disclose any extent to
22 which purchasers will have the right to consent to any
23 proposed substitutions; if the purchasers do not have the
24 right to consent, the developer must include the following
25 disclosure in conspicuous type:

26
27 New accommodations and facilities may be substituted
28 for existing accommodations and facilities of this multisite
29 timeshare plan (or multisite vacation ownership plan or
30 multisite vacation plan or vacation club) without the consent
31 of the purchasers. The replacement accommodations and

1 facilities may be located at a different place or may be of a
2 different type or quality than the replaced accommodations and
3 facilities. The substitution of accommodations and facilities
4 may also result in an increase in the annual assessment
5 against purchasers for common expenses.

6
7 3. Deletions.--A description of any provision of the
8 timeshare instrument governing deletion of accommodations or
9 ~~and~~ facilities from the multisite timeshare plan. If the
10 timeshare instrument does not provide for business
11 interruption insurance in the event of a casualty, or if it is
12 unavailable, or if the instrument permits the developer, the
13 managing entity, or the purchasers to elect not to reconstruct
14 after casualty under certain circumstances or to secure
15 replacement accommodations or facilities in lieu of
16 reconstruction, the public offering statement must contain a
17 disclosure that during the reconstruction, replacement, or
18 acquisition period, or as a result of a decision not to
19 reconstruct, purchasers of the plan may temporarily compete
20 for available accommodations on a greater than one-to-one
21 purchaser to accommodation ratio.

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

24 1. The identity of the developer; the developer's
25 business address; the number of years of experience the
26 developer has in the timeshare, hotel, motel, travel, resort,
27 or leisure industries; and a description of any pending
28 lawsuit or judgment against the developer which is material to
29 the plan. If there are no such pending lawsuits or judgments,
30 there shall be a statement to that effect.

31

1 2. The identity of the managing entity of the
2 multisite timeshare plan; the managing entity's business
3 address; the number of years of experience the managing entity
4 has in the timeshare, hotel, motel, travel, resort, or leisure
5 industries; and a description of any lawsuit or judgment
6 against the managing entity which is material to the plan. If
7 there are no pending lawsuits or judgments, there shall be a
8 statement to that effect. The description of the managing
9 entity shall also include a description of the relationship
10 among the managing entity of the multisite timeshare plan and
11 the various component site managing entities.

12 (h) A description of the purchaser's liability for
13 common expenses of the multisite timeshare plan, including the
14 following:

15 1. A description of the common expenses of the plan,
16 including the method of allocation and assessment of such
17 common expenses, whether component site common expenses and
18 real estate taxes are included within the total common expense
19 assessment of the multisite timeshare plan, and, if not, the
20 manner in which timely payment of component site common
21 expenses and real estate taxes shall be accomplished.

22 2. A description of any cap imposed upon the level of
23 common expenses payable by the purchaser. In no event shall
24 the total common expense assessment for the multisite
25 timeshare plan in a given calendar year exceed 125 percent of
26 the total common expense assessment for the plan in the
27 previous calendar year.

28 3. A description of the entity responsible for the
29 determination of the common expenses of the multisite
30 timeshare plan, as well as any entity which may increase the
31

1 level of common expenses assessed against the purchaser at the
2 multisite timeshare plan level.

3 4. A description of the method used to collect common
4 expenses, including the entity responsible for such
5 collections, and the lien rights of any entity for nonpayment
6 of common expenses. If the common expenses of any component
7 site are collected by the managing entity of the multisite
8 timeshare plan, a statement to that effect together with the
9 identity and address of the escrow agent required by s.
10 721.56(3).

11 5. If the purchaser will receive a nonspecific
12 timeshare license as defined in s. 721.552(4), a statement
13 that a multisite timeshare plan budget is attached to the
14 public offering statement as an exhibit pursuant to paragraph
15 (7)(c). The multisite timeshare plan budget shall comply with
16 the provisions of s. 721.07(5)(u)~~(x)~~.

17 6. If the developer intends to guarantee the level of
18 assessments for the multisite timeshare plan, such guarantee
19 must be based upon a good faith estimate of the revenues and
20 expenses of the multisite timeshare plan. The guarantee must
21 include a description of the following:

22 a. The specific time period, measured in one or more
23 calendar or fiscal years, during which the guarantee will be
24 in effect.

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

29 c. The level, expressed in total dollars, at which the
30 developer guarantees the assessments. If the developer has
31

1 reserved the right to extend or increase the guarantee level,
2 a disclosure must be included to that effect.

3 7. If ~~As~~ required under applicable law, the developer
4 shall also disclose the following matters for each component
5 site:

6 a. Any limitation upon annual increases in common
7 expenses;

8 b. The existence of any bad debt or working capital
9 reserve; and

10 c. The existence of any replacement or deferred
11 maintenance reserve.

12 (i) If there are any restrictions upon the sale,
13 transfer, conveyance, or leasing of an interest in a multisite
14 timeshare plan, a description of the restrictions together
15 with a statement in conspicuous type in substantially the
16 following form:

17

18 The sale, lease, or transfer of interests in this
19 multisite timeshare plan is restricted or controlled.

20

21 (j) The following statement in conspicuous type in
22 substantially the following form:

23

24 The purchase of an interest in a multisite timeshare
25 plan (or multisite vacation ownership plan or multisite
26 vacation plan or vacation club) should be based upon its value
27 as a vacation experience or for spending leisure time, and not
28 considered for purposes of acquiring an appreciating
29 investment or with an expectation that the interest may be
30 resold.

31

1 (k) If the multisite timeshare plan provides
2 purchasers with the opportunity to participate in an exchange
3 program, a description of the name and address of the exchange
4 company and the method by which a purchaser accesses the
5 exchange program. In lieu of this requirement, the public
6 offering statement text may contain a cross-reference to other
7 provisions in the public offering statement or in an exhibit
8 containing this information.

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

13 1. The name and address of each component site.

14 2. The number of accommodations, timeshare interests,
15 and timeshare periods, expressed in periods of 7-day use
16 availability, committed to the multisite timeshare plan and
17 available for use by purchasers.

18 3. Each type of accommodation in terms of the number
19 of bedrooms, bathrooms, sleeping capacity, and whether or not
20 the accommodation contains a full kitchen. For purposes of
21 this description, a full kitchen shall mean a kitchen having a
22 minimum of a dishwasher, range, sink, oven, and refrigerator.

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

25 a. The intended use of the facility, if not apparent
26 from the description.

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

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

31

1 **b.d.** Any user fees associated with a purchaser's use
2 of the facility.

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

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

16 (6) Any other information that the developer, with the
17 approval of the division, desires to include in the public
18 offering statement text.

19 (7) The following documents shall be included as
20 exhibits to the registered public offering statement ~~filed~~
21 ~~with the division~~, if applicable:

22 (a) The timeshare instrument.

23 (b) The reservation system rules and regulations.

24 (c) The multisite timeshare plan budget pursuant to
25 subparagraph (4)(h)5.

26 (d) Any document containing the material rules and
27 regulations described in paragraph (4)(e).

28 (e) Any contract, agreement, or other document through
29 which component sites are affiliated with the multisite
30 timeshare plan.

31

1 (f) Any escrow agreement required pursuant to s.
2 721.08 or s. 721.56(3).

3 (g) The form agreement for sale or lease of an
4 interest in the multisite timeshare plan.

5 (h) The form receipt for multisite timeshare plan
6 documents required to be given to the purchaser pursuant to s.
7 721.551(2)(b).

8 (i) The description of documents list required to be
9 given to the purchaser by s. 721.551(2)(b).

10 (j) The component site managing entity affidavit or
11 statement required by s. 721.56(1).

12 (k) Any subordination instrument required by s.
13 721.53.

14 (l)1. If the multisite timeshare plan contains any
15 component sites located in this state, the information
16 required by s. 721.07(5) pertaining to each such component
17 site unless exempt pursuant to s. 721.03.

18 2. If the purchaser will receive a timeshare estate
19 pursuant to s. 721.57 or a specific timeshare license as
20 defined in s. 721.552(4) in a component site located outside
21 of this state but which is offered in this state, the
22 information required by s. 721.07(5) pertaining to that
23 component site; however, the provisions of s. 721.07(5)(u)
24 shall require disclosure only of information related to the
25 estimated budget for the timeshare plan and purchaser's
26 expenses as required by the jurisdiction in which the
27 component site is located.

28 (8)(a) A timeshare plan containing only one component
29 site must be filed with the division as a multisite timeshare
30 plan if the timeshare instrument reserves the right for the
31 developer to add future component sites. However, if the

1 developer fails to add at least one additional component site
2 to a timeshare plan described in this paragraph within 3 years
3 after the date the plan is initially filed with the division,
4 the multisite filing for such plan shall thereupon terminate,
5 and the developer may not thereafter offer any further
6 interests in such plan unless and until he or she refiles such
7 plan with the division pursuant to this chapter.

8 (b) The public offering statement for any timeshare
9 plan described in paragraph (a) must include the following
10 disclosure in conspicuous type:

11
12 This timeshare plan has been filed as a multisite
13 timeshare plan (or multisite vacation ownership plan or
14 multisite vacation plan or vacation club); however, this plan
15 currently contains only one component site. The developer is
16 not required to add any additional component sites to the
17 plan. Do not purchase an interest in this plan in reliance
18 upon the addition of any other component sites.

19 Section 38. Subsection (2) of section 721.551, Florida
20 Statutes, is amended to read:

21 721.551 Delivery of multisite timeshare plan purchaser
22 public offering statement.--

23 (2) The developer shall furnish each purchaser with
24 the following:

25 (a) A copy of the approved multisite timeshare plan
26 public offering statement text ~~filed with the division~~
27 containing the information required by s. 721.55(1)-(6).

28 (b) A receipt for multisite timeshare plan documents
29 and a list describing any exhibit to the registered public
30 offering statement ~~filed with the division~~ which is not
31 delivered to the purchaser. The division is authorized to

1 prescribe by rule the form of the receipt for multisite
2 timeshare plan documents and the description of exhibits list
3 that must be furnished to the purchaser pursuant to this
4 section.

5 (c) If the purchaser will receive a timeshare estate
6 pursuant to s. 721.57 or a specific timeshare license as
7 defined in s. 721.552(4) in a component site located in this
8 state, the developer shall also furnish the purchaser with the
9 information required to be delivered pursuant to s.
10 721.07(6)(a) and (b) for the component site in which the
11 purchaser will receive an estate or license.

12 (d) Any other exhibit that the developer elects to
13 include as part of the purchaser public offering statement ~~to~~
14 ~~be furnished to purchasers~~, provided that the developer first
15 files the exhibit with the division.

16 (e) An executed copy of any document which the
17 purchaser signs.

18 (f) The developer shall be required to provide the
19 managing entity of the multisite timeshare plan with a copy of
20 the approved registered public offering statement ~~text and~~
21 ~~exhibits filed with the division~~ and any approved amendments
22 thereto to be maintained by the managing entity as part of the
23 books and records of the timeshare plan pursuant to s.
24 721.13(3)(d).

25 Section 39. Paragraph (a) of subsection (3) of section
26 721.552, Florida Statutes, is amended to read:

27 721.552 Additions, substitutions, or deletions of
28 component site accommodations or facilities; purchaser
29 remedies for violations.--Additions, substitutions, or
30 deletions of component site accommodations or facilities may
31 be made only in accordance with the following:

1 (3) DELETIONS.--

2 (a) Deletion by casualty.--

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

13 2. The timeshare instrument must also provide for the
14 application of any insurance proceeds arising from a casualty
15 to either the replacement or acquisition of additional similar
16 accommodations or facilities or to the removal of purchasers
17 from the multisite timeshare plan so that purchasers will not
18 be competing for available accommodations on a greater than
19 one-to-one purchaser to accommodation ratio.

20 3. If the timeshare instrument does not provide for
21 business interruption insurance, or if it is unavailable, or
22 if the instrument permits the developer, the managing entity,
23 or the purchasers to elect not to reconstruct after casualty
24 under certain circumstances or to secure replacement
25 accommodations or facilities in lieu of reconstruction,
26 purchasers of the plan may temporarily compete for available
27 accommodations on a greater than one-to-one purchaser to
28 accommodation ratio. The decision whether or not to
29 reconstruct shall be made as promptly as possible under the
30 circumstances.

31

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

5 Section 40. Section 721.553, Florida Statutes, is
6 repealed.

7 Section 41. Subsection (2) and paragraphs (a) and (c)
8 of subsection (5) of section 721.56, Florida Statutes, are
9 amended to read:

10 721.56 Management of multisite timeshare plans;
11 reservation systems; demand balancing.--

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

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

27 2. The reservation system of any multisite timeshare
28 plan shall include any computer software and hardware employed
29 for the purpose of enabling or facilitating the operation of
30 the reservation system. Nothing contained in this part shall
31 preclude a manager or management firm ~~company~~ that is serving

1 as managing entity of a multisite timeshare plan from
2 providing in its contract with the purchasers or owners'
3 association of the multisite timeshare plan or in the
4 timeshare instrument that the manager or management firm
5 ~~company~~ owns the reservation system and that the managing
6 entity shall continue to own the reservation system in the
7 event the purchasers discharge the managing entity pursuant to
8 s. 721.14.

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

20 1. The names, addresses, and reservation status of
21 component site accommodations.

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

24 3. All outstanding confirmed reservations and
25 reservation requests for that component site.

26 4. Such other component site records and information
27 as are necessary, in the reasonable discretion of the
28 component site managing entity, to permit the uninterrupted
29 operation and administration of the component site, provided
30 that a given component site managing entity shall not be
31 entitled to any information regarding other component sites or

1 regarding the terminated multisite timeshare plan managing
2 entity.

3

4 All reasonable costs incurred by the terminated managing
5 entity in effecting the transfer of information required by
6 this paragraph shall be reimbursed to the terminated managing
7 entity on a pro rata basis by each component site, and the
8 amount of such reimbursement shall constitute a common expense
9 of each component site.

10 Section 42. Subsection (3) of section 721.81, Florida
11 Statutes, is amended to read:

12 721.81 Legislative purpose.--The purposes of this part
13 are to:

14 (3) Recognize the need to assist ~~vacation ownership~~
15 ~~resort~~ owners' associations and mortgagees by simplifying and
16 expediting the process of foreclosure of assessment liens and
17 mortgage liens against timeshare estates.

18 Section 43. Subsection (1) of section 721.82, Florida
19 Statutes, is amended to read:

20 721.82 Definitions.--As used in this part, the term:

21 (1) "Assessment lien" means:

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

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

27 Section 44. Subsection (5) of section 721.84, Florida
28 Statutes, is amended to read:

29 721.84 Appointment of a registered agent; duties.--
30
31

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

4 (a) The resigning registered agent executes a written
5 statement of resignation that identifies himself or herself
6 and the street address of his or her registered office, and
7 identifies the obligors affected by his or her resignation;

8 (b) A successor registered agent is appointed and such
9 successor registered agent executes an acceptance of
10 appointment as successor registered agent and satisfies all of
11 the requirements of subsection (1). The resigning registered
12 agent may designate the successor registered agent; however,
13 if the resigning registered agent fails to designate a
14 successor registered agent or the designated successor
15 registered agent fails to accept, the successor registered
16 agent for the affected obligors may be designated by the
17 mortgagee as to the mortgage lien and by the owners'
18 ~~association of the timeshare plan~~ as to the assessment lien;
19 and

20 (c) Copies of the statement of resignation and
21 acceptance of appointment as successor registered agent are
22 promptly mailed to the affected obligors at the obligors' last
23 designated address shown on the records of the resigning
24 registered agent and to the affected lienholders. The agency
25 and registered office of the resigning registered agent are
26 terminated and the agency and registered office of the
27 successor registered agent are effective as of the 10th day
28 after the date on which the statement of resignation and
29 acceptance of appointment as successor registered agent are
30 received by the lienholder, unless a longer period is provided

31

1 in the statement of resignation and acceptance of appointment
2 as successor registered agent.

3 Section 45. Subsection (2) of section 721.85, Florida
4 Statutes, is amended to read:

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

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

10 Section 46. Subsection (1) of section 721.86, Florida
11 Statutes, is amended to read:

12 721.86 Miscellaneous provisions.--

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

17 Section 47. Subsection (22) of section 718.103,
18 Florida Statutes, is amended to read:

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

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

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

13 Section 48. If any provision of this act or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the act which can be given effect without the
17 invalid provision or application, and to this end the
18 provisions of this act are declared severable.

19 Section 49. All documents filed and approved in
20 accordance with chapter 721, Florida Statutes, prior to the
21 effective date of this act, or any amendments to such
22 documents made after the effective date of this act which are
23 otherwise in compliance with chapter 721, Florida Statutes,
24 prior to the effective date of this act, shall be deemed to be
25 in compliance with the filing requirements of chapter 721,
26 Florida Statutes.

27 Section 50. This act shall take effect upon becoming a
28 law.

29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 908

The Committee Substitute for Senate Bill 908:

- Eliminates the requirement that attorneys, real estate brokers, and title companies that hold timeshare escrow funds obtain a separate surety bond.
- Allows title insurers to act as escrow agents.
- Allows a management company to place a lien on a timeshare interest for the cost of repairing intentional damage.
- Requires, in a condominium or cooperative that has both residential and timeshare units, that the owners and lienors of all residential units must agree to any material alteration or substantial addition to the common areas.
- Makes the \$100 fee for filing a prize or gift offer mandatory.
- Changes provisions regarding owners list.