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The Committee on Appropriations recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to timeshare plans; amending s. 721.02, F.S.; revising language with respect to legislative purpose under the Florida Vacation Plan and Timesharing Act; amending s. 721.03, F.S.; revising language with respect to the scope of the act to include reference to personal property timeshare plans; amending s. 721.05, F.S.; providing definitions; amending s. 721.06, F.S.; revising language with respect to contracts for purchase of timeshare interests to include provisions with respect to personal property timeshare interests; amending s. 721.065, F.S.; revising language with respect to resale purchase agreements to include reference to certain real property and personal property timeshare plans; amending s. 721.07, F.S.; revising language with respect to public offering statements; amending s. 721.075, F.S.; revising language with respect to incidental benefits, requiring purchasers to execute a statement indicating the source of the benefit; amending s. 721.08, F.S.; revising language



29 | with respect to escrow accounts; amending s. 721.09, F.S.;
30 | revising language with respect to reservation agreements;
31 | amending s. 721.11, F.S.; revising language with respect
32 | to advertising materials; correcting cross references;
33 | amending s. 721.12, F.S.; providing for required
34 | recordkeeping by the seller of a personal property
35 | timeshare plan; amending s. 721.13, F.S.; revising
36 | language with respect to management; amending s. 721.14,
37 | F.S.; providing that a section of law governing the
38 | discharge of the managing entity shall not apply with
39 | respect to personal property timeshare plans; amending s.
40 | 721.15, F.S.; revising language with respect to
41 | assessments for common expenses; amending s. 721.16, F.S.;
42 | providing that a section of law governing certain liens
43 | does not apply to personal property timeshare plans;
44 | amending s. 721.17, F.S.; revising language with respect
45 | to transfer of interest; amending s. 721.18, F.S.;
46 | revising language with respect to exchange programs;
47 | amending s. 721.19, F.S.; including reference to personal
48 | property timeshare interests; amending s. 721.20, F.S.,
49 | relating to licensing requirements; providing for the
50 | application of certain provisions to personal property
51 | timeshare plans; amending s. 721.24, F.S.; exempting
52 | accommodations and facilities of personal property
53 | timeshare plans from a provision of law governing
54 | firesafety; amending s. 721.26, F.S.; revising language
55 | with respect to regulation by the division; amending s.
56 | 721.52, F.S.; redefining the term "multisite timeshare



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57 | plan" and defining the terms "nonspecific multisite
58 | timeshare plan" and "specific multisite timeshare plan";
59 | amending s. 721.53, F.S.; revising language with respect
60 | to subordination instruments; amending s. 721.54, F.S.;
61 | correcting a cross reference; amending s. 721.55, F.S.;
62 | providing reference to filed rather than registered public
63 | offering statements; providing reference to multisite
64 | timeshare plans; amending s. 721.551, F.S.; providing for
65 | reference to filed rather than registered public offering
66 | statements; amending s. 721.552, F.S.; providing reference
67 | to multistate timeshare plans; amending s. 721.56, F.S.;
68 | providing reference to personal property timeshare plans;
69 | amending s. 721.57, F.S.; revising language with respect
70 | to timeshare estates in multisite timeshare plans;
71 | amending s. 721.84, F.S.; revising language with respect
72 | to appointment of a registered agent; amending ss. 721.96
73 | and 721.97, F.S.; including reference to personal property
74 | timeshare interests; amending ss. 475.011 and 718.103,
75 | F.S.; correcting cross references; providing for
76 | applicability; providing an effective date.

77

78 | Be It Enacted by the Legislature of the State of Florida:

79

80 | Section 1. Subsections (1) and (5) of section 721.02,
81 | Florida Statutes, are amended to read:

82 | 721.02 Purposes.--The purposes of this chapter are to:



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83 (1) Give statutory recognition to real property timeshare
84 plans ~~timesharing~~ and personal property timeshare plans
85 ~~timesharing~~ in this ~~the~~ state.

86 (5) Recognize that the tourism industry in this state is a
87 vital part of the state's economy; that the sale, promotion, and
88 use of timeshare plans is an emerging, dynamic segment of the
89 tourism industry; that this segment of the tourism industry
90 continues to grow, both in volume of sales and in complexity and
91 variety of product structure; and that a uniform and consistent
92 method of regulation is necessary in order to safeguard
93 Florida's tourism industry and the state's economic well-being.
94 In order to protect the quality of Florida timeshare plans and
95 the consumers who purchase them, it is the intent of the
96 Legislature that this chapter be interpreted broadly in order to
97 encompass all forms of timeshare plans with a duration of at
98 least 3 years that are created with respect to accommodations
99 and facilities that are located in the state or that are offered
100 for sale in the state as provided herein, including, but not
101 limited to, condominiums, cooperatives, undivided interest
102 campgrounds, cruise ships, vessels, houseboats, and recreational
103 vehicles and other motor vehicles, and including vacation clubs,
104 multisite vacation plans, and multiyear vacation and lodging
105 certificates.

106 Section 2. Paragraph (d) is added to subsection (1) of
107 section 721.03, Florida Statutes, and subsection (8) of said
108 section, is amended to read:

109 721.03 Scope of chapter.--



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

115 (d) For purposes of determining the term of the plan, the
 116 period of any automatic renewals shall be included, except as
 117 provided in s. 721.52(4)(b).

118 (8) With respect to any personal property accommodation or
 119 facility of a timeshare plan; which is situated upon

120 (a) This chapter applies only to personal property
 121 timeshare plans that are offered in this state.

122 (b) The division shall have the authority to adopt rules
 123 interpreting and implementing the provisions of this chapter as
 124 they apply to any personal property timeshare plan or any such
 125 accommodation or facility that is part of a personal property
 126 timeshare plan offered in this state, or as the provisions of
 127 this chapter they apply to any other laws of this state, of the
 128 several states, or of the United States, or of any other
 129 jurisdiction, with respect to any personal property timeshare
 130 plan or any such accommodation or facility that is part of a
 131 personal property timeshare plan offered in this state.

132 (c) Any developer and any managing entity of a personal
 133 property timeshare plan must submit to personal jurisdiction in
 134 this state in a form satisfactory to the division at the time of
 135 filing a public offering statement.

136 Section 3. Section 721.05, Florida Statutes, is amended to
 137 read:



138 721.05 Definitions.--As used in this chapter, the term:

139 (1) "Accommodation" means any apartment, condominium or
 140 cooperative unit, cabin, lodge, hotel or motel room, campground,
 141 cruise ship cabin, houseboat or other vessel, recreational or
 142 other motor vehicle, or any ~~or other~~ private or commercial
 143 structure which is ~~situated on~~ real or personal property and
 144 designed for overnight occupancy ~~or use~~ by one or more
 145 individuals. The term does not include an incidental benefit as
 146 defined in this section.

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

154 (3) "Agreement for transfer" means any written contract
 155 utilized in the sale of personal property timeshare interests
 156 which provides that legal title will not be transferred to the
 157 purchaser until the contract price has been paid in full and the
 158 terms of payment of which extend for a period in excess of 180
 159 days after either the date of execution of the contract or
 160 completion of construction, whichever occurs later.

161 (4)~~(3)~~ "Assessment" means the share of funds required for
 162 the payment of common expenses which is assessed from time to
 163 time against each purchaser by the managing entity.

164 (5)~~(4)~~ "Closing" means:



165 (a) For any plan selling timeshare estates, conveyance of
 166 the legal or beneficial title to a timeshare estate as evidenced
 167 by the delivery of a deed for conveyance of legal title, or
 168 other instrument for conveyance of beneficial title, to the
 169 purchaser or to the clerk of the court for recording or
 170 conveyance of the equitable title to a timeshare estate as
 171 evidenced by the irretrievable delivery of an agreement for deed
 172 to the clerk of the court for recording.

173 (b) For any plan selling timeshare licenses or personal
 174 property timeshare interests, the final execution and delivery
 175 by all parties of the last document necessary for vesting in the
 176 purchaser the full rights available under the plan.

177 ~~(6)~~⁽⁵⁾ "Common expenses" means:

178 (a) Those expenses, fees, or taxes properly incurred for
 179 the maintenance, operation, and repair of the accommodations or
 180 facilities, or both, constituting the timeshare plan.

181 (b) Any other expenses, fees, or taxes designated as
 182 common expenses in a timeshare instrument.

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

185 ~~(7)~~⁽⁶⁾ "Completion of construction" means:

186 (a)1. That a certificate of occupancy has been issued for
 187 the entire building in which the timeshare unit being sold is
 188 located, or for the improvement, or that the equivalent
 189 authorization has been issued, by the governmental body having
 190 jurisdiction; ~~or~~

191 2. In a jurisdiction in which no certificate of occupancy
 192 or equivalent authorization is issued, that the construction,



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193 finishing, and equipping of the building or improvements
194 according to the plans and specifications have been
195 substantially completed; or

196 3. With respect to personal property timeshare plans, that
197 all accommodations have been manufactured or built and acquired
198 or leased by the developer, owners' association, managing
199 entity, trustee, or other person for the use of purchasers as
200 set forth in the timeshare instrument; and

201 (b) That all accommodations and facilities of the
202 timeshare plan are available for use in a manner identical in
203 all material respects to the manner portrayed by the promotional
204 material, advertising, and filed ~~registered~~ public offering
205 statements.

206 (8)~~(7)~~ "Conspicuous type" means:

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

211 (b) Where the use of 10-point type would be impractical or
212 impossible with respect to a particular piece of written
213 advertising material, a different style of type or print may be
214 used, so long as the print remains conspicuous under the
215 circumstances.

216

217 Where conspicuous type is required, it must be separated on all
218 sides from other type and print. Conspicuous type may be
219 utilized in contracts for purchase or public offering statements
220 only where required by law or as authorized by the division.



221 | ~~(9)~~⁽⁸⁾ "Contract" means any agreement conferring the
222 | rights and obligations of a timeshare plan on the purchaser.

223 | ~~(10)~~⁽⁹⁾ "Developer" includes:

224 | (a) A "creating developer," which means any person who
225 | creates the timeshare plan;

226 | (b) A "successor developer," which means any person who
227 | succeeds to the interest of the persons in this subsection by
228 | sale, lease, assignment, mortgage, or other transfer, but the
229 | term includes only those persons who offer timeshare interests
230 | in the ordinary course of business; and

231 | (c) A "concurrent developer," which means any person
232 | acting concurrently with the persons in this subsection with the
233 | purpose of offering timeshare interests in the ordinary course
234 | of business.

235 | (d) The term "developer" does not include:

236 | 1. An owner of a timeshare interest who has acquired the
237 | timeshare interest for his or her own use and occupancy and who
238 | later offers it for resale; provided that a rebuttable
239 | presumption shall exist that an owner who has acquired more than
240 | seven timeshare interests did not acquire them for his or her
241 | own use and occupancy;

242 | 2. A managing entity, not otherwise a developer, that
243 | offers, or engages a third party to offer on its behalf,
244 | timeshare interests in a timeshare plan which it manages,
245 | provided that such offer complies with the provisions of s.
246 | 721.065;

247 | 3. A person who owns or is conveyed, assigned, or
248 | transferred more than seven timeshare interests and who



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249 subsequently conveys, assigns, or transfers all acquired
250 timeshare interests to a single purchaser in a single
251 transaction, which transaction may occur in stages; or

252 4. A person who has acquired or has the right to acquire
253 more than seven timeshare interests from a developer or other
254 interestholder in connection with a loan, securitization,
255 conduit, or similar financing arrangement transaction and who
256 subsequently arranges for all or a portion of the timeshare
257 interests to be offered by one or more developers in the
258 ordinary course of business on their own behalves or on behalf
259 of such person.

260 (e) A successor or concurrent developer shall be exempt
261 from any liability inuring to a predecessor or concurrent
262 developer of the same timeshare plan, except as provided in s.
263 721.15(7), provided that this exemption shall not apply to any
264 of the successor or concurrent developer's responsibilities,
265 duties, or liabilities with respect to the timeshare plan that
266 accrue after the date the successor or concurrent developer
267 became a successor or concurrent developer, and provided that
268 such transfer does not constitute a fraudulent transfer. In
269 addition to other provisions of law, a transfer by a predecessor
270 developer to a successor or concurrent developer shall be deemed
271 fraudulent if the predecessor developer made the transfer:

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

274 2. To a person that would constitute an insider under s.
275 726.102(7).



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276 The provisions of this paragraph shall not be construed to
 277 relieve any successor or concurrent developer from the
 278 obligation to comply with the provisions of any applicable
 279 timeshare instrument.

280 (11)~~(10)~~ "Division" means the Division of Florida Land
 281 Sales, Condominiums, and Mobile Homes of the Department of
 282 Business and Professional Regulation.

283 (12)~~(11)~~ "Enrolled" means paid membership in an exchange
 284 program or membership in an exchange program evidenced by
 285 written acceptance or confirmation of membership.

286 (13)~~(12)~~ "Escrow account" means an account established
 287 solely for the purposes set forth in this chapter with a
 288 financial institution located within this state.

289 (14)~~(13)~~ "Escrow agent" includes only:

290 (a) A savings and loan association, bank, trust company,
 291 or other financial institution, any of which must be located in
 292 this state and any of which must have a net worth in excess of
 293 \$5 million;

294 (b) An attorney who is a member of The Florida Bar or his
 295 or her law firm;

296 (c) A real estate broker who is licensed pursuant to
 297 chapter 475 or his or her brokerage firm; or

298 (d) A title insurance agent that is licensed pursuant to
 299 s. 626.8417, a title insurance agency that is licensed pursuant
 300 to s. 626.8418, or a title insurer authorized to transact
 301 business in this state pursuant to s. 624.401.

302 (15)~~(14)~~ "Exchange company" means any person owning or
 303 operating, or owning and operating, an exchange program.



304 (16)~~(15)~~ "Exchange program" means any method, arrangement,
 305 or procedure for the voluntary exchange of the right to use and
 306 occupy accommodations and facilities among purchasers. The term
 307 does not include the assignment of the right to use and occupy
 308 accommodations and facilities to purchasers pursuant to a
 309 particular multisite timeshare plan's reservation system. Any
 310 method, arrangement, or procedure that otherwise meets this
 311 definition, wherein the purchaser's total contractual financial
 312 obligation exceeds \$3,000 per any individual, recurring
 313 timeshare period, shall be regulated as a multisite timeshare
 314 plan in accordance with part II.

315 (17)~~(16)~~ "Facility" means any amenity, including any
 316 structure, furnishing, fixture, equipment, service, improvement,
 317 or real or personal property, improved or unimproved, other than
 318 an ~~the~~ accommodation of the timeshare plan, which is made
 319 available to the purchasers of a timeshare plan. The term does
 320 not include an incidental benefit as defined in this section.

321 (18) "Filed public offering statement" means a public
 322 offering statement that has been filed with the division
 323 pursuant to s. 721.07(5) or s. 721.55.

324 (19)~~(17)~~ "Incidental benefit" means an accommodation,
 325 product, service, discount, or other benefit which is offered to
 326 a prospective purchaser of a timeshare plan or to a purchaser of
 327 a timeshare plan prior to the expiration of his or her initial
 328 10-day voidability period pursuant to s. 721.10; which is not an
 329 exchange program as defined in subsection (16) ~~(15)~~; and which
 330 complies with the provisions of s. 721.075. The term shall not



331 include an offer of the use of the accommodations and facilities
332 of the timeshare plan on a free or discounted one-time basis.

333 (20)~~(18)~~ "Independent," for purposes of determining
334 eligibility of escrow agents and trustees pursuant to s.
335 721.03(7), means that:

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

340 (b) There is no financial relationship, other than the
341 payment of fiduciary fees or as otherwise provided in this
342 subsection, between the escrow agent or trustee and the
343 developer, seller, or managing entity, or any officer, director,
344 affiliate, or subsidiary thereof.

345 (c) Compensation paid by the developer to an escrow agent
346 or trustee for services rendered shall not be paid from funds in
347 the escrow or trust account unless and until the developer is
348 otherwise entitled to receive the disbursement of such funds
349 from the escrow or trust account pursuant to this chapter.

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

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

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

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



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359 4. The escrow agent or trustee performs closings for the
360 developer or seller or issues owner's or lender's title
361 insurance commitments or policies in connection with such
362 closings.

363 ~~(21)~~~~(19)~~ "Interestholder" means a developer, an owner of
364 the underlying fee or owner of the underlying personal property,
365 a mortgagee, judgment creditor, or other lienor, or any other
366 person having an interest in or lien or encumbrance against the
367 accommodations or facilities of the timeshare plan.

368 ~~(22)~~~~(20)~~ "Managing entity" means the person who operates
369 or maintains the timeshare plan pursuant to s. 721.13(1).

370 ~~(23)~~~~(21)~~ "Memorandum of agreement" means a written
371 document, in a ~~recordable~~ form sufficient to permit the document
372 to be recorded or otherwise filed in the appropriate public
373 records and to provide constructive notice of its contents under
374 applicable law, which includes the names of the seller and the
375 purchasers, a legal description of the timeshare property, or
376 other sufficient description for a personal property timeshare
377 plan, and all timeshare interests to be included in such
378 document, and a description of the type of timeshare interest
379 ~~license~~ sold by the seller.

380 ~~(24)~~~~(22)~~ "Offer to sell," "offer for sale," "offered for
381 sale," or "offer" means the solicitation, advertisement, or
382 inducement, or any other method or attempt, to encourage any
383 person to acquire the opportunity to participate in a timeshare
384 plan.

385 ~~(25)~~~~(23)~~ "One-to-one purchaser to accommodation ratio"
386 means the ratio of the number of purchasers eligible to use the



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387 accommodations of a timeshare plan on a given day to the number
 388 of accommodations available for use within the plan on that day,
 389 such that the total number of purchasers eligible to use the
 390 accommodations of the timeshare plan during a given calendar
 391 year never exceeds the total number of accommodations available
 392 for use in the timeshare plan during that year. For purposes of
 393 calculation under this subsection, each purchaser must be
 394 counted at least once, and no individual timeshare unit may be
 395 counted more than 365 times per calendar year (or more than 366
 396 times per leap year). A purchaser who is delinquent in the
 397 payment of timeshare plan assessments shall continue to be
 398 considered eligible to use the accommodations of the timeshare
 399 plan for purposes of this subsection notwithstanding any
 400 application of s. 721.13(6).

401 ~~(26)~~~~(24)~~ "Owner of the underlying fee" or "owner of the
 402 underlying personal property" means any person having an
 403 interest in the real property or personal property comprising or
 404 underlying the accommodations or facilities of a ~~the~~ timeshare
 405 plan at or subsequent to the time of creation of the timeshare
 406 plan.

407 ~~(27)~~~~(25)~~ "Owners' association" means an ~~the~~ association
 408 made up of all owners of timeshare interests in a timeshare
 409 plan, including developers and purchasers of such a timeshare
 410 plan who have purchased timeshare estates.

411 ~~(28)~~ "Personal property timeshare interest" means a right
 412 to occupy an accommodation located on or in or comprised of
 413 personal property that is not permanently affixed to real



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414 property, whether or not coupled with a beneficial or ownership
415 interest in the accommodations or personal property.

416 (29)~~(26)~~ "Public offering statement" means the written
417 materials describing a single-site timeshare plan or a multisite
418 timeshare plan, including a text and any exhibits attached
419 thereto as required by ss. 721.07, 721.55, and 721.551. The term
420 "public offering statement" shall refer to both a filed
421 ~~registered~~ public offering statement and a purchaser public
422 offering statement.

423 (30)~~(27)~~ "Purchaser" means any person, other than a
424 developer, who by means of a voluntary transfer acquires a legal
425 or equitable interest in a timeshare plan other than as security
426 for an obligation.

427 (31)~~(28)~~ "Purchaser public offering statement" means that
428 portion of the filed ~~registered~~ public offering statement which
429 must be delivered to purchasers pursuant to s. 721.07(6) or s.
430 721.551.

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

434 (32)~~(30)~~ "Regulated short-term product" means a
435 contractual right, offered by the seller, to use accommodations
436 of a timeshare plan or other accommodations, provided that:

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



442 (b) The acquisition of the right to use includes an
 443 agreement that all or a portion of the consideration paid by the
 444 prospective purchaser for the right to use will be applied to or
 445 credited against the price of a future purchase of a timeshare
 446 interest, or that the cost of a future purchase of a timeshare
 447 interest will be fixed or locked in at a specified price.

448 (33)~~(31)~~ "Seller" means any developer or any other person,
 449 or any agent or employee thereof, who offers timeshare interests
 450 in the ordinary course of business. The term "seller" does not
 451 include:

452 (a) An owner of a timeshare interest who has acquired the
 453 timeshare interest for his or her own use and occupancy and who
 454 later offers it for resale; provided that a rebuttable
 455 presumption shall exist that an owner who has acquired more than
 456 seven timeshare interests did not acquire them for his or her
 457 own use and occupancy;

458 (b) A managing entity, not otherwise a seller, that
 459 offers, or engages a third party to offer on its behalf,
 460 timeshare interests in a timeshare plan which it manages,
 461 provided that such offer complies with the provisions of s.
 462 721.065;

463 (c) A person who owns or is conveyed, assigned, or
 464 transferred more than seven timeshare interests and who
 465 subsequently conveys, assigns, or transfers all acquired
 466 timeshare interests to a single purchaser in a single
 467 transaction, which transaction may occur in stages; or

468 (d) A person who has acquired or has the right to acquire
 469 more than seven timeshare interests from a developer or other



470 interestholder in connection with a loan, securitization,
 471 conduit, or similar financing arrangement and who subsequently
 472 arranges for all or a portion of the timeshare interests to be
 473 offered by one or more developers in the ordinary course of
 474 business on their own behalves or on behalf of such person.

475 (34)~~(32)~~ "Timeshare estate" means a right to occupy a
 476 timeshare unit, coupled with a freehold estate or an estate for
 477 years with a future interest in a timeshare property or a
 478 specified portion thereof. The term shall also mean an interest
 479 in a condominium unit pursuant to s. 718.103, an interest in a
 480 cooperative unit pursuant to s. 719.103, or an interest in a
 481 trust that complies in all respects with the provisions of s.
 482 721.08(2)(c)4.3, provided that the trust does not contain any
 483 personal property timeshare interests. A timeshare estate is a
 484 parcel of real property under the laws of this state.

485 (35)~~(33)~~ "Timeshare instrument" means one or more
 486 documents, by whatever name denominated, creating or governing
 487 the operation of a timeshare plan.

488 (36)~~(34)~~ "Timeshare interest" means a timeshare estate, a
 489 personal property timeshare interest, or a timeshare license.

490 (37)~~(35)~~ "Timeshare license" means a right to occupy a
 491 timeshare unit, which right is not a personal property timeshare
 492 neither coupled with a freehold interest or a timeshare, nor
 493 coupled with an estate for years with a future interest, in a
 494 timeshare property.

495 (38)~~(36)~~ "Timeshare period" means the period or periods of
 496 time when a purchaser of a timeshare interest is afforded the



497 opportunity to use the accommodations ~~or facilities, or both,~~ of
498 a timeshare plan.

499 (39)~~(37)~~ "Timeshare plan" means any arrangement, plan,
500 scheme, or similar device, other than an exchange program,
501 whether by membership, agreement, tenancy in common, sale,
502 lease, deed, rental agreement, license, or right-to-use
503 agreement or by any other means, whereby a purchaser, for
504 consideration, receives ownership rights in or a right to use
505 accommodations, and facilities, if any, for a period of time
506 less than a full year during any given year, but not necessarily
507 for consecutive years. The term "timeshare plan" includes:

508 (a) A "personal property timeshare plan," which means a
509 timeshare plan in which the accommodations are comprised of
510 personal property that is not permanently affixed to real
511 property; and

512 (b) A "real property timeshare plan," which means a
513 timeshare plan in which the accommodations of the timeshare plan
514 are comprised of or permanently affixed to real property.

515 (40)~~(38)~~ "Timeshare property" means one or more timeshare
516 units subject to the same timeshare instrument, together with
517 any other property or rights to property appurtenant to those
518 timeshare units. Notwithstanding anything to the contrary
519 contained in chapter 718 or chapter 719, the timeshare
520 instrument for a timeshare condominium or cooperative may
521 designate personal property, contractual rights, affiliation
522 agreements of component sites of vacation clubs, exchange
523 companies, or reservation systems, or any other agreements or



524 personal property, as common elements or limited common elements
525 of the timeshare condominium or cooperative.

526 (41)~~(39)~~ "Timeshare unit" means an accommodation of a
527 timeshare plan which is divided into timeshare periods. Any
528 timeshare unit in which a door or doors connecting two or more
529 separate rooms are capable of being locked to create two or more
530 private dwellings shall only constitute one timeshare unit for
531 purposes of this chapter, unless the timeshare instrument
532 provides that timeshare interests may be separately conveyed in
533 such locked-off portions.

534 ~~(40) "Vacation ownership plan" means any timeshare plan
535 consisting exclusively of timeshare estates.~~

536 ~~(41) "Vacation plan" or "vacation membership plan" means
537 any timeshare plan consisting exclusively of timeshare licenses
538 or consisting of a combination of timeshare licenses and
539 timeshare estates.~~

540 Section 4. Section 721.06, Florida Statutes, is amended to
541 read:

542 721.06 Contracts for purchase of timeshare interests.--

543 (1) Each seller shall utilize and furnish each purchaser a
544 fully completed and executed copy of a contract pertaining to
545 the sale, which contract shall include the following
546 information:

547 (a) The actual date the contract is executed by each
548 party.

549 (b) The names and addresses of the developer and the
550 timeshare plan.



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551 (c) The initial purchase price and any additional charges
552 to which the purchaser may be subject in connection with the
553 purchase of the timeshare interest, such as financing, or which
554 will be collected from the purchaser on or before closing, such
555 as the current year's annual assessment for common expenses.

556 (d)1. For real property timeshare plans, an estimate of
557 any anticipated annual assessment stated on an ~~Any~~ annually
558 recurring basis for any use charges, fees, charge and the next
559 year's estimated annual assessment for common expenses, or and
560 for ad valorem taxes or, if an estimate for next year's
561 assessment is unavailable, the current year's actual annual
562 assessment for any use charges, fees, common expenses, or and
563 for ad valorem taxes.

564 2. For personal property timeshare plans, an estimate of
565 any anticipated annual assessment stated on an annually
566 recurring basis for any use charges, fees, common expenses, or
567 taxes or, if an estimate is unavailable, the current year's
568 actual annual assessment for any use charges, fees, common
569 expenses, or taxes.

570 (e) The estimated date of completion of construction of
571 each accommodation or facility promised to be completed which is
572 not completed at the time the contract is executed and the
573 estimated date of closing.

574 (f) A brief description of the nature and duration of the
575 timeshare interest being sold, including whether any interest in
576 real property or personal property is being conveyed and the
577 specific number of years constituting the term of the timeshare
578 plan.



579 (g) Immediately prior to the space reserved in the
580 contract for the signature of the purchaser, in conspicuous
581 type, substantially the following statements:

582 1. If the purchaser will receive a personal property
583 timeshare interest: This personal property timeshare plan is
584 governed only by limited sections of the timeshare management
585 provisions of Florida law.

586 2. If the accommodations or facilities are located on or
587 in a documented vessel or foreign vessel as provided in s.
588 721.08(2)(c)3.e., the disclosure required by s.
589 721.08(2)(c)3.e.(IV).

590 3. You may cancel this contract without any penalty or
591 obligation within 10 calendar days after the date you sign this
592 contract or the date on which you receive the last of all
593 documents required to be given to you pursuant to section
594 721.07(6), Florida Statutes, whichever is later. If you decide
595 to cancel this contract, you must notify the seller in writing
596 of your intent to cancel. Your notice of cancellation shall be
597 effective upon the date sent and shall be sent to ... (Name of
598 Seller) ... at ... (Address of Seller) Any attempt to
599 obtain a waiver of your cancellation right is void and of no
600 effect. While you may execute all closing documents in advance,
601 the closing, as evidenced by delivery of the deed or other
602 document, before expiration of your 10-day cancellation period,
603 is prohibited.

604
605 (h) If a timeshare estate is being conveyed, the following
606 statement in conspicuous type:



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608 *For the purpose of ad valorem assessment, taxation and*
609 *special assessments, the managing entity will be considered the*
610 *taxpayer as your agent pursuant to section 192.037, Florida*
611 *Statutes.*

612

613 (i) A statement that, in the event the purchaser cancels
614 the contract during a 10-day cancellation period, the developer
615 will refund to the purchaser the total amount of all payments
616 made by the purchaser under the contract, reduced by the
617 proportion of any contract benefits the purchaser has actually
618 received under the contract prior to the effective date of the
619 cancellation. The statement shall further provide that the
620 refund will be made within 20 days after receipt of notice of
621 cancellation or within 5 days after receipt of funds from the
622 purchaser's cleared check, whichever is later. A seller and a
623 purchaser shall agree in writing on a specific value for each
624 contract benefit received by the purchaser for purposes of this
625 paragraph. The term "contract benefit" shall not include
626 purchaser public offering statements or other documentation or
627 materials that must be furnished to a purchaser pursuant to
628 statute or rule.

629 (j) If the timeshare interest is being sold pursuant to an
630 agreement for deed or an agreement for transfer, a statement
631 that the signing of the agreement for deed or agreement for
632 transfer does not entitle the purchaser to receive the
633 conveyance or transfer of his or her timeshare estate or



634 personal property timeshare interest ~~a deed~~ until all payments
635 under the agreement have been made.

636 (k) Unless the developer is, at the time of offering the
637 plan, the owner ~~in fee simple absolute~~ of the accommodations and
638 facilities of the timeshare plan, free and clear of all liens,
639 ~~and encumbrances,~~ and claims of other interestholders, a
640 statement that the developer is not the sole owner of the
641 underlying fee or owner of the underlying personal property or
642 that the ~~such~~ accommodations or facilities are subject to
643 ~~without~~ liens or encumbrances, which statement shall include:

644 1. The names and addresses of all other interestholders
645 ~~persons or entities having an ownership interest or other~~
646 ~~interest in the accommodations or facilities;~~ and

647 2. The actual interest of the developer in the
648 accommodations or facilities. As an alternative to including the
649 statement in the purchase contract, a seller may include a
650 reference in the purchase contract to the location in the
651 purchaser public offering statement text of such information.

652 (l) If the purchaser will receive an interest in a
653 multisite timeshare plan pursuant to part II, a statement shall
654 be provided in conspicuous type in substantially the following
655 form:

656
657 *The developer is required to provide the managing entity of*
658 *the multisite timeshare plan with a copy of the approved public*
659 *offering statement text and exhibits filed with the division and*
660 *any approved amendments thereto, and any other component site*
661 *documents as described in section 721.07 or section 721.55,*



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662 *Florida Statutes, that are not required to be filed with the*
663 *division, to be maintained by the managing entity for inspection*
664 *as part of the books and records of the plan.*

665

666 (m) The following statement in conspicuous type:

667

668 *Any resale of this timeshare interest must be accompanied*
669 *by certain disclosures in accordance with section 721.065,*
670 *Florida Statutes.*

671

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

674

675 (2)(a) An agreement for deed shall be recorded by the
676 developer within 30 days after the day it is executed by the
677 purchaser. The developer shall pay all recording costs
678 associated therewith. A form copy of such instrument must be
filed with the division for review pursuant to s. 721.07.

679

680 (b) An agreement for transfer shall be filed with the
681 appropriate official responsible for maintaining such records in
682 the appropriate jurisdiction within 30 days after the day it is
683 executed by the purchaser. The developer shall pay all filing
684 costs associated therewith. A form copy of such instrument must
be filed with the division for review pursuant to s. 721.07.

685

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

689

689 Section 5. Paragraph (b) of subsection (2) of section
721.065, Florida Statutes, is amended to read:



690 721.065 Resale purchase agreements.--

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

693 (b) One of the following statements in conspicuous type
694 located immediately prior to the disclosure required by
695 paragraph (c):

696 1. If the resale purchase agreement pertains to a real
697 property timeshare plan:

698
699 *The current year's assessment for common expenses allocable to*
700 *the timeshare interest you are purchasing is \$____. This*
701 *assessment, which may be increased from time to time by the*
702 *managing entity of the timeshare plan, is payable in full each*
703 *year on or before _____. This assessment (includes/does not*
704 *include) yearly ad valorem real estate taxes, which (are/are*
705 *not) billed and collected separately. (If ad valorem real*
706 *property taxes are not included in the current year's assessment*
707 *for common expenses, the following statement must be included:*
708 *The most recent annual assessment for ad valorem real estate*
709 *taxes for the timeshare interest you are purchasing is \$____.)*
710 *(If there are any delinquent assessments for common expenses or*
711 *ad valorem taxes outstanding with respect to the timeshare*
712 *interest in question, the following statement must be included:*
713 *A delinquency in the amount of \$____ for unpaid common expenses*
714 *or ad valorem taxes currently exists with respect to the*
715 *timeshare interest you are purchasing, together with a per diem*
716 *charge of \$____ for interest and late charges.) For the purpose*
717 *of ad valorem assessment, taxation, and special assessments, the*



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718 *managing entity will be considered the taxpayer as your agent*
 719 *pursuant to section 192.037, Florida Statutes. Each owner is*
 720 *personally liable for the payment of her or his assessments for*
 721 *common expenses, and failure to timely pay these assessments may*
 722 *result in restriction or loss of your use and/or ownership*
 723 *rights.*

724
 725 *There are many important documents relating to the timeshare*
 726 *plan which you should review prior to purchasing a timeshare*
 727 *interest, including the declaration of condominium or covenants*
 728 *and restrictions; the owners' association articles and bylaws;*
 729 *the current year's operating and reserve budgets; and any rules*
 730 *and regulations affecting the use of timeshare plan*
 731 *accommodations and facilities.*

732
 733 2. If the resale purchase agreement pertains to a personal
 734 property timeshare plan:

735
 736 The current year's assessment for any common expenses, use
 737 charges, fees, or taxes allocable to the timeshare interest you
 738 are purchasing is \$_____. This assessment, which may be
 739 increased from time to time by the managing entity of the
 740 timeshare plan, is payable in full each year on or before
 741 _____. (If there are any delinquent assessments for common
 742 expenses, use charges, fees, or taxes outstanding with respect
 743 to the timeshare interest in question, the following statement
 744 must be included: A delinquency in the amount of \$_____ for
 745 unpaid common expenses, use charges, fees, or taxes currently



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746 exists with respect to the timeshare interest you are
 747 purchasing, together with a per diem charge of \$_____ for
 748 interest and late charges.) Each owner is personally liable for
 749 the payment of her or his assessments for common expenses, and
 750 failure to timely pay these assessments may result in
 751 restriction or loss of your use and/or ownership rights.

752
 753 There are many important documents relating to the timeshare
 754 plan which you should review prior to purchasing a timeshare
 755 interest, including any owners' association articles and bylaws;
 756 the current year's operating and reserve budgets; and any rules
 757 and regulations affecting the use of timeshare plan
 758 accommodations and facilities.

759 Section 6. Section 721.07, Florida Statutes, is amended to
 760 read:

761 721.07 Public offering statement.--Prior to offering any
 762 timeshare plan, the developer must submit a filed ~~registered~~
 763 public offering statement to the division for approval as
 764 prescribed by s. 721.03, s. 721.55, or this section. Until the
 765 division approves such filing, any contract regarding the sale
 766 of that timeshare plan is subject to cancellation ~~voidable~~ by
 767 the purchaser pursuant to s. 721.10.

768 (1) The division shall, upon receiving a filed ~~registered~~
 769 public offering statement from a developer, mail to the
 770 developer an acknowledgment of receipt. The failure of the
 771 division to send such acknowledgment will not, however, relieve
 772 the developer from the duty of complying with this section.



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773 (2)(a) Within 45 days after receipt of a filed ~~registered~~
774 public offering statement which is subject only to this part and
775 is submitted in proper form as prescribed by rule, or within 120
776 days after receipt of a filed ~~registered~~ public offering
777 statement which is subject to part II and is submitted in proper
778 form as prescribed by rule, the division shall determine whether
779 the proposed filed ~~registered~~ public offering statement is
780 adequate to meet the requirements of this section and shall
781 notify the developer by mail that the division has either
782 approved the statement or found specified deficiencies in the
783 statement. If the division fails to approve the statement or
784 specify deficiencies in the statement within the period
785 specified in this paragraph, the filing will be deemed approved.

786 (b) If the developer fails to respond to any cited
787 deficiencies within 20 days after receipt of the division's
788 deficiency notice, the division may reject the filing.
789 Subsequent to such rejection, a new filing fee pursuant to
790 subsection (4) and a new division initial review period pursuant
791 to paragraph (a) shall apply to any refiling or further review
792 of the rejected filing.

793 (c) Within 20 days after receipt of the developer's timely
794 and complete response to any deficiency notice, the division
795 shall notify the developer by mail that the division has either
796 approved the filing, found additional specified deficiencies in
797 it, or determined that any previously specified deficiency has
798 not been corrected. If the division fails to approve or specify
799 additional deficiencies within 20 days after receipt of the



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800 developer's timely and complete response, the filing will be
801 deemed approved.

802 (d) A developer shall have the authority to deliver to
803 purchasers any purchaser public offering statement that is not
804 yet approved by the division, provided that the following shall
805 apply:

806 1. At the time the developer delivers an unapproved
807 purchaser public offering statement to a purchaser pursuant to
808 this paragraph, the developer shall deliver a fully completed
809 and executed copy of the purchase contract required by s. 721.06
810 that contains the following statement in conspicuous type in
811 substantially the following form which shall replace the
812 statements required by s. 721.06(1)(g):

813

814 *The developer is delivering to you a public offering statement*
815 *that has been filed with but not yet approved by the Division of*
816 *Florida Land Sales, Condominiums, and Mobile Homes. Any*
817 *revisions to the unapproved public offering statement you have*
818 *received must be delivered to you, but only if the revisions*
819 *materially alter or modify the offering in a manner adverse to*
820 *you. After the division approves the public offering statement,*
821 *you will receive notice of the approval from the developer and*
822 *the required revisions, if any.*

823

824 *Your statutory right to cancel this transaction without any*
825 *penalty or obligation expires 10 calendar days after the date*
826 *you signed your purchase contract or the date on which you*
827 *receive the last of all documents required to be given to you*



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828 pursuant to section 721.07(6), Florida Statutes, or 10 calendar
829 days after you receive revisions required to be delivered to
830 you, if any, whichever is later. If you decide to cancel this
831 contract, you must notify the seller in writing of your intent
832 to cancel. Your notice of cancellation shall be effective upon
833 the date sent and shall be sent to (Name of Seller) at (Address
834 of Seller). Any attempt to obtain a waiver of your cancellation
835 right is void and of no effect. While you may execute all
836 closing documents in advance, the closing, as evidenced by
837 delivery of the deed or other document, before expiration of
838 your 10-day cancellation period, is prohibited.

839

840 2. After receipt of approval from the division and prior
841 to closing, if any revisions made to the documents contained in
842 the purchaser public offering statement materially alter or
843 modify the offering in a manner adverse to a purchaser, the
844 developer shall send the purchaser such revisions together with
845 a notice containing a statement in conspicuous type in
846 substantially the following form:

847

848 *The unapproved public offering statement previously delivered to*
849 *you, together with the enclosed revisions, has been approved by*
850 *the Division of Florida Land Sales, Condominiums, and Mobile*
851 *Homes. Accordingly, your cancellation right expires 10 calendar*
852 *days after you sign your purchase contract or 10 calendar days*
853 *after you receive these revisions, whichever is later. If you*
854 *have any questions regarding your cancellation rights, you may*
855 *contact the division at [insert division's current address].*



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856

857 3. After receipt of approval from the division and prior
858 to closing, if no revisions have been made to the documents
859 contained in the unapproved purchaser public offering statement,
860 or if such revisions do not materially alter or modify the
861 offering in a manner adverse to a purchaser, the developer shall
862 send the purchaser a notice containing a statement in
863 conspicuous type in substantially the following form:

864

865 *The unapproved public offering statement previously delivered to*
866 *you has been approved by the Division of Florida Land Sales,*
867 *Condominiums, and Mobile Homes. Revisions made to the unapproved*
868 *public offering statement, if any, are either not required to be*
869 *delivered to you or are not deemed by the developer, in its*
870 *opinion, to materially alter or modify the offering in a manner*
871 *that is adverse to you. Accordingly, your cancellation right*
872 *expired 10 days after you signed your purchase contract. A*
873 *complete copy of the approved public offering statement is*
874 *available through the managing entity for inspection as part of*
875 *the books and records of the plan. If you have any questions*
876 *regarding your cancellation rights, you may contact the division*
877 *at [insert division's current address].*

878

879 (3)(a)1. Any change to an approved public offering
880 statement filing shall be filed with the division for approval
881 as an amendment prior to becoming effective. The division shall
882 have 20 days after receipt of a proposed amendment to approve or
883 cite deficiencies in the proposed amendment. If the division
fails to act within 20 days, the amendment will be deemed



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884 approved. If the proposed amendment adds a new component site to
885 an approved multisite timeshare plan, the division's initial
886 period in which to approve or cite deficiencies is 45 days. If
887 the developer fails to adequately respond to any deficiency
888 notice within 30 days, the division may reject the amendment.
889 Subsequent to such rejection, a new filing fee pursuant to
890 subsection (4) and a new division initial review period pursuant
891 to this paragraph shall apply to any refiling or further review
892 of the rejected amendment.

893 2. For filings only subject to this part, each approved
894 amendment to the approved purchaser public offering statement,
895 other than an amendment made only for the purpose of the
896 addition of a phase or phases to the timeshare plan in the
897 manner described in the timeshare instrument or any amendment
898 that does not materially alter or modify the offering in a
899 manner that is adverse to a purchaser, shall be delivered to a
900 purchaser no later than 10 days prior to closing. For filings
901 made under part II, each approved amendment to the multisite
902 timeshare plan purchaser public offering statement, other than
903 an amendment made only for the purpose of the addition,
904 substitution, or deletion of a component site pursuant to part
905 II or the addition of a phase or phases to a component site of a
906 multisite timeshare plan in the manner described in the
907 timeshare instrument or any amendment that does not materially
908 alter or modify the offering in a manner that is adverse to a
909 purchaser, shall be delivered to a purchaser no later than 10
910 days prior to closing.



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911 3. Amendments made to a timeshare instrument for a
912 component site located in this state are not required to be
913 delivered to purchasers who do not receive a timeshare estate or
914 an interest in a specific multisite timeshare plan ~~license~~ in
915 that component site. Amendments made to a timeshare instrument
916 for a component site not located in this state are not required
917 to be delivered to purchasers.

918 (b) At the time that any amendments required to be
919 delivered to purchasers, as provided in paragraph (a), are
920 delivered to purchasers, the developer shall provide to those
921 purchasers who have not closed a written statement that the
922 purchaser or lessee will have a 10-day voidability period.

923 (4)(a) Upon the filing of a filed ~~registered~~ public
924 offering statement, the developer shall pay a filing fee of \$2
925 for each 7 days of annual use availability in each timeshare
926 unit that may be offered as a part of the proposed timeshare
927 plan pursuant to the filing.

928 (b) Upon the filing of an amendment to an approved filed
929 ~~registered~~ public offering statement, ~~other than an amendment~~
930 ~~adding a phase to the timeshare plan~~, the developer shall pay a
931 filing fee of \$100.

932 (5) Every filed ~~registered~~ public offering statement for a
933 timeshare plan which is not a multisite timeshare plan shall
934 contain the information required by this subsection. The
935 division is authorized to provide by rule the method by which a
936 developer must provide such information to the division.

937 (a) A cover page stating only:

938 1. The name of the timeshare plan; and



939 2. The following statement, in conspicuous type: *This*
 940 *public offering statement contains important matters to be*
 941 *considered in acquiring a timeshare interest. The statements*
 942 *contained in this public offering statement are only summary in*
 943 *nature. A prospective purchaser should refer to all references,*
 944 *accompanying exhibits, contract documents, and sales materials.*
 945 *You should not rely upon oral representations as being correct.*
 946 *Refer to this document and accompanying exhibits for correct*
 947 *representations. The seller is prohibited from making any*
 948 *representations other than those contained in the contract and*
 949 *this public offering statement.*

950 (b) A listing of all statements required to be in
 951 conspicuous type in the public offering statement and in all
 952 exhibits thereto.

953 (c) A separate index of the contents and exhibits of the
 954 public offering statement.

955 (d) A text which shall include, where applicable, the
 956 disclosures set forth in paragraphs (e)-(hh).

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

959 1. Its name and location.

960 2. An explanation of the form of timeshare ownership that
 961 is being offered, including a statement as to whether any
 962 interest in the underlying real property will be conveyed to the
 963 purchaser. If the plan is being created or being sold on a
 964 leasehold, a description of the material terms of the lease
 965 shall be included. If the plan is a plan in which timeshare
 966 estates or personal property timeshare interests are sold as



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967 interests in a trust pursuant to the requirements of this
968 chapter, a full and accurate description of the trust
969 arrangement and the trustee's duties shall be included. If the
970 plan is a personal property timeshare plan, a description of the
971 material terms of the arrangement for the ownership or use of
972 the personal property shall be included.

973 3. An explanation of the manner in which the apportionment
974 of common expenses and ownership of the common elements has been
975 determined.

976 4. If ownership or use of the timeshare plan is based on a
977 point system, a statement indicating the circumstances by which
978 the point values may change, the extent of such changes, and the
979 person or entity responsible for the changes.

980 5. If any of the accommodations or facilities are part of
981 a personal property timeshare plan in which the accommodations
982 or facilities are located on or in a documented vessel or
983 foreign vessel as provided in s. 721.08(2)(c)3.e., the
984 disclosure required by s. 721.08(2)(c)3.e.(IV).

985 (f) A description of the accommodations, including, but
986 not limited to:

987 1. The number of timeshare units in each building, the
988 total number of timeshare periods declared as part of the
989 timeshare plan and filed with the division, and the number of
990 bathrooms and bedrooms in each type of timeshare unit.

991 2. The latest date estimated for completion of
992 constructing, finishing, and equipping the timeshare units
993 declared as part of the timeshare plan and filed with the
994 division.



995 | 3. The estimated maximum number of units and timeshare
996 | periods that will use the accommodations and facilities. If the
997 | maximum number of timeshare units or timeshare periods will
998 | vary, a description of the basis for variation.

999 | 4. The duration, in years, of the timeshare plan.

1000 | 5. If any of the accommodations are part of a personal
1001 | property timeshare plan, the name, vehicle registration number,
1002 | title certificate number, or any other identifying registration
1003 | number assigned to the accommodation of a personal property
1004 | timeshare plan by a state, federal, or international
1005 | governmental agency.

1006 | 6. If any of the accommodations are part of a personal
1007 | property timeshare plan, the fire detection system and fire
1008 | safety equipment and description of method of compliance with
1009 | any applicable firesafety or fire detection regulations.

1010 | (g) A description of any ~~the~~ facilities that will be used
1011 | by purchasers of the plan, including, but not limited to:

1012 | 1. The intended purpose, if not apparent from the
1013 | description.

1014 | 2. The estimated date when each facility will be available
1015 | for use by the purchaser.

1016 | 3. A statement as to whether the facilities will be used
1017 | exclusively by purchasers of the timeshare plan, and, if not, a
1018 | statement as to whether the purchasers of the timeshare plan are
1019 | required to pay any portion of the maintenance and expenses of
1020 | such facilities.

1021 | (h)1. If any facilities offered by the developer for use
1022 | by purchasers are to be leased or have club memberships



1023 associated with them, other than participation in a vacation
 1024 club, one of the following statements in conspicuous type: *There*
 1025 *is a lease associated with one or more facilities of the*
 1026 *timeshare plan; or, There is a club membership associated with*
 1027 *one or more facilities of the timeshare plan.*

1028 2. If it is mandatory that purchasers pay fees, rent,
 1029 dues, or other charges under a facilities lease or club
 1030 membership for the use of the facilities, other than
 1031 participation in a vacation club, the applicable statement in
 1032 conspicuous type in substantially the following form:

1033 a. *Membership in a facilities club is mandatory for*
 1034 *purchasers;*

1035 b. *Purchasers or the owners' association(s) are required,*
 1036 *as a condition of ownership, to be lessees under the facilities*
 1037 *lease;*

1038 c. *Purchasers or the owners' association(s) are required*
 1039 *to pay their share of the rent or costs and expenses of*
 1040 *maintenance, management, upkeep, and replacement under the*
 1041 *facilities lease (or the other instruments providing the*
 1042 *facilities); or*

1043 d. A similar statement of the nature of the organization
 1044 or the manner in which the use rights are created, and that
 1045 purchasers are required to pay.

1046
 1047 Immediately following the applicable statement, a description of
 1048 the lease or other instrument shall be stated, including a
 1049 description of terms of the payment of rent or costs and



1050 expenses of maintenance, management, upkeep, and replacement of
1051 the facilities.

1052 3. If the purchasers are required to pay a use fee, or
1053 other payment for the use of the facilities, not including the
1054 rent or maintenance, management, upkeep, or replacement costs
1055 and expenses, the following statement in conspicuous type: *The*
1056 *purchasers or the owners' association(s) must pay use fees for*
1057 *one or more facilities.* Immediately following this statement, a
1058 description of the use fees shall be included.

1059 4. If any person other than the owners' association has
1060 the right to a lien on the timeshare interests to secure the
1061 payment of assessments, rent, or other exactions, a statement in
1062 conspicuous type in substantially the following form:

1063 a. *There is a lien or lien right against each timeshare*
1064 *interest to secure the payment of rent and other exactions under*
1065 *the facilities lease. A purchaser's failure to make these*
1066 *payments may result in foreclosure of the lien; or*

1067 b. *There is a lien or lien right against each timeshare*
1068 *interest to secure the payment of assessments or other exactions*
1069 *coming due for the use, maintenance, upkeep, or repair of one or*
1070 *more facilities. A purchaser's failure to make these payments*
1071 *may result in foreclosure of the lien.*

1072
1073 Immediately following the applicable statement, a description of
1074 the lien right shall be included.

1075 (i) If the developer or any other person has the right to
1076 increase or add to the facilities at any time after the
1077 establishment of the timeshare plan, without the consent of the



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1078 purchasers or owners' association being required, a statement in
1079 conspicuous type in substantially the following form: *Facilities*
1080 *may be expanded or added without consent of the purchasers or*
1081 *the owners' association(s).* Immediately following this
1082 statement, a description of such reserved rights shall be
1083 included.

1084 (j)1. For a real property timeshare plan, an explanation
1085 of the status of the title to the real property underlying the
1086 timeshare plan, including a statement of the existence of any
1087 lien, defect, judgment, mortgage, or other encumbrance affecting
1088 the title to the property, and how such lien, defect, judgment,
1089 mortgage, or other encumbrance will be removed or satisfied
1090 prior to closing.

1091 2. For a personal property timeshare plan, an explanation
1092 of the status of title to the personal property underlying the
1093 timeshare plan, including a statement of the existence of any
1094 lien, defect, judgment, or other encumbrance affecting the title
1095 to the personal property, and how such lien, defect, judgment,
1096 or other encumbrance will be removed or satisfied prior to
1097 closing.

1098 (k) A description of any judgment against the developer,
1099 the managing entity, owner of the underlying fee, or owner of
1100 the underlying personal property fee, which judgment is material
1101 to the timeshare plan; the status of any pending suit to which
1102 the developer, the managing entity, owner of the underlying fee,
1103 or owner of the underlying personal property fee is a party,
1104 which suit is material to the timeshare plan; and any other suit
1105 which is material to the timeshare plan of which the developer,



1106 managing entity, owner of the underlying fee, or owner of the
 1107 underlying personal property ~~fee~~ has actual knowledge. If no
 1108 judgments or pending suits exist, there shall be a statement of
 1109 such fact.

1110 (l) A description of all unusual and material
 1111 circumstances, features, and characteristics of the real
 1112 property or personal property underlying or comprising the
 1113 timeshare plan.

1114 (m) A description of any financing to be offered to
 1115 purchasers by the developer or any person or entity in which the
 1116 developer has a financial interest, together with a disclosure
 1117 that the description of such financing may be changed by the
 1118 developer and that any change in the financing offered to
 1119 prospective purchasers will not be deemed to be a material
 1120 change.

1121 (n) A detailed explanation of any financial arrangements
 1122 which have been provided for completion of all promised
 1123 improvements.

1124 (o) The name and address of the managing entity; a
 1125 statement whether the seller may change the managing entity or
 1126 its control and, if so, the manner by which the seller may
 1127 change the managing entity; a statement of the arrangements for
 1128 management, maintenance, and operation of the accommodations and
 1129 facilities and of other property that will serve the purchasers;
 1130 and a description of the management arrangement and any
 1131 contracts for these purposes having a term in excess of 1 year,
 1132 including the names of the contracting parties, the term of the
 1133 contract, the nature of the services included, and the



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1134 compensation, stated for a month and for a year, and provisions
1135 for increases in the compensation. In the case of a personal
1136 property timeshare plan in which the accommodations or
1137 facilities are located on or in a documented vessel or foreign
1138 vessel as provided in s. 721.08(2)(c)3.e., a statement shall be
1139 included that describes the trustee's or owners' association's
1140 access to the certificates of classification and that the
1141 certificate of classification will be made available to
1142 purchasers on request.

1143 (p) If any person other than the purchasers has the right
1144 to retain control of the board of administration of the owners'
1145 association, if any, for a period of time which may exceed 1
1146 year after the closing of the sale of a majority of the
1147 timeshare interests in that timeshare plan to persons other than
1148 successors or concurrent developers and the plan is one in which
1149 all purchasers automatically become members of the owners'
1150 association, a statement in conspicuous type in substantially
1151 the following form: *The developer (or other person) has the*
1152 *right to retain control of the owners' association after a*
1153 *majority of the timeshare interests have been sold.* Immediately
1154 following this statement, a description of the applicable
1155 transfer of control provisions of the timeshare plan shall be
1156 included.

1157 (q)1. If there are any restrictions upon the sale,
1158 transfer, conveyance, or leasing of a timeshare interest, a
1159 statement in conspicuous type in substantially the following
1160 form: *The sale, lease, or transfer of timeshare interests is*
1161 *restricted or controlled.* Immediately following this statement,



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1162 a description of the nature of the restriction, limitation, or
1163 control on the sale, lease, or transfer of timeshare interests
1164 shall be included.

1165 2. The following statement in conspicuous type in
1166 substantially the following form: *The purchase of a timeshare*
1167 *interest should be based upon its value as a vacation experience*
1168 *or for spending leisure time, and not considered for purposes of*
1169 *acquiring an appreciating investment or with an expectation that*
1170 *the timeshare interest may be resold.*

1171 (r) If the timeshare plan is part of a phase project, a
1172 statement to that effect and a complete description of the
1173 phasing. Notwithstanding any provisions of s. 718.110 or s.
1174 719.1055, a developer may develop a timeshare condominium or a
1175 timeshare cooperative in phases if the original declaration of
1176 condominium or cooperative documents submitting the initial
1177 phase to condominium ownership or cooperative ownership or an
1178 amendment to the declaration of condominium or cooperative
1179 documents which has been approved by all of the unit owners and
1180 unit mortgagees provides for phasing. Notwithstanding any
1181 provisions of s. 718.403 or s. 719.403 to the contrary, the
1182 original declaration of condominium or cooperative documents, or
1183 an amendment to the declaration of condominium or cooperative
1184 documents adopted pursuant to this subsection, need only
1185 generally describe the developer's phasing plan and the land
1186 which may become part of the condominium or cooperative, and, in
1187 conjunction therewith, the developer may also reserve all rights
1188 to vary his or her phasing plan as to phase boundaries, plot
1189 plans and floor plans, timeshare unit types, timeshare unit



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1190 sizes and timeshare unit type mixes, numbers of timeshare units,
 1191 and facilities with respect to each subsequent phase. There
 1192 shall be no time limit during which a developer of a timeshare
 1193 condominium or timeshare cooperative must complete his or her
 1194 phasing plan, and the developer shall not be required to notify
 1195 owners of existing timeshare estates of his or her decision not
 1196 to add one or more proposed phases.

1197 (s) A description of the material restrictions, if any, to
 1198 be imposed on timeshare interests concerning the use of any of
 1199 the accommodations or facilities, including statements as to
 1200 whether there are restrictions upon children and pets or a
 1201 reference to a copy of the documents containing the restrictions
 1202 which shall be attached as an exhibit. If there are no
 1203 restrictions, there shall be a statement of such fact.

1204 (t) If there is any land or personal property that is
 1205 offered by the developer for use by the purchasers and which is
 1206 neither owned by them nor leased to them, the owners'
 1207 association, or any entity controlled by the purchasers, a
 1208 statement describing the land or personal property, how it will
 1209 serve the timeshare plan, and the nature and term of service.

1210 (u) An estimated operating budget for the timeshare plan
 1211 and a schedule of the purchaser's expenses shall be attached as
 1212 an exhibit and shall contain the following information:

1213 1. The estimated annual expenses of the timeshare plan
 1214 collectible from purchasers by assessments. The estimated
 1215 payments by the purchaser for assessments shall also be stated
 1216 in the estimated amounts for the times when they will be due.
 1217 Expenses shall also be shown for the shortest timeshare period



1218 | offered for sale by the developer. If the timeshare plan
 1219 | provides for the offer and sale of units to be used on a
 1220 | nontimeshare basis, the estimated monthly and annual expenses of
 1221 | such units shall be set forth in a separate schedule.

1222 | 2. The estimated weekly, monthly, and annual expenses of
 1223 | the purchaser of each timeshare interest, other than assessments
 1224 | payable to the managing entity. Expenses which are personal to
 1225 | purchasers that are not uniformly incurred by all purchasers or
 1226 | that are not provided for or contemplated by the timeshare plan
 1227 | documents may be excluded from this estimate.

1228 | 3. The estimated items of expenses of the timeshare plan
 1229 | and the managing entity, except as excluded under subparagraph
 1230 | 2., including, but not limited to, if applicable, the following
 1231 | items, which shall be stated either as management expenses
 1232 | collectible by assessments or as expenses of the purchaser
 1233 | payable to persons other than the managing entity:

- 1234 | a. Expenses for the managing entity:
- 1235 | (I) Administration of the managing entity.
- 1236 | (II) Management fees.
- 1237 | (III) Maintenance.
- 1238 | (IV) Rent for facilities.
- 1239 | (V) Taxes upon timeshare property.
- 1240 | (VI) Taxes upon leased areas.
- 1241 | (VII) Insurance.
- 1242 | (VIII) Security provisions.
- 1243 | (IX) Other expenses.
- 1244 | (X) Operating capital.



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1245 (XI) Reserves for deferred maintenance and reserves for
1246 capital expenditures.

1247 (A) All reserves for any accommodations and facilities of
1248 real property timeshare plans located in this state shall be
1249 calculated by a formula which is based upon estimated life and
1250 replacement cost of each reserve item. Reserves for deferred
1251 maintenance for such accommodations and facilities shall include
1252 accounts for roof replacement, building painting, pavement
1253 resurfacing, replacement of timeshare unit furnishings and
1254 equipment, and any other component, the useful life of which is
1255 less than the useful life of the overall structure. For any
1256 accommodations and facilities of real property timeshare plans
1257 located outside of this state, the developer shall disclose the
1258 amount of reserves for deferred maintenance or capital
1259 expenditures required by the law of the situs state, if
1260 applicable, and maintained for such accommodations and
1261 facilities.

1262 (B) Reserves for deferred maintenance or capital
1263 expenditures of accommodations and facilities of a personal
1264 property timeshare plan, if any. If such reserves are
1265 maintained, the estimated operating budget shall disclose the
1266 methodology of how the reserves are calculated. If a personal
1267 property timeshare plan does not require reserves, the following
1268 statement, in conspicuous type, shall appear in both the budget
1269 and the public offering statement:

1270
1271 The estimated operating budget for this personal property
1272 timeshare plan does not include reserves for deferred



1273 maintenance or capital expenditures; each timeshare interest may
 1274 be subject to substantial special assessments from time to time
 1275 because no such reserves exist.

1276

1277 (XII) Fees payable to the division.

1278 b. Expenses for a purchaser:

1279 (I) Rent for the timeshare unit, if subject to a lease.

1280 (II) Rent payable by the purchaser directly to the lessor
 1281 or agent under any lease for the use of facilities, which use
 1282 and payment is a mandatory condition of ownership and is not
 1283 included in the common expenses or assessments for common
 1284 maintenance paid by the purchasers to the managing entity.

1285 4. The estimated amounts shall be stated for a period of
 1286 at least 12 months and may distinguish between the period prior
 1287 to the time that purchasers elect a majority of the board of
 1288 administration and the period after that date.

1289 5. If the developer intends to guarantee the level of
 1290 assessments, such guarantee must be based upon a good faith
 1291 estimate of the revenues and expenses of the timeshare plan. The
 1292 guarantee must include a description of the following:

1293 a. The specific time period measured in one or more
 1294 calendar or fiscal years during which the guarantee will be in
 1295 effect.

1296 b. A statement that the developer will pay all common
 1297 expenses incurred in excess of the total revenues of the
 1298 timeshare plan pursuant to s. 721.15(2) if the developer has
 1299 excused himself or herself from the payment of assessments
 1300 during the guarantee period.



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1301 c. The level, expressed in total dollars, at which the
1302 developer guarantees the budget. If the developer has reserved
1303 the right to extend or increase the guarantee level pursuant to
1304 s. 721.15(2), a disclosure must be included to that effect.

1305 6. If the developer intends to provide a trust fund to
1306 defer or reduce the payment of annual assessments, a copy of the
1307 trust instrument shall be attached as an exhibit and shall
1308 include a description of such arrangement, including, but not
1309 limited to:

1310 a. The specific amount of such trust funds and the source
1311 of the funds.

1312 b. The name and address of the trustee.

1313 c. The investment methods permitted by the trust
1314 agreement.

1315 d. A statement in conspicuous type that the funds from the
1316 trust account may not cover all assessments and that there is no
1317 guarantee that purchasers will not have to pay assessments in
1318 the future.

1319 7. The budget of a phase timeshare plan may contain a note
1320 identifying the number of timeshare interests covered by the
1321 budget, indicating the number of timeshare interests, if any,
1322 estimated to be declared as part of the timeshare plan during
1323 that calendar year, and projecting the common expenses for the
1324 timeshare plan based upon the number of timeshare interests
1325 estimated to be declared as part of the timeshare plan during
1326 that calendar year.

1327 (v) A schedule of estimated closing expenses to be paid by
1328 a purchaser or lessee of a timeshare interest and a statement as



1329 to whether a title opinion or title insurance policy is
1330 available to the purchaser and, if so, at whose expense.

1331 (w) The identity of the developer and the chief operating
1332 officer or principal directing the creation and sale of the
1333 timeshare plan and a statement of the experience of each in this
1334 field or, if no experience, a statement of that fact.

1335 (x) A statement of the total financial obligation of the
1336 purchaser, including the purchase price and any additional
1337 charges to which the purchaser may be subject.

1338 (y) The name of any person who will or may have the right
1339 to alter, amend, or add to the charges to which the purchaser
1340 may be subject and the terms and conditions under which such
1341 alterations, amendments, or additions may be imposed.

1342 (z) A statement of the purchaser's right of cancellation
1343 of the purchase contract.

1344 (aa) A description of the insurance coverage provided for
1345 the timeshare plan.

1346 (bb) A statement as to whether the timeshare plan is
1347 participating in an exchange program and, if so, the name and
1348 address of the exchange company offering the exchange program.

1349 (cc) The existence of rules and regulations regarding any
1350 reservation features governing a purchaser's ability to make
1351 reservations for a timeshare period, including, if applicable, a
1352 conspicuous type disclaimer in substantially the following form:

1353
1354 *The right to reserve a timeshare period is subject to rules and*
1355 *regulations of the timeshare plan reservation system.*

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1357 (dd) If a developer is filing a timeshare plan that
1358 includes a timeshare instrument or component site document that
1359 was in conformance with the laws and rules in existence at the
1360 time the timeshare plan was created but does not conform to
1361 existing laws and rules that govern the timeshare plan and the
1362 developer does not have the authority or power to amend or
1363 change the timeshare instrument or component site document to
1364 conform to such existing laws or rules as directed by the
1365 division, a brief explanation of current law and the conflict
1366 with the timeshare instrument or component site document,
1367 preceded by disclaimer in conspicuous type in substantially the
1368 following form:

1369
1370 *Florida law has been amended and certain provisions in [insert*
1371 *appropriate reference to timeshare instrument or component site*
1372 *document] that were in conformance with Florida law as it*
1373 *existed at the time the timeshare plan was created are not in*
1374 *conformance with current Florida law. These documents may only*
1375 *be amended by [insert appropriate reference to person or entity*
1376 *that has the right to amend or change the timeshare instrument*
1377 *or component site document]. The developer does not warrant that*
1378 *such documents are in technical compliance with all applicable*
1379 *Florida laws and regulations. All questions regarding amendment*
1380 *of these documents should be directed to [insert appropriate*
1381 *reference to person or entity that has the right to amend or*
1382 *change the timeshare instrument or component site document].*

1383



1384 (ee) Any other information that a seller, with the
1385 approval of the division, desires to include in the public
1386 offering statement.

1387 (ff) Copies of the following documents and plans, to the
1388 extent they are applicable, shall be included as exhibits to the
1389 filed ~~registered~~ public offering statement provided, if the
1390 timeshare plan has not been declared or created at the time of
1391 the filing, the developer shall provide proposed documents:

- 1392 1. The declaration of condominium.
- 1393 2. The cooperative documents.
- 1394 3. The declaration of covenants and restrictions.
- 1395 4. The articles of incorporation creating the owners'
1396 association.
- 1397 5. The bylaws of the owners' association.
- 1398 6. Any ~~The~~ ground lease or other underlying lease of the
1399 real property associated with ~~on which~~ the timeshare plan ~~is~~
1400 situated. In the case of a personal property timeshare plan, any
1401 lease of the personal property associated with the personal
1402 property timeshare plan.
- 1403 7. The management agreement and all maintenance and other
1404 contracts regarding the management and operation of the
1405 timeshare property which have terms in excess of 1 year.
- 1406 8. The estimated operating budget for the timeshare plan
1407 and the required schedule of purchasers' expenses.
- 1408 9. The floor plan of each type of accommodation and the
1409 plot plan showing the location of all accommodations and
1410 facilities declared as part of the timeshare plan and filed with
1411 the division.



- 1412 10. The lease for any facilities.
- 1413 11. A declaration of servitude of properties serving the
1414 accommodations and facilities, but not owned by purchasers or
1415 leased to them or the owners' association.
- 1416 12. Any documents required by s. 721.03(3)(e) as the
1417 result of the inclusion of a timeshare plan in the conversion of
1418 the building to condominium or cooperative ownership.
- 1419 13. The form of agreement for sale or lease of timeshare
1420 interests.
- 1421 14. The executed agreement for escrow of payments made to
1422 the developer prior to closing and the form of any agreement for
1423 escrow of ad valorem tax escrow payments, if any, to be made
1424 into an ad valorem tax escrow account pursuant to s. 192.037(6).
- 1425 15. The documents containing any restrictions on use of
1426 the property required by paragraph (s).
- 1427 16. A letter from the escrow agent or filing attorney
1428 confirming that the escrow agent and its officers, directors, or
1429 other partners are independent pursuant to the requirements of
1430 this chapter.
- 1431 17. Any nondisturbance and notice to creditors instrument
1432 required by s. 721.08.
- 1433 18. In the case of any personal property timeshare plan in
1434 which the accommodations and facilities are located on or in a
1435 documented vessel or foreign vessel as provided in s.
1436 721.08(2)(c)3.e., a copy of the certificate of ownership of such
1437 vessel and either a copy of the certificate of documentation or
1438 certificate of registry of such vessel.



1439 19. An executed affidavit given under oath by an attorney
 1440 licensed to practice law in any jurisdiction in the United
 1441 States stating that the attorney has researched the applicable
 1442 laws of the jurisdiction in which governing law has been
 1443 established and the laws of the jurisdiction in which the vessel
 1444 is registered, and has found that the timeshare instrument
 1445 complies with the provisions of s. 721.08(2)(c)3.e.(II)(C) and
 1446 s. 721.08(2)(c)3.e.(III).

1447 20.16. Any other documents or instruments creating the
 1448 timeshare plan.

1449 (gg) Such other information as is necessary to fairly,
 1450 meaningfully, and effectively disclose all aspects of the
 1451 timeshare plan, including, but not limited to, any disclosures
 1452 made necessary by the operation of s. 721.03(8). However, if a
 1453 developer has, in good faith, attempted to comply with the
 1454 requirements of this section, and if, in fact, he or she has
 1455 substantially complied with the disclosure requirements of this
 1456 chapter, nonmaterial errors or omissions shall not be
 1457 actionable.

1458 (hh) Notwithstanding the provisions of this subsection,
 1459 the filed ~~registered~~ public offering statement for a component
 1460 site of a multisite timeshare plan filed pursuant to this
 1461 subsection may contain cross-references to information contained
 1462 in the related multisite timeshare plan filed ~~registered~~ public
 1463 offering statement filed pursuant to s. 721.55 in lieu of
 1464 repeating such information.

1465 (6) The division is authorized to prescribe by rule the
 1466 form of the approved purchaser public offering statement that



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1467 must be furnished by the developer to each purchaser. The form
1468 of the purchaser public offering statement must provide fair,
1469 meaningful, and effective disclosure of all aspects of the
1470 timeshare plan. For timeshare plans filed pursuant to this part,
1471 the developer shall furnish each purchaser with the following:

1472 (a) A copy of the purchaser public offering statement text
1473 in the form approved by the division for delivery to purchasers.

1474 (b) Copies of the exhibits required to be filed with the
1475 division pursuant to subparagraphs (5)(ff)1., 2., 4., 5., 8.,
1476 and 20. ~~16.~~

1477 (c) A receipt for timeshare plan documents and a list
1478 describing any exhibit to the filed ~~registered~~ public offering
1479 statement filed with the division which is not delivered to the
1480 purchaser. The division is authorized to prescribe by rule the
1481 form of the receipt for timeshare plan documents and the
1482 description of exhibits list that must be furnished to the
1483 purchaser. The description of documents list utilized by a
1484 developer shall be filed with the division for review as part of
1485 the filed ~~registered~~ public offering statement pursuant to this
1486 section. The developer shall be required to provide the managing
1487 entity with a copy of the approved filed ~~registered~~ public
1488 offering statement and any approved amendments thereto to be
1489 maintained by the managing entity as part of the books and
1490 records of the timeshare plan pursuant to s. 721.13(3)(d).

1491 (d) Any other exhibit which the developer includes as part
1492 of the purchaser public offering statement, provided that the
1493 developer first files the exhibit with the division.



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1494 (e) An executed copy of any document which the purchaser
1495 signs.

1496 (f) Each purchaser shall receive a fully executed paper
1497 copy of the purchase contract.

1498 Section 7. Paragraph (g) of subsection (1) of section
1499 721.075, Florida Statutes, is amended and paragraph (e) is added
1500 to subsection (2) of said section, to read:

1501 721.075 Incidental benefits.--Incidental benefits shall be
1502 offered only as provided in this section.

1503 (1) Accommodations, facilities, products, services,
1504 discounts, or other benefits which satisfy the requirements of
1505 this subsection shall be subject to the provisions of this
1506 section and exempt from the other provisions of this chapter
1507 which would otherwise apply to such accommodations or facilities
1508 if and only if:

1509 (g) The incidental benefit is filed with the division for
1510 review in conjunction with the filing of a timeshare plan or in
1511 connection with a previously filed timeshare plan.

1512 (2) Each purchaser shall execute a separate acknowledgment
1513 and disclosure statement with respect to all incidental
1514 benefits, which statement shall include the following
1515 information:

1516 (e) A statement indicating the source of the services,
1517 points, or other products that constitute the incidental
1518 benefit.

1519 Section 8. Section 721.08, Florida Statutes, is amended to
1520 read:



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1521 721.08 Escrow accounts; nondisturbance instruments;
1522 alternate security arrangements; transfer of legal title.--
1523 (1) Prior to the filing of a ~~registered~~ public offering
1524 statement with the division, all developers shall establish an
1525 escrow account with an escrow agent for the purpose of
1526 protecting the funds or other property of purchasers required to
1527 be escrowed by this section. An escrow agent shall maintain the
1528 accounts called for in this section only in such a manner as to
1529 be under the direct supervision and control of the escrow agent.
1530 The escrow agent shall have a fiduciary duty to each purchaser
1531 to maintain the escrow accounts in accordance with good
1532 accounting practices and to release the purchaser's funds or
1533 other property from escrow only in accordance with this chapter.
1534 The escrow agent shall retain all affidavits received pursuant
1535 to this section for a period of 5 years. Should the escrow agent
1536 receive conflicting demands for funds or other property held in
1537 escrow, the escrow agent shall immediately notify the division
1538 of the dispute and either promptly submit the matter to
1539 arbitration or, by interpleader or otherwise, seek an
1540 adjudication of the matter by court.

1541 (2) One hundred percent of all funds or other property
1542 which is received from or on behalf of purchasers of the
1543 timeshare plan or timeshare interest prior to the occurrence of
1544 events required in this subsection shall be deposited pursuant
1545 to an escrow agreement approved by the division. The ~~escrow~~
1546 ~~agreement shall provide that the~~ funds or other property may be
1547 released from escrow only as follows:



1548 (a) *Cancellation.*--In the event a purchaser gives a valid
 1549 notice of cancellation pursuant to s. 721.10 or is otherwise
 1550 entitled to cancel the sale, the funds or other property
 1551 received from or on behalf of the purchaser, or the proceeds
 1552 thereof, shall be returned to the purchaser. Such refund shall
 1553 be made within 20 days after ~~of~~ demand therefor by the purchaser
 1554 or within 5 days after receipt of funds from the purchaser's
 1555 cleared check, whichever is later. If the purchaser has received
 1556 benefits under the contract prior to the effective date of the
 1557 cancellation, the funds or other property to be returned to the
 1558 purchaser may be reduced by the proportion of contract benefits
 1559 actually received.

1560 (b) *Purchaser's default.*--Following expiration of the 10-
 1561 day cancellation period, if the purchaser defaults in the
 1562 performance of her or his obligations under the terms of the
 1563 contract to purchase or such other agreement by which a seller
 1564 sells the timeshare interest, the developer shall provide an
 1565 affidavit to the escrow agent requesting release of the escrowed
 1566 funds or other property and shall provide a copy of such
 1567 affidavit to the purchaser who has defaulted. The developer's
 1568 affidavit, as required herein, shall include:

- 1569 1. A statement that the purchaser has defaulted and that
 1570 the developer has not defaulted;
- 1571 2. A brief explanation of the nature of the default and
 1572 the date of its occurrence;
- 1573 3. A statement that pursuant to the terms of the contract
 1574 the developer is entitled to the funds held by the escrow agent;
 1575 and



1576 4. A statement that the developer has not received from
1577 the purchaser any written notice of a dispute between the
1578 purchaser and developer or a claim by the purchaser to the
1579 escrow.

1580 (c) *Compliance with conditions.*--

1581 1. Timeshare licenses.--If the timeshare plan is one in
1582 which timeshare licenses are to be sold and no cancellation or
1583 default has occurred, the escrow agent may release the escrowed
1584 funds or other property to or on the order of the developer upon
1585 presentation of:

1586 a. An affidavit by the developer that all of the following
1587 conditions have been met:

1588 (I) Expiration of the cancellation period.

1589 (II) Completion of construction.

1590 (III) Closing.

1591 (IV) Either:

1592 (A) Execution, delivery, and recordation by each
1593 interestholder of the nondisturbance and notice to creditors
1594 instrument, as described in this section; ~~or, alternatively,~~

1595 (B) Transfer by the developer of legal title to the
1596 subject accommodations and facilities, or all use rights
1597 therein, into ~~to~~ a trust satisfying the requirements of
1598 subparagraph 4. sub-subparagraph 3.b. and the execution,
1599 delivery, and recordation by each other interestholder of the
1600 nondisturbance and notice to creditors instrument, as described
1601 in this section.



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1602 b. A certified copy of each ~~the~~ recorded nondisturbance
1603 and notice to creditors instrument ~~that complies with subsection~~
1604 ~~(3)~~.

1605 c. One of the following:

1606 (I) A copy of a memorandum of agreement, as defined in s.
1607 721.05~~(21)~~, together with satisfactory evidence that the
1608 original memorandum of agreement has been irretrievably
1609 delivered for recording to the appropriate official responsible
1610 for maintaining the public records in the county in which the
1611 subject accommodations and facilities are located. The original
1612 memorandum of agreement must be recorded within 180 days after
1613 the date on which the purchaser executed her or his purchase
1614 agreement.

1615 (II) A notice delivered for recording to the appropriate
1616 official responsible for maintaining the public records in each
1617 county in which the subject accommodations and facilities are
1618 located notifying all persons of the identity of an independent
1619 escrow agent or trustee satisfying the requirements of
1620 subparagraph 4. ~~sub-subparagraph 3.b.~~ that shall maintain
1621 separate books and records, in accordance with good accounting
1622 practices, for the timeshare plan in which timeshare licenses
1623 are to be sold. The books and records shall indicate each
1624 accommodation and facility that is subject to such a timeshare
1625 plan and each purchaser of a timeshare license in the timeshare
1626 plan.

1627 2. Timeshare estates.--If the timeshare plan is one in
1628 which timeshare estates are to be sold, ~~other than interests in~~
1629 ~~a trust pursuant to subparagraph 3.,~~ and no cancellation or



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1630 default has occurred, the escrow agent may release the escrowed
1631 funds or other property to or on the order of the developer upon
1632 presentation of:

1633 a. An affidavit by the developer that all of the following
1634 conditions have been met:

1635 (I) Expiration of the cancellation period.

1636 (II) Completion of construction.

1637 (III) Closing.

1638 b. If the timeshare estate is sold by agreement for deed,
1639 a certified copy of the recorded nondisturbance and notice to
1640 creditors instrument, as described in this section.

1641 c. Evidence that each accommodation and facility:

1642 (I) Is free and clear of the claims of any
1643 interestholders, other than the claims of interestholders that,
1644 through a recorded instrument, are irrevocably made subject to
1645 the timeshare instrument and the use rights of purchasers made
1646 available through the timeshare instrument;

1647 (II) Is the subject of a recorded nondisturbance and
1648 notice to creditors instrument that complies with subsection (3)
1649 and s. 721.17; or

1650 (III) Has been transferred into a trust satisfying the
1651 requirements of subparagraph 4.

1652 d. Evidence that the timeshare estate:

1653 (I) Is free and clear of the claims of any
1654 interestholders, other than the claims of interestholders that,
1655 through a recorded instrument, are irrevocably made subject to
1656 the timeshare instrument and the use rights of purchasers made
1657 available through the timeshare instrument; or



1658 (II) Is that ~~are~~ the subject of a recorded nondisturbance
 1659 and notice to creditors instrument that complies with subsection
 1660 (3) and s. 721.17.

1661 3. Personal property timeshare interests.--If the
 1662 timeshare plan is one in which personal property timeshare
 1663 interests ~~estates~~ are to be sold as ~~interests in a trust that~~
 1664 ~~complies in all respects with the provisions of sub-subparagraph~~
 1665 ~~b.,~~ and no cancellation or default has occurred, the escrow
 1666 agent may release the escrowed funds or other property to or on
 1667 the order of the developer upon presentation of:

1668 a. An affidavit by the developer that all of the following
 1669 conditions have been met:

1670 (I) Expiration of the cancellation period.

1671 (II) Completion of construction.

1672 (III) ~~Transfer of the subject accommodations and~~
 1673 ~~facilities, or all use rights therein, to the trust.~~

1674 ~~(IV)~~ Closing.

1675 b. If the personal property timeshare interest is sold by
 1676 agreement for transfer, evidence that the agreement for transfer
 1677 complies fully with s. 721.06 and this section.

1678 c. Evidence that one of the following has occurred:

1679 (I) Transfer by the owner of the underlying personal
 1680 property of legal title to the subject accommodations and
 1681 facilities or all use rights therein into a trust satisfying the
 1682 requirements of subparagraph 4.; or

1683 (II) Transfer by the owner of the underlying personal
 1684 property of legal title to the subject accommodations and



1685 facilities or all use rights therein into an owners' association
 1686 satisfying the requirements of subparagraph 5.

1687 d. Evidence of compliance with the provisions of
 1688 subparagraph 6., if required.

1689 e. If a personal property timeshare plan is created with
 1690 respect to accommodations and facilities that are located on or
 1691 in an ocean going vessel, including a "documented vessel" or
 1692 "foreign vessel" as defined and governed by chapter 301 of Title
 1693 46 of the United States Code:

1694 (I) In making the transfer required in sub-subparagraph
 1695 c., the developer shall use as its transfer instrument a
 1696 document that establishes and protects the continuance of the
 1697 use rights in the subject accommodations and facilities in a
 1698 manner that is enforceable by the trust or owners' association.

1699 (II) The transfer instrument shall comply fully with the
 1700 provisions of this chapter, shall be part of the timeshare
 1701 instrument, and shall contain specific provisions that:

1702 (A) Prohibit the vessel owner, the developer, any manager
 1703 or operator of the vessel, the owners' association or the
 1704 trustee, the managing entity, or any other person from incurring
 1705 any liens against the vessel except for liens that are required
 1706 for the operation and upkeep of the vessel, including liens for
 1707 fuel expenditures, repairs, crews' wages, and salvage, and
 1708 except as provided in sub-sub-subparagraphs 4.b.(III) and
 1709 5.b.(III). All expenses, fees, and taxes properly incurred in
 1710 connection with the creation, satisfaction, and discharge of any
 1711 such permitted lien, or a prorated portion thereof if less than



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1712 all of the accommodations on the vessel are subject to the
1713 timeshare plan, shall be common expenses of the timeshare plan.

1714 (B) Grant a lien against the vessel in favor of the
1715 owners' association or trustee to secure the full and faithful
1716 performance of the vessel owner and developer of all of their
1717 obligations to the purchasers.

1718 (C) Establish governing law in a jurisdiction that
1719 recognizes and will enforce the timeshare instrument and the
1720 laws of the jurisdiction of registry of the vessel.

1721 (D) Require that a description of the use rights of
1722 purchasers be posted and displayed on the vessel in a manner
1723 that will give notice of such rights to any party examining the
1724 vessel. This notice must identify the owners' association or
1725 trustee and include a statement disclosing the limitation on
1726 incurring liens against the vessel described in sub-sub-sub-
1727 subparagraph (A).

1728 (E) Include the nondisturbance and notice to creditors
1729 instrument for the vessel owner and any other interestholders.

1730 (F) The owners' association created under subparagraph 5.
1731 or trustee created under subparagraph 6. shall have access to
1732 any certificates of classification in accordance with the
1733 timeshare instrument.

1734 (III) If the vessel is a foreign vessel, the vessel must
1735 be registered in a jurisdiction that permits a filing evidencing
1736 the use rights of purchasers in the subject accommodations and
1737 facilities, offers protection for such use rights against
1738 unfiled and inferior claims, and recognizes the document or



1739 instrument creating such use rights as a lien against the
 1740 vessel.

1741 (IV) In addition to the disclosures required by s.
 1742 721.07(5), the public offering statement and purchase contract
 1743 must contain a disclosure in conspicuous type in substantially
 1744 the following form:

1745
 1746 The laws of the State of Florida govern the offering of this
 1747 timeshare plan in this state. There are inherent risks in
 1748 purchasing a timeshare interest in this timeshare plan because
 1749 the accommodations and facilities of the timeshare plan are
 1750 located on a vessel that will sail into international waters and
 1751 into waters governed by many different jurisdictions. Therefore,
 1752 the laws of the State of Florida cannot fully protect your
 1753 purchase of an interest in this timeshare plan. Specifically,
 1754 management and operational issues may need to be addressed in
 1755 the jurisdiction in which the vessel is registered, which is
 1756 _____ (insert jurisdiction in which vessel is required).
 1757 Concerns of purchasers may be sent to _____ (insert name
 1758 of applicable regulatory agency and address).

1759 4. Trust.--

1760 a. If the subject accommodations or facilities, or all use
 1761 rights therein, are to be transferred into a trust in order to
 1762 comply with this paragraph, such transfer shall take place
 1763 pursuant to this subparagraph.

1764 b. Prior to the transfer by each interestholder of the
 1765 subject accommodations and facilities, or all use rights
 1766 therein, to a trust, any lien or other encumbrance against such



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1767 accommodations and facilities, or use rights therein, shall be
1768 made subject to a nondisturbance and notice to creditors
1769 instrument pursuant to subsection (3) ~~as described in this~~
1770 ~~section~~. No transfer pursuant to this subparagraph ~~sub-~~
1771 ~~subparagraph~~ shall become effective until the trustee accepts
1772 such transfer and the responsibilities set forth herein. A trust
1773 established pursuant to this subparagraph ~~sub-subparagraph~~ shall
1774 comply with the following provisions:

1775 (I) The trustee shall be an individual or a business
1776 entity authorized and qualified to conduct trust business in
1777 this state. Any corporation authorized to do business in this
1778 state may act as trustee in connection with a timeshare plan
1779 pursuant to this chapter. The trustee must be independent from
1780 any developer or managing entity of the timeshare plan or any
1781 interestholder of any accommodation or facility of such plan.

1782 (II) The trust shall be irrevocable so long as any
1783 purchaser has a right to occupy any portion of the timeshare
1784 property pursuant to the timeshare plan.

1785 (III) The trustee shall not convey, hypothecate, mortgage,
1786 assign, lease, or otherwise transfer or encumber in any fashion
1787 any interest in or portion of the timeshare property with
1788 respect to which any purchaser has a right of use or occupancy
1789 unless the timeshare plan is terminated pursuant to the
1790 timeshare instrument, or such conveyance, hypothecation,
1791 mortgage, assignment, lease, transfer, or encumbrance is
1792 approved by a vote of two-thirds of all voting interests of the
1793 timeshare plan and such decision is declared by a court of
1794 competent jurisdiction to be in the best interests of the



1795 purchasers of the timeshare plan. The trustee shall notify the
 1796 division in writing within 10 days after ~~of~~ receiving notice of
 1797 the filing of any petition relating to obtaining such a court
 1798 order. The division shall have standing to advise the court of
 1799 the division's interpretation of the statute as it relates to
 1800 the petition.

1801 (IV) All purchasers of the timeshare plan or the owners'
 1802 association of the timeshare plan shall be the express
 1803 beneficiaries of the trust. The trustee shall act as a fiduciary
 1804 to the beneficiaries of the trust. The personal liability of the
 1805 trustee shall be governed by s. 737.306. The agreement
 1806 establishing the trust shall set forth the duties of the
 1807 trustee. The trustee shall be required to furnish promptly to
 1808 the division upon request a copy of the complete list of the
 1809 names and addresses of the owners in the timeshare plan and a
 1810 copy of any other books and records of the timeshare plan
 1811 required to be maintained pursuant to s. 721.13 that are in the
 1812 possession, custody, or control of the trustee. All expenses
 1813 reasonably incurred by the trustee in the performance of its
 1814 duties, together with any reasonable compensation of the
 1815 trustee, shall be common expenses of the timeshare plan.

1816 (V) The trustee shall not resign upon less than 90 days'
 1817 prior written notice to the managing entity and the division. No
 1818 resignation shall become effective until a substitute trustee,
 1819 approved by the division, is appointed by the managing entity
 1820 and accepts the appointment.

1821 (VI) The documents establishing the trust arrangement
 1822 shall constitute a part of the timeshare instrument.



1823 (VII) For trusts holding property in a timeshare plan
 1824 located outside this state, the trust and trustee holding such
 1825 property shall be deemed in compliance with the requirements of
 1826 this subparagraph if such trust and trustee are ~~is~~ authorized
 1827 and qualified to conduct trust business under the laws of such
 1828 jurisdiction and the agreement or law governing such trust
 1829 arrangement provides substantially similar protections for the
 1830 purchaser as are required in this subparagraph for trusts
 1831 holding property in a timeshare plan in this state.

1832 (VIII) The trustee shall have appointed a registered agent
 1833 in this state for service of process. In the event such a
 1834 registered agent is not appointed, service of process may be
 1835 served pursuant to s. 721.265.

1836 5. Owners' association.--

1837 a. If the subject accommodations or facilities, or all use
 1838 rights therein, are to be transferred into an owners'
 1839 association in order to comply with this paragraph, such
 1840 transfer shall take place pursuant to this subparagraph.

1841 b. Prior to the transfer by each interestholder of the
 1842 subject accommodations and facilities, or all use rights
 1843 therein, to an owners' association, any lien or other
 1844 encumbrance against such accommodations and facilities, or use
 1845 rights therein, shall be made subject to a nondisturbance and
 1846 notice to creditors instrument pursuant to subsection (3). No
 1847 transfer pursuant to this subparagraph shall become effective
 1848 until the owners' association accepts such transfer and the
 1849 responsibilities set forth herein. An owners' association



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1850 established pursuant to this subparagraph shall comply with the
1851 following provisions:

1852 (I) The owners' association shall be a business entity
1853 authorized and qualified to conduct business in this state.
1854 Control of the board of directors of the owners' association
1855 must be independent from any developer or managing entity of the
1856 timeshare plan or any interestholder.

1857 (II) The bylaws of the owners' association shall provide
1858 that the corporation may not be voluntarily dissolved without
1859 the unanimous vote of all owners of personal property timeshare
1860 interests so long as any purchaser has a right to occupy any
1861 portion of the timeshare property pursuant to the timeshare
1862 plan.

1863 (III) The owners' association shall not convey,
1864 hypothecate, mortgage, assign, lease, or otherwise transfer or
1865 encumber in any fashion any interest in or portion of the
1866 timeshare property with respect to which any purchaser has a
1867 right of use or occupancy unless the timeshare plan is
1868 terminated pursuant to the timeshare instrument, or such
1869 conveyance, hypothecation, mortgage, assignment, lease,
1870 transfer, or encumbrance is approved by a vote of two-thirds of
1871 all voting interests of the association and such decision is
1872 declared by a court of competent jurisdiction to be in the best
1873 interests of the purchasers of the timeshare plan. The owners'
1874 association shall notify the division in writing within 10 days
1875 after receiving notice of the filing of any petition relating to
1876 obtaining such a court order. The division shall have standing



1877 to advise the court of the division's interpretation of the
 1878 statute as it relates to the petition.

1879 (IV) All purchasers of the timeshare plan shall be members
 1880 of the owners' association and shall be entitled to vote on
 1881 matters requiring a vote of the owners' association as provided
 1882 in this chapter or the timeshare instrument. The owners'
 1883 association shall act as a fiduciary to the purchasers of the
 1884 timeshare plan. The articles of incorporation establishing the
 1885 owners' association shall set forth the duties of the owners'
 1886 association. All expenses reasonably incurred by the owners'
 1887 association in the performance of its duties, together with any
 1888 reasonable compensation of the officers or directors of the
 1889 owners' association, shall be common expenses of the timeshare
 1890 plan.

1891 (V) The documents establishing the owners' association
 1892 shall constitute a part of the timeshare instrument.

1893 (VI) For owners' associations holding property in a
 1894 timeshare plan located outside this state, the owners'
 1895 association holding such property shall be deemed in compliance
 1896 with the requirements of this subparagraph if such owners'
 1897 association is authorized and qualified to conduct owners'
 1898 association business under the laws of such jurisdiction and the
 1899 agreement or law governing such arrangement provides
 1900 substantially similar protections for the purchaser as are
 1901 required in this subparagraph for owners' associations holding
 1902 property in a timeshare plan in this state.

1903 (VII) The owners' association shall have appointed a
 1904 registered agent in this state for service of process. In the



1905 event such a registered agent cannot be located, service of
 1906 process may be made pursuant to s. 721.265.

1907 6. Personal property subject to certificate of title.--If
 1908 any personal property that is an accommodation or facility of a
 1909 timeshare plan is subject to a certificate of title in this
 1910 state pursuant to chapter 319 or chapter 328, the following
 1911 notation must be made on such certificate of title pursuant to
 1912 s. 319.27(1) or s. 328.15(1):

1913
 1914 The further transfer or encumbrance of the property subject to
 1915 this certificate of title, or any lien or encumbrance thereon,
 1916 is subject to the requirements of section 721.17, Florida
 1917 Statutes, and the transferee or lienor agrees to be bound by all
 1918 of the obligations set forth therein.

1919
 1920 7.4. If the developer has previously provided a certified
 1921 copy of any document required by this paragraph, she or he may
 1922 for all subsequent disbursements substitute a true and correct
 1923 copy of the certified copy, provided no changes to the document
 1924 have been made or are required to be made.

1925 8. In the event that use rights relating to an
 1926 accommodation or facility are transferred into a trust pursuant
 1927 to subparagraph 4. or into an owners' association pursuant to
 1928 subparagraph 5., all other interestholders, including the owner
 1929 of the underlying fee or underlying personal property, must
 1930 execute a nondisturbance and notice to creditors instrument
 1931 pursuant to subsection (3).



1932 (d) Substitution of other assurances for escrowed funds or
 1933 other property.--Funds or other property escrowed as provided in
 1934 this section may be released from escrow to or on the order of
 1935 the developer upon acceptance by the director of the division of
 1936 other assurances pursuant to subsection (5) as a substitute for
 1937 such escrowed funds or other property. The amount of escrowed
 1938 funds or other property that may be released pursuant to this
 1939 paragraph shall be equal to or less than the face amount of the
 1940 assurances accepted by the director from time to time.

1941 (3) NONDISTURBANCE AND NOTICE TO CREDITORS
 1942 INSTRUMENT.--The nondisturbance and notice to creditors
 1943 instrument, when required, shall be executed by each
 1944 interestholder.

1945 (a) The instrument shall state that:

1946 1.(a) If the party seeking enforcement is not in default
 1947 of its obligations, the instrument may be enforced by both the
 1948 seller and any purchaser of the timeshare plan;

1949 2.(b) The instrument shall be effective as between the
 1950 timeshare purchaser and interestholder despite any rejection or
 1951 cancellation of the contract between the timeshare purchaser and
 1952 developer as a result of bankruptcy proceedings of the
 1953 developer; and

1954 3.(e) So long as a purchaser remains in good standing with
 1955 respect to her or his obligations under the timeshare
 1956 instrument, including making all payments to the managing entity
 1957 required by the timeshare instrument with respect to the annual
 1958 common expenses of the timeshare ~~the interestholder has any~~
 1959 ~~interest in the accommodations, facilities, or plan, then the~~



1960 interestholder will ~~fully~~ honor all ~~the~~ rights of such purchaser
 1961 relating to the subject accommodation or facility as reflected
 1962 ~~timeshare purchasers in and to the timeshare instrument plan,~~
 1963 ~~will honor the purchasers' right to cancel their contracts and~~
 1964 ~~receive appropriate refunds, and will comply with all other~~
 1965 ~~requirements of this chapter and rules promulgated hereunder.~~

1966
 1967 The instrument shall contain language sufficient to provide
 1968 subsequent creditors of the developer and interestholders with
 1969 notice of the existence of the timeshare plan and of the rights
 1970 of purchasers and shall serve to protect the interest of the
 1971 timeshare purchasers from any claims of subsequent creditors.

1972 (b) Real property timeshare plans.--For real property
 1973 timeshare plans, the instrument shall be recorded in the public
 1974 records of the county in which the subject accommodations or
 1975 facilities are located.

1976 (c) Personal property timeshare plans.--For personal
 1977 property timeshare plans, the instrument shall be included
 1978 within or attached as an exhibit to a security agreement or
 1979 other agreement executed by the interestholder. Constructive
 1980 notice of such security agreement or other agreement shall be
 1981 filed in the manner prescribed by chapter 679 or other
 1982 applicable law.

1983 (d) A copy of the recorded or filed nondisturbance and
 1984 notice to creditors instrument, when required, shall be provided
 1985 to each timeshare purchaser at the time the purchase contract is
 1986 executed.



1987 (4) In lieu of any escrow provisions required by this act,
 1988 the director of the division shall have the discretion to permit
 1989 deposit of the funds or other property in an escrow account as
 1990 required by the jurisdiction in which the sale took place.

1991 (5)(a) In lieu of any escrows required by this section,
 1992 the director of the division shall have the discretion to accept
 1993 other assurances, including, but not limited to, a surety bond
 1994 issued by a company authorized and licensed to do business in
 1995 this state as surety or an irrevocable letter of credit in an
 1996 amount equal to the escrow requirements of this section.

1997 (b) Notwithstanding anything in chapter 718 or chapter 719
 1998 to the contrary, the director of the division shall have the
 1999 discretion to accept other assurances pursuant to paragraph (a)
 2000 in lieu of any requirement that completion of construction of
 2001 one or more accommodations or facilities of a timeshare plan be
 2002 accomplished prior to closing.

2003 (c) In lieu of a nondisturbance and notice to creditors
 2004 instrument, when such an instrument is otherwise required by
 2005 this section, the director of the division shall have the
 2006 discretion to accept alternate means of protecting the
 2007 continuing rights of purchasers in and to the subject
 2008 accommodations or facilities of the timeshare plan as and for
 2009 the term described in the timeshare instrument, and of providing
 2010 effective constructive notice of such continuing purchaser
 2011 rights to subsequent owners of the accommodations or facilities
 2012 and to subsequent creditors of the affected interestholder.

2013 (d) In lieu of the requirements in s.
 2014 721.08(2)(c)3.e.(III), the director of the division shall have



2015 | the discretion to accept alternate means of protecting the use
 2016 | rights of purchasers in the subject accommodations and
 2017 | facilities of the timeshare plan against unfiled and inferior
 2018 | claims.

2019 | (6) An escrow agent holding funds escrowed pursuant to
 2020 | this section may invest such escrowed funds in securities of the
 2021 | United States Government, or any agency thereof, or in savings
 2022 | or time deposits in institutions insured by an agency of the
 2023 | United States Government. The right to receive the interest
 2024 | generated by any such investments shall be paid to the party to
 2025 | whom the escrowed funds or other property are paid unless
 2026 | otherwise specified by contract.

2027 | (7) Each escrow agent shall maintain separate books and
 2028 | records for each timeshare plan and shall maintain such books
 2029 | and records in accordance with good accounting practices.

2030 | (8) An escrow agent holding escrowed funds pursuant to
 2031 | this chapter that have not been claimed for a period of 5 years
 2032 | after the date of deposit shall make at least one reasonable
 2033 | attempt to deliver such unclaimed funds to the purchaser who
 2034 | submitted such funds to escrow. In making such attempt, an
 2035 | escrow agent is entitled to rely on a purchaser's last known
 2036 | address as set forth in the books and records of the escrow
 2037 | agent and is not required to conduct any further search for the
 2038 | purchaser. If an escrow agent's attempt to deliver unclaimed
 2039 | funds to any purchaser is unsuccessful, the escrow agent may
 2040 | deliver such unclaimed funds to the division and the division
 2041 | shall deposit such unclaimed funds in the Division of Florida
 2042 | Land Sales, Condominiums, and Mobile Homes Trust Fund, 30 days



2043 after giving notice in a publication of general circulation in
 2044 the county in which the timeshare property containing the
 2045 purchaser's timeshare interest is located. The purchaser may
 2046 claim the same at any time prior to the delivery of such funds
 2047 to the division. After delivery of such funds to the division,
 2048 the purchaser shall have no more rights to the unclaimed funds.
 2049 The escrow agent shall not be liable for any claims from any
 2050 party arising out of the escrow agent's delivery of the
 2051 unclaimed funds to the division pursuant to this section.

2052 (9) For each transfer of the legal title to a timeshare
 2053 estate by a developer, the developer shall deliver an instrument
 2054 evidencing such transfer to the purchaser or to a title
 2055 insurance agent or the clerk of the court for recording. For
 2056 each transfer of the legal title to a personal property
 2057 timeshare interest by a developer, the developer shall deliver
 2058 an instrument evidencing such transfer to the purchaser subject
 2059 to the provisions of this section.

2060 (10)(a) Any developer, seller, or escrow agent who
 2061 intentionally fails to comply with the provisions of this
 2062 section concerning the establishment of an escrow account,
 2063 deposits of funds into escrow, and withdrawal therefrom is
 2064 guilty of a felony of the third degree, punishable as provided
 2065 in s. 775.082, s. 775.083, or s. 775.084, or the successor
 2066 thereof. The failure to establish an escrow account or to place
 2067 funds therein as required in this section is prima facie
 2068 evidence of an intentional and purposeful violation of this
 2069 section.



2070 (b) Any developer, interestholder, trustee, or officer or
 2071 director of an owners' association who intentionally fails to
 2072 comply with the provisions of this section concerning the
 2073 establishment of a trust or owners' association, conveyances of
 2074 property into the trust or owners' association, and conveyances
 2075 or encumbrances of trust or owners' association property is
 2076 guilty of a felony of the third degree, punishable as provided
 2077 in s. 775.082, s. 775.083, or s. 775.084, or the successor
 2078 thereof. The failure to establish a trust or owners'
 2079 association, or to transfer property into the trust or owners'
 2080 association, or the failure of a trustee or officer or director
 2081 of an owners' association to comply with the trust agreement,
 2082 articles of incorporation, or bylaws with respect to conveyances
 2083 or encumbrances of trust or owners' association property, as
 2084 required by this section, is prima facie evidence of an
 2085 intentional and purposeful violation of this section.

2086 Section 9. Paragraphs (a) and (d) of subsection (1),
 2087 paragraph (c) of subsection (2), and paragraph (c) of subsection
 2088 (3) of section 721.09, Florida Statutes, are amended to read:

2089 721.09 Reservation agreements; escrows.--

2090 (1)(a) Prior to filing the filed ~~registered~~ public
 2091 offering statement with the division, a seller shall not offer a
 2092 timeshare plan for sale but may accept reservation deposits and
 2093 advertise the reservation deposit program upon approval by the
 2094 division of a fully executed escrow agreement and reservation
 2095 agreement properly filed with the division.

2096 (d) A seller who has filed a reservation agreement and an
 2097 escrow agreement under this section may advertise the



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2098 reservation agreement program if the advertising material meets
2099 the following requirements:

2100 1. The seller complies with the provisions of s. 721.11
2101 with respect to such advertising material.

2102 2. The advertising material is limited to a general
2103 description of the proposed timeshare plan, including, but not
2104 limited to, a general description of the type, number, and size
2105 of accommodations and facilities and the name of the proposed
2106 timeshare plan.

2107 3. The advertising material contains a statement that the
2108 advertising material is being distributed in connection with an
2109 approved reservation agreement filing only and that the seller
2110 cannot offer an interest in the timeshare plan for sale until a
2111 filed ~~registered~~ public offering statement has been filed with
2112 the division under this chapter.

2113 (2) Each executed reservation agreement shall be signed by
2114 the developer and shall contain the following:

2115 (c) A statement of the obligation of the developer to file
2116 a filed ~~registered~~ public offering statement with the division
2117 prior to entering into binding contracts.

2118 (3)

2119 (c) The escrow agent may invest the escrowed funds in
2120 securities of the United States Government, or any agency
2121 thereof, or in savings or time deposits in institutions insured
2122 by an agency of the United States Government. The interest
2123 generated by any such investments shall be payable to the party
2124 entitled to receive the escrowed funds or other property.



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2125 Section 10. Paragraph (a) of subsection (1), paragraphs
2126 (b) and (e) of subsection (6), and subsections (7), (8), and (9)
2127 of section 721.11, Florida Statutes, are amended to read:

2128 721.11 Advertising materials; oral statements.--

2129 (1)(a) A developer may file ~~All~~ advertising material ~~must~~
2130 ~~be filed~~ with the division for review ~~by the developer prior to~~
2131 ~~use. At the request of the developer,~~ The division shall review
2132 any the advertising material filed for review by the developer
2133 and notify the developer of any deficiencies within 10 days
2134 after the filing. If the developer corrects the deficiencies or
2135 if there are no deficiencies, the division shall notify the
2136 developer of its approval of the advertising materials.
2137 Notwithstanding anything to the contrary contained in this
2138 subsection, so long as the developer uses advertising materials
2139 approved by the division, following the developer's request for
2140 a review, the developer shall not be liable for any violation of
2141 this section or s. 721.111 with respect to such advertising
2142 materials.

2143 (6) Failure to provide cancellation rights or disclosures
2144 as required by this subsection in connection with the sale of a
2145 regulated short-term product constitutes misrepresentation in
2146 accordance with paragraph (4)(a). Any agreement relating to the
2147 sale of a regulated short-term product must be regulated as
2148 advertising material and is subject to the following:

2149 (b) A purchaser of a regulated short-term product has the
2150 right to cancel the agreement until midnight of the 10th calendar
2151 day following the execution date of the agreement. The right of
2152 cancellation may not be waived by the prospective purchaser or



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2153 | by any other person on behalf of the prospective purchaser.
2154 | Notice of cancellation must be given in the same manner
2155 | prescribed for giving notice of cancellation under s. 721.10(2).
2156 | If the prospective purchaser gives a valid notice of
2157 | cancellation or is otherwise entitled to cancel the sale, the
2158 | funds or other property received from or on behalf of the
2159 | prospective purchaser, or the proceeds thereof, must be returned
2160 | to the prospective purchaser. Such refund must be made in the
2161 | same manner prescribed for refunds under s. 721.10.

2162 | (e) If the seller provides the purchaser with the right to
2163 | cancel the purchase of a regulated short-term product at any
2164 | time up to 7 days prior to the purchaser's reserved use of the
2165 | accommodations, but in no event less than 10 days, and if the
2166 | seller refunds the total amount of all payments made by the
2167 | purchaser reduced by the proportion of any benefits the
2168 | purchaser has actually received prior to the effective date of
2169 | the cancellation, the specific value of which has been agreed to
2170 | between the purchaser and the seller, the short-term product
2171 | offer shall be exempt from the requirements of paragraphs (b),
2172 | (c), and (d). An agreement relating to the sale of the regulated
2173 | short-term product made pursuant to this paragraph must contain
2174 | a statement setting forth the cancellation and refund rights of
2175 | the prospective purchaser in a manner that is consistent with
2176 | this section and s. 721.10, including a description of the
2177 | length of the cancellation right, a statement that the
2178 | purchaser's intent to cancel must be in writing and sent to the
2179 | seller at a specified address, a statement that the notice of
2180 | cancellation is effective upon the date sent, and a statement



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2181 that any attempt to waive the cancellation right is unlawful.
 2182 The right of cancellation provided to the purchaser pursuant to
 2183 this paragraph may not be waived by the prospective purchaser or
 2184 by any other person on behalf of the prospective purchaser.
 2185 Notice of cancellation must be given in the same manner
 2186 prescribed for giving notice of cancellation pursuant to s.
 2187 721.10(2). If the prospective purchaser gives a valid notice of
 2188 cancellation, or is otherwise entitled to cancel the sale, the
 2189 funds or other property received from or on behalf of the
 2190 prospective purchaser, or the proceeds thereof, shall be
 2191 returned to the prospective purchaser. Such refund shall be made
 2192 in the manner prescribed for refunds under s. 721.10.

2193 (7) Notwithstanding the provisions of s. 721.05(7)(~~6~~)(b),
 2194 a seller may portray possible accommodations or facilities to
 2195 prospective purchasers in advertising material, or a purchaser
 2196 public offering statement, without such accommodations or
 2197 facilities being available for use by purchasers so long as the
 2198 advertising material or purchaser public offering statement
 2199 complies with the provisions of subsection (4).

2200 (8) Notwithstanding the provisions of s. 721.05(7)(~~6~~)(b),
 2201 a developer may portray possible accommodations or facilities to
 2202 prospective purchasers by disseminating oral or written
 2203 statements regarding same to broadcast or print media with no
 2204 obligation on the developer's part to actually construct such
 2205 accommodations or facilities or to file such accommodations or
 2206 facilities with the division, but only so long as such oral or
 2207 written statements are not considered advertising material
 2208 pursuant to paragraph (3)(e).



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2209 (9) Notwithstanding the provisions of s. 721.05~~(7)(6)~~(b),
2210 a seller of a multisite timeshare plan may portray a possible
2211 component site to prospective purchasers with no accommodations
2212 or facilities located at such component site being available for
2213 use by purchasers so long as the seller satisfies the following
2214 requirements:

2215 (a) A developer of a multisite timeshare plan may
2216 disseminate oral or written statements to broadcast or print
2217 media describing a possible component site with no obligation on
2218 the developer's part to actually add such component site to the
2219 multisite timeshare plan or to amend the developer's filing with
2220 the division, but only so long as such oral or written
2221 statements are not considered advertising material pursuant to
2222 paragraph (3)(e).

2223 (b) A seller may make representations to purchasers in
2224 advertising material or in a purchaser public offering statement
2225 regarding the possible accommodations and facilities of a
2226 possible component site without such accommodations or
2227 facilities being available for use by purchasers so long as the
2228 advertising material or purchaser public offering statement
2229 complies with the provisions of subsection (4).

2230 (c) In the event a seller makes any of the representations
2231 permitted by paragraph (b), the purchase agreement must contain
2232 the following conspicuous disclosure unless and until such time
2233 as the developer has committed itself in the timeshare
2234 instrument to adding the possible component site to the
2235 multisite timeshare plan, at which time the seller may portray



2236 the component site pursuant to the timeshare instrument without
2237 restriction:

2238
2239 *[Description of possible component site] is only a possible*
2240 *component site which may never be added to the multisite*
2241 *timeshare plan (or multisite vacation ownership plan or*
2242 *multisite vacation plan or vacation club). Do not purchase an*
2243 *interest in the multisite timeshare plan (or multisite vacation*
2244 *ownership plan or multisite vacation plan or vacation club) in*
2245 *reliance upon the addition of this component site.*

2246 (d) Notwithstanding anything contained in this chapter to
2247 the contrary, a developer or managing entity may communicate
2248 with existing purchasers regarding possible component sites
2249 without restriction, so long as all oral and written statements
2250 made to existing purchasers pursuant to this subsection comply
2251 with the provisions of subsection (4).

2252 (e) Any violation of this subsection by a developer,
2253 seller, or managing entity shall constitute a violation of this
2254 chapter. Any violation of this subsection with respect to a
2255 purchaser whose purchase has not yet closed shall be deemed to
2256 provide that purchaser with a new 10-day voidability period.

2257 Section 11. Subsection (1) of section 721.12, Florida
2258 Statutes, is amended to read:

2259 721.12 Recordkeeping by seller.--Each seller of a
2260 timeshare plan shall maintain among its business records the
2261 following:

2262 (1) A copy of each contract for the sale of a timeshare
2263 interest, which contract has not been canceled. If a timeshare



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2264 estate is being sold, the seller is required to retain a copy of
 2265 the contract only until a deed of conveyance, agreement for
 2266 deed, or lease is recorded in the office of the clerk of the
 2267 circuit court in the county wherein the plan is located. If a
 2268 personal property timeshare plan is being sold, the seller is
 2269 required to retain a copy of the contract only until a
 2270 certificate of transfer, agreement for transfer, lease, or other
 2271 instrument of transfer that fully complies with s. 721.08 is
 2272 delivered to the purchaser.

2273 Section 12. Paragraphs (a) and (b) of subsection (1),
 2274 paragraph (b) of subsection (2), paragraphs (c), (d), and (e) of
 2275 subsection (3), paragraph (g) of subsection (6), and subsections
 2276 (4) and (8) of section 721.13, Florida Statutes, are amended,
 2277 subsection (9) is renumbered as subsection (10), and new
 2278 subsections (9) and (11) are added to said section, to read:

2279 721.13 Management.--

2280 (1)(a) For each timeshare plan, the developer shall
 2281 provide for a managing entity, which shall be either the
 2282 developer, a separate manager or management firm, or an owners'
 2283 association. Any owners' association shall be created prior to
 2284 the first closing ~~recording~~ of the sale of a timeshare interest
 2285 instrument.

2286 (b)1. With respect to a timeshare plan which is also
 2287 regulated under chapter 718 or chapter 719, or which contains a
 2288 mandatory owners' association, the board of administration of
 2289 the owners' association shall be considered the managing entity
 2290 of the timeshare plan.



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2291 2. During any period of time in which such owners'
 2292 association has entered into a contract with a manager or
 2293 management firm to provide some or all of the management
 2294 services to the timeshare plan, both the board of administration
 2295 and the manager or management firm shall be considered the
 2296 managing entity of the timeshare plan and shall be jointly and
 2297 severally responsible for the faithful discharge of the duties
 2298 of the managing entity.

2299 3. An owners' association which is the managing entity of
 2300 a timeshare plan that includes condominium units or cooperative
 2301 units shall not be considered a condominium association pursuant
 2302 to the provisions of chapter 718 or a cooperative association
 2303 pursuant to the provisions of chapter 719, unless such owners'
 2304 association also operates the entire condominium pursuant to s.
 2305 718.111 or the entire cooperative pursuant to s. 719.104.

2306 (2)

2307 (b) The managing entity shall invest the operating and
 2308 reserve funds of the timeshare plan in accordance with s.
 2309 518.11(1); however, the managing entity shall give safety of
 2310 capital greater weight than production of income. In no event
 2311 shall the managing entity invest timeshare plan funds with a
 2312 developer or with any entity that is not independent of any
 2313 developer or any managing entity within the meaning of s.
 2314 721.05(20)(~~18~~), and in no event shall the managing entity invest
 2315 timeshare plan funds in notes and mortgages related in any way
 2316 to the timeshare plan.

2317 (3) The duties of the managing entity include, but are not
 2318 limited to:



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2319 (c)1. Providing each year to all purchasers an itemized
2320 annual budget which shall include all estimated revenues and
2321 expenses. The budget shall be in the form required by s.
2322 721.07(5)(u). The budget ~~and~~ shall be the final budget adopted
2323 by the managing entity for the current fiscal year. The final
2324 adopted budget is not required to be delivered if the managing
2325 entity has previously delivered a proposed annual budget for the
2326 current fiscal year to purchasers in accordance with chapter 718
2327 or chapter 719, and the managing entity includes a description
2328 of any changes in the adopted budget with the assessment notice
2329 and a disclosure regarding the purchasers' right to receive a
2330 copy of the adopted budget if desired. The budget shall contain,
2331 as a footnote or otherwise, any related party transaction
2332 disclosures or notes which appear in the audited financial
2333 statements of the managing entity for the previous budget year
2334 as required by paragraph (e). A copy of the final budget shall
2335 be filed with the division for review within 30 days after the
2336 beginning of each fiscal year together with a statement of the
2337 number of periods of 7-day annual use availability that exist
2338 within the timeshare plan, including those periods filed for
2339 sale by the developer but not yet committed to the timeshare
2340 plan, for which annual fees are required to be paid to the
2341 division under s. 721.27.

2342 2. Notwithstanding anything contained in chapter 718 or
2343 chapter 719 to the contrary, the board of administration of an
2344 owners' association which serves as the managing entity may from
2345 time to time reallocate reserves for deferred maintenance and
2346 capital expenditures required by s. 721.07(5)(u)3.a.(XI) from



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2347 any deferred maintenance or capital expenditure reserve account
2348 to any other deferred maintenance or capital expenditure reserve
2349 account or accounts in its discretion without the consent of
2350 purchasers of the timeshare plan. Funds in any deferred
2351 maintenance or capital expenditure reserve account may not be
2352 transferred to any operating account without the consent of a
2353 majority of the purchasers of the timeshare plan. The managing
2354 entity may from time to time transfer excess funds in any
2355 operating account to any deferred maintenance or capital
2356 expenditure reserve account without the vote or approval of
2357 purchasers of the timeshare plan. In the event any amount of
2358 reserves for accommodations and facilities of a timeshare plan
2359 containing timeshare licenses or personal property timeshare
2360 interests exists at the end of the term of the timeshare plan,
2361 such reserves shall be refunded to purchasers on a pro rata
2362 basis.

2363 (d)1. Maintenance of all books and records concerning the
2364 timeshare plan so that all such books and records are reasonably
2365 available for inspection by any purchaser or the authorized
2366 agent of such purchaser. For purposes of this subparagraph, the
2367 books and records of the timeshare plan shall be considered
2368 "reasonably available" if copies of the requested portions are
2369 delivered to the purchaser or the purchaser's agent within 7
2370 days after ~~of~~ the date the managing entity receives a written
2371 request for the records signed by the purchaser. The managing
2372 entity may charge the purchaser a reasonable fee for copying the
2373 requested information not to exceed 25 cents per page. However,
2374 any purchaser or agent of such purchaser shall be permitted to



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2375 personally inspect and examine the books and records wherever
2376 located at any reasonable time, under reasonable conditions, and
2377 under the supervision of the custodian of those records. The
2378 custodian shall supply copies of the records where requested and
2379 upon payment of the copying fee. No fees other than those set
2380 forth in this section may be charged for the providing of,
2381 inspection, or examination of books and records. All books and
2382 financial records of the timeshare plan must be maintained in
2383 accordance with generally accepted accounting practices.

2384 2. If the books and records of the timeshare plan are not
2385 maintained on the premises of the accommodations and facilities
2386 of the timeshare plan, the managing entity shall inform the
2387 division in writing of the location of the books and records and
2388 the name and address of the person who acts as custodian of the
2389 books and records at that location. In the event that the
2390 location of the books and records changes, the managing entity
2391 shall notify the division of the change in location and the name
2392 and address of the new custodian within 30 days after ~~of~~ the
2393 date the books and records are moved. The purchasers shall be
2394 notified of the location of the books and records and the name
2395 and address of the custodian in the copy of the annual budget
2396 provided to them pursuant to paragraph (c).

2397 3. The division is authorized to adopt rules which specify
2398 those items and matters that shall be included in the books and
2399 records of the timeshare plan and which specify procedures to be
2400 followed in requesting and delivering copies of the books and
2401 records.



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2402 4. Notwithstanding any provision of chapter 718 or chapter
2403 719 to the contrary, the managing entity may not furnish the
2404 name, address, or electronic mail address of any purchaser to
2405 any other purchaser or authorized agent thereof unless the
2406 purchaser whose name, ~~and~~ address, or electronic mail address is
2407 ~~are~~ requested first approves the disclosure in writing.

2408 (e) Arranging for an annual audit of the financial
2409 statements of the timeshare plan by a certified public
2410 accountant licensed by the Board of Accountancy of the
2411 Department of Business and Professional Regulation, in
2412 accordance with generally accepted auditing standards as defined
2413 by the rules of the Board of Accountancy of the Department of
2414 Business and Professional Regulation. The financial statements
2415 required by this section must be prepared on an accrual basis
2416 using fund accounting, and must be presented in accordance with
2417 generally accepted accounting principles. A copy of the audited
2418 financial statements must be filed with the division for review
2419 and forwarded to the board of directors and officers of the
2420 owners' association, if one exists, no later than 5 calendar
2421 months after the end of the timeshare plan's fiscal year. If no
2422 owners' association exists, each purchaser must be notified, no
2423 later than 5 months after the end of the timeshare plan's fiscal
2424 year, that a copy of the audited financial statements is
2425 available upon request to the managing entity. Notwithstanding
2426 any requirement of s. 718.111(13) or s. 719.104(4), the audited
2427 financial statements required by this section are the only
2428 annual financial reporting requirements for timeshare
2429 condominiums or timeshare cooperatives.



2430 (4) The managing entity shall maintain among its records
 2431 and provide to the division upon request a complete list of the
 2432 names and addresses of all purchasers and owners of timeshare
 2433 units in the timeshare plan. The managing entity shall update
 2434 this list no less frequently than quarterly. Pursuant to
 2435 paragraph (3)(d), the managing entity may not publish this
 2436 owner's list or provide a copy of it to any purchaser or to any
 2437 third party other than the division. However, the managing
 2438 entity shall to those persons listed on the owner's list
 2439 materials provided by any purchaser, upon the written request of
 2440 that purchaser, if the purpose of the mailing is to advance
 2441 legitimate owners' association business, such as a proxy
 2442 solicitation for any purpose, including the recall of one or
 2443 more board members elected by the owners or the discharge of the
 2444 manager or management firm. The use of any proxies solicited in
 2445 this manner must comply with the provisions of the timeshare
 2446 instrument and this chapter. A mailing requested for the purpose
 2447 of advancing legitimate owners' association business shall occur
 2448 within 30 days after receipt of a request from a purchaser. The
 2449 board of administration of the owners' association shall be
 2450 responsible for determining the appropriateness of any mailing
 2451 requested pursuant to this subsection. The purchaser who
 2452 requests the mailing must reimburse the owners' association in
 2453 advance for the owners' association's actual costs in performing
 2454 the mailing. It shall be a violation of this chapter and, if
 2455 applicable, of part VIII of chapter 468, for the board of
 2456 administration or the manager or management firm to refuse to
 2457 mail any material requested by the purchaser to be mailed,



2458 provided the sole purpose of the materials is to advance
 2459 legitimate owners' association business. If the purpose of the
 2460 mailing is a proxy solicitation to recall one or more board
 2461 members elected by the owners or to discharge the manager or
 2462 management firm and the managing entity does not mail the
 2463 materials within 30 days after receipt of a request from a
 2464 purchaser, the circuit court in the county where the timeshare
 2465 plan is located may, upon application from the requesting
 2466 purchaser, summarily order the mailing of the materials solely
 2467 related to the recall of one or more board members elected by
 2468 the owners or the discharge of the manager or management firm.
 2469 The court shall dispose of an application on an expedited basis.
 2470 In the event of such an order, the court may order the managing
 2471 entity to pay the purchaser's costs, including attorney's fees
 2472 reasonably incurred to enforce the purchaser's rights, unless
 2473 the managing entity can prove it refused the mailing in good
 2474 faith because of a reasonable basis for doubt about the
 2475 legitimacy of the mailing.

2476 (6)

2477 (g) A managing entity shall have breached its fiduciary
 2478 duty described in subsection (2) in the event it enforces the
 2479 denial of use pursuant to paragraph (b) against any one
 2480 purchaser or group of purchasers without similarly enforcing it
 2481 against all purchasers, including all developers and owners of
 2482 the underlying fee or underlying personal property; however, a
 2483 managing entity shall not be required to solicit rentals
 2484 pursuant to paragraph (f) for every delinquent purchaser. A
 2485 managing entity shall also have breached its fiduciary duty in



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2486 the event an error in the books and records of the timeshare
2487 plan results in a denial of use pursuant to this subsection of
2488 any purchaser who is not, in fact, delinquent. In addition to
2489 any remedies otherwise available to purchasers of the timeshare
2490 plan arising from such breaches of fiduciary duty, such breach
2491 shall also constitute a violation of this chapter. In addition,
2492 any purchaser receiving a notice of delinquency pursuant to
2493 paragraph (b), or any third party claiming under such purchaser
2494 pursuant to paragraph (b), may immediately bring an action for
2495 injunctive or declaratory relief against the managing entity
2496 seeking to have the notice invalidated on the grounds that the
2497 purchaser is not, in fact, delinquent, that the managing entity
2498 failed to follow the procedures prescribed by this section, or
2499 on any other available grounds. The prevailing party in any such
2500 action shall be entitled to recover his or her reasonable
2501 attorney's fees from the losing party.

2502 (8) Notwithstanding anything to the contrary in s.
2503 718.110, s. 718.113, s. 718.114, or s. 719.1055, the board of
2504 administration of any owners' association that operates a
2505 timeshare condominium pursuant to s. 718.111, or a timeshare
2506 cooperative pursuant to s. 719.104, shall have the power to make
2507 material alterations or substantial additions to the
2508 accommodations or facilities of such timeshare condominium or
2509 timeshare cooperative without the approval of the owners'
2510 association. However, if the timeshare condominium or timeshare
2511 cooperative contains any residential units that are not subject
2512 to the timeshare plan, such action by the board of
2513 administration must be approved by a majority of the owners of



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2514 such residential units. Unless otherwise provided in the
2515 timeshare instrument as originally recorded, no such amendment
2516 may change the configuration or size of any accommodation in any
2517 material fashion, or change the proportion or percentage by
2518 which a member of the owners' association shares the common
2519 expenses, unless the record owners of the affected units or
2520 timeshare interests and all record owners of liens on the
2521 affected units or timeshare interests join in the execution of
2522 the amendment.

2523 (9) All notices or other information sent by a board of
2524 administration of an owners' association may be delivered to a
2525 purchaser by electronic mail, provided that the purchaser first
2526 consents electronically to the use of electronic mail for notice
2527 purposes in a manner that reasonably demonstrates that the
2528 purchaser has the ability to access the notice by electronic
2529 mail. Proxies or written consents on votes of any owners'
2530 association may be received by electronic mail, shall have legal
2531 effect, and may be utilized for votes of an owners' association,
2532 provided that the electronic signature is authenticated through
2533 use of a password, cryptography software, or other reasonable
2534 means and that proof of such authentication is made available to
2535 the board of directors.

2536 (10)~~(9)~~ Any failure of the managing entity to faithfully
2537 discharge the fiduciary duty to purchasers imposed by this
2538 section or to otherwise comply with the provisions of this
2539 section shall be a violation of this chapter and of part VIII of
2540 chapter 468.



2541 (11) Notwithstanding the other provisions of this section,
 2542 personal property timeshare plans are only subject to the
 2543 provisions of subsections (1)(a)-(d), (2)(a), (3)(a)-(h), (5),
 2544 (6), (9), and (10).

2545 Section 13. Subsection (4) is added to section 721.14,
 2546 Florida Statutes, to read:

2547 721.14 Discharge of managing entity.--

2548 (4) This section shall not apply to personal property
 2549 timeshare plans.

2550 Section 14. Paragraph (c) of subsection (2) of section
 2551 721.15, Florida Statutes, is amended, and subsection (10) is
 2552 added to said section, to read:

2553 721.15 Assessments for common expenses.--

2554 (2)

2555 (c) For the purpose of calculating the obligation of a
 2556 developer under a guarantee pursuant to paragraph (b),
 2557 depreciation expenses related to real property shall be excluded
 2558 from common expenses incurred during the guarantee period,
 2559 except that for real property that is used for the production of
 2560 fees, revenues, or other income, depreciation expenses shall be
 2561 excluded only to the extent that they exceed the net income from
 2562 the production of such fees, revenues, or other income.

2563 (10) This section shall not apply to personal property
 2564 timeshare plans.

2565 Section 15. Subsection (6) is added to section 721.16,
 2566 Florida Statutes, to read:

2567 721.16 Liens for overdue assessments; liens for labor
 2568 performed on, or materials furnished to, a timeshare unit.--



2569 (6) This section shall not apply to personal property
 2570 timeshare plans.

2571 Section 16. Section 721.17, Florida Statutes, is amended
 2572 to read:

2573 721.17 Transfer of interest.--Except in the case of a
 2574 timeshare plan subject to the provisions of chapter 718 or
 2575 chapter 719, no developer, ~~or~~ owner of the underlying fee, or
 2576 owner of the underlying personal property shall sell, lease,
 2577 assign, mortgage, or otherwise transfer his or her interest in
 2578 the accommodations and facilities of the timeshare plan except
 2579 by an instrument evidencing the transfer recorded in the public
 2580 records of the county in which such accommodations and
 2581 facilities are located, or, with respect to personal property
 2582 timeshare plans, in full compliance with s. 721.08. The
 2583 instrument shall be executed by both the transferor and
 2584 transferee and shall state:

2585 (1) That its provisions are intended to protect the rights
 2586 of all purchasers of the plan.

2587 (2) That its terms may be enforced by any prior or
 2588 subsequent timeshare purchaser so long as that purchaser is not
 2589 in default of his or her obligations.

2590 (3) That so long as a purchaser remains in good standing
 2591 with respect to her or his obligations under the timeshare
 2592 instrument, including making all payments to the managing entity
 2593 required by the timeshare instrument with respect to the annual
 2594 common expenses of the timeshare plan, the transferee shall will
 2595 fully honor all the rights of such purchaser relating to the
 2596 subject accommodation or facility as reflected ~~the purchasers to~~



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2597 ~~occupy and use the accommodations and facilities as provided in~~
 2598 ~~their original contracts and the timeshare instrument~~
 2599 ~~instruments.~~

2600 (4) That the transferee will fully honor all rights of
 2601 timeshare purchasers to cancel their contracts and receive
 2602 appropriate refunds.

2603 (5) That the obligations of the transferee under such
 2604 instrument will continue to exist despite any cancellation or
 2605 rejection of the contracts between the developer and purchaser
 2606 arising out of bankruptcy proceedings.

2607
 2608 Should any transfer of the interest of the developer, ~~or~~ owner
 2609 of the underlying fee, or owner of the underlying property occur
 2610 in a manner which is not in compliance with this section, the
 2611 terms set forth in this section shall be presumed to be a part
 2612 of the transfer and shall be deemed to be included in the
 2613 instrument of transfer. Notice shall be mailed to each purchaser
 2614 of record within 30 days after ~~of~~ the transfer unless such
 2615 transfer does not affect the purchaser's rights in or use of the
 2616 timeshare plan. Persons who hold mortgages or liens on the
 2617 property constituting a timeshare plan before the filed
 2618 ~~registered~~ public offering statement of such plan is approved by
 2619 the division shall not be considered transferees for the
 2620 purposes of this section.

2621 Section 17. Section 721.18, Florida Statutes, is amended
 2622 to read:



2623 721.18 Exchange programs; filing of information and other
2624 materials; filing fees; unlawful acts in connection with an
2625 exchange program.--

2626 (1) If a purchaser is offered the opportunity to subscribe
2627 to an exchange program, the seller shall deliver to the
2628 purchaser, together with the purchaser public offering
2629 statement, and prior to the offering or execution of any
2630 contract between the purchaser and the company offering the
2631 exchange program, written information regarding such exchange
2632 program; or, if the exchange company is dealing directly with
2633 the purchaser, the exchange company shall deliver to the
2634 purchaser, prior to the initial offering or execution of any
2635 contract between the purchaser and the company offering the
2636 exchange program, written information regarding such exchange
2637 program. In either case, the purchaser shall certify in writing
2638 to the receipt of such information. Such information shall
2639 include, but is not limited to, the following information, the
2640 form and substance of which shall first be approved by the
2641 division in accordance with subsection (2):

2642 (a) The name and address of the exchange company.

2643 (b) The names of all officers, directors, and shareholders
2644 of the exchange company.

2645 (c) Whether the exchange company or any of its officers or
2646 directors has any legal or beneficial interest in any developer,
2647 seller, or managing entity for any timeshare plan participating
2648 in the exchange program and, if so, the name and location of the
2649 timeshare plan and the nature of the interest.



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2650 (d) Unless otherwise stated, a statement that the
2651 purchaser's contract with the exchange company is a contract
2652 separate and distinct from the purchaser's contract with the
2653 seller of the timeshare plan.

2654 (e) Whether the purchaser's participation in the exchange
2655 program is dependent upon the continued affiliation of the
2656 timeshare plan with the exchange program.

2657 (f) A statement that ~~whether~~ the purchaser's participation
2658 in the exchange program is voluntary. This statement is not
2659 required to be given by the seller or managing entity of a
2660 multisite timeshare plan to purchasers in the multisite
2661 timeshare plan.

2662 (g) A complete and accurate description of the terms and
2663 conditions of the purchaser's contractual relationship with the
2664 exchange program and the procedure by which changes thereto may
2665 be made.

2666 (h) A complete and accurate description of the procedure
2667 to qualify for and effectuate exchanges.

2668 (i) A complete and accurate description of all
2669 limitations, restrictions, or priorities employed in the
2670 operation of the exchange program, including, but not limited
2671 to, limitations on exchanges based on seasonality, timeshare
2672 unit size, or levels of occupancy, expressed in boldfaced type,
2673 and, in the event that such limitations, restrictions, or
2674 priorities are not uniformly applied by the exchange program, a
2675 clear description of the manner in which they are applied.



2676 (j) Whether exchanges are arranged on a space-available
2677 basis and whether any guarantees of fulfillment of specific
2678 requests for exchanges are made by the exchange program.

2679 (k) Whether and under what circumstances a purchaser, in
2680 dealing with the exchange program, may lose the use and
2681 occupancy of her or his timeshare period in any properly applied
2682 for exchange without her or his being provided with substitute
2683 accommodations by the exchange program.

2684 (l) The fees or range of fees for membership or
2685 participation ~~by purchasers~~ in the exchange program by
2686 purchasers, including any conversion or other fees payable to
2687 third parties, a statement whether any such fees may be altered
2688 by the exchange company, and the circumstances under which
2689 alterations may be made.

2690 (m) The name and address of the site of each ~~accommodation~~
2691 ~~or facility included in the~~ timeshare plan ~~plans~~ participating
2692 in the exchange program.

2693 (n) The number of the timeshare units in each timeshare
2694 plan which are available for occupancy and which qualify for
2695 participation in the exchange program, expressed within the
2696 following numerical groupings: 1-5; 6-10; 11-20; 21-50; and 51
2697 and over.

2698 (o) The number of currently enrolled purchasers for each
2699 timeshare plan participating in the exchange program, expressed
2700 within the following numerical groupings: 1-100; 101-249; 250-
2701 499; 500-999; and 1,000 and over; and a statement of the
2702 criteria used to determine those purchasers who are currently
2703 enrolled with the exchange program.



2704 (p) The disposition made by the exchange company of
 2705 timeshare periods deposited with the exchange program by
 2706 purchasers enrolled in the exchange program and not used by the
 2707 exchange company in effecting exchanges.

2708 (q) The following information, which shall be
 2709 independently audited by a certified public accountant or
 2710 accounting firm in accordance with the standards of the
 2711 Accounting Standards Board of the American Institute of
 2712 Certified Public Accountants and reported annually ~~beginning no~~
 2713 ~~later than July 1, 1982:~~

2714 1. The number of purchasers currently enrolled in the
 2715 exchange program.

2716 2. The number of accommodations and facilities that have
 2717 current written affiliation agreements with the exchange
 2718 program.

2719 3. The percentage of confirmed exchanges, which is the
 2720 number of exchanges confirmed by the exchange program divided by
 2721 the number of exchanges properly applied for, together with a
 2722 complete and accurate statement of the criteria used to
 2723 determine whether an exchange request was properly applied for.

2724 4. The number of timeshare periods for which the exchange
 2725 program has an outstanding obligation to provide an exchange to
 2726 a purchaser who relinquished a timeshare period during the year
 2727 in exchange for a timeshare period in any future year.

2728 5. The number of exchanges confirmed by the exchange
 2729 program during the year.

2730 (r) A statement in boldfaced type to the effect that the
 2731 percentage described in subparagraph (q)3. is a summary of the



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2732 exchange requests entered with the exchange program in the
2733 period reported and that the percentage does not indicate the
2734 probabilities of a purchaser's being confirmed to any specific
2735 choice or range of choices.

2736 (2) Each exchange company offering an exchange program to
2737 purchasers in this state shall file with the division for review
2738 the information specified in subsection (1), together with any
2739 membership agreement and application between the purchaser and
2740 the exchange company, and the audit specified in subsection (1)
2741 on or before June 1 of each year. However, an exchange company
2742 shall make its initial filing at least 20 days prior to offering
2743 an exchange program to any purchaser in this state. Each filing
2744 shall be accompanied by an annual filing fee of \$500. Within 20
2745 days after ~~of~~ receipt of such filing, the division shall
2746 determine whether the filing is adequate to meet the
2747 requirements of this section and shall notify the exchange
2748 company in writing that the division has either approved the
2749 filing or found specified deficiencies in the filing. If the
2750 division fails to respond within 20 days, the filing shall be
2751 deemed approved. The exchange company may correct the
2752 deficiencies; and, within 10 days after receipt of corrections
2753 from the exchange company, the division shall notify the
2754 exchange company in writing that the division has either
2755 approved the filing or found additional specified deficiencies
2756 in the filing. If the exchange company fails to adequately
2757 respond to any deficiency notice within 10 days, the division
2758 may reject the filing. Subsequent to such rejection, a new
2759 filing fee and a new division initial review period pursuant to



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2760 this subsection shall apply to any refiling or further review of
2761 the rejected filing.

2762 (a) Any material change to an approved exchange company
2763 filing shall be filed with the division for approval as an
2764 amendment prior to becoming effective. Each amendment filing
2765 shall be accompanied by a filing fee of \$100. The exchange
2766 company may correct the deficiencies; and, within 10 days after
2767 receipt of corrections from the exchange company, the division
2768 shall notify the exchange company in writing that the division
2769 has either approved the filing or found additional specified
2770 deficiencies in the filing. Each approved amendment to the
2771 approved exchange company filing, other than an amendment that
2772 does not materially alter or modify the exchange program in a
2773 manner that is adverse to a purchaser, as determined by the
2774 exchange company in its reasonable discretion, shall be
2775 delivered to each purchaser who has not closed. An approved
2776 exchange program filing is required to be updated with respect
2777 to added or deleted resorts only once each year, and such annual
2778 update shall not be deemed to be a material change to the
2779 filing.

2780 (b) If at any time the division determines that any of
2781 such information supplied by an exchange company fails to meet
2782 the requirements of this section, the division may undertake
2783 enforcement action against the exchange company in accordance
2784 with the provision of s. 721.26.

2785 (3) No developer shall have any liability with respect to
2786 any violation of this chapter arising out of the publication by
2787 the developer of information provided to it by an exchange



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2788 company pursuant to this section. No exchange company shall have
2789 any liability with respect to any violation of this chapter
2790 arising out of the use by a developer of information relating to
2791 an exchange program other than that provided to the developer by
2792 the exchange company.

2793 (4) At the request of the exchange company, the division
2794 shall review any audio, written, or visual publications or
2795 materials relating to an exchange company or an exchange program
2796 shall be filed for review by the exchange company and shall
2797 notify the exchange company of any deficiencies within 10 with
2798 the division within 3 days after the filing of their use. If the
2799 exchange company corrects the deficiencies or if there are no
2800 deficiencies, the division shall notify the exchange company of
2801 its approval of the advertising materials. If the exchange
2802 company fails to adequately respond to any deficiency notice
2803 within 10 days, the division may reject the advertising
2804 materials. Subsequent to such rejection, a new division initial
2805 review period pursuant to this subsection shall apply to any
2806 refiling or further review.

2807 (5) The failure of an exchange company to observe the
2808 requirements of this section, or the use of any unfair or
2809 deceptive act or practice in connection with the operation of an
2810 exchange program, is a violation of this chapter.

2811 Section 18. Section 721.19, Florida Statutes, is amended
2812 to read:

2813 721.19 Provisions requiring purchase or lease of timeshare
2814 property by owners' association or purchasers; validity.--In any
2815 timeshare plan in which timeshare estates or personal property



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2816 timeshare interests are sold, no grant or reservation made by a
2817 declaration, lease, or other document, nor any contract made by
2818 the developer, managing entity, or owners' association, which
2819 requires the owners' association or purchasers to purchase or
2820 lease any portion of the timeshare property shall be valid
2821 unless approved by a majority of the purchasers other than the
2822 developer, after more than 50 percent of the timeshare periods
2823 have been sold.

2824 Section 19. Section 721.20, Florida Statutes, is amended
2825 to read:

2826 721.20 Licensing requirements; suspension or revocation of
2827 license; exceptions to applicability; collection of advance fees
2828 for listings unlawful.--

2829 (1) Any seller of a timeshare plan must be a licensed real
2830 estate salesperson, broker, or broker-salesperson as defined in
2831 s. 475.01, except as provided in s. 475.011.

2832 (2) Solicitors who engage only in the solicitation of
2833 prospective purchasers and any purchaser who refers no more than
2834 20 people to a developer per year or who otherwise provides
2835 testimonials on behalf of a developer are exempt from the
2836 provisions of chapter 475.

2837 (3) A solicitor who has violated the provisions of chapter
2838 468, chapter 718, chapter 719, this chapter, or the rules of the
2839 division governing timesharing shall be subject to the
2840 provisions of s. 721.26. Any developer or other person who
2841 supervises, directs, or engages the services of a solicitor
2842 shall be liable for any violation of the provisions of chapter



2843 468, chapter 718, chapter 719, this chapter, or the rules of the
2844 division governing timesharing committed by such solicitor.

2845 (4) County and municipal governments shall have the
2846 authority to adopt codes of conduct and regulations to govern
2847 solicitor activity conducted on public property, including
2848 providing for the imposition of penalties prescribed by a
2849 schedule of fines adopted by ordinance for violations of any
2850 such code of conduct or regulation. Any violation of any such
2851 adopted code of conduct or regulation shall not constitute a
2852 separate violation of this chapter. This subsection is not
2853 intended to restrict or invalidate any local code of conduct or
2854 regulation.

2855 (5) This section does not apply to those individuals who
2856 offer for sale only timeshare interests in timeshare property
2857 located outside this state and who do not engage in any sales
2858 activity within this state or to timeshare plans which are
2859 registered with the Securities and Exchange Commission. For the
2860 purposes of this section, both timeshare licenses and timeshare
2861 estates are considered to be interests in real property.

2862 (6) Notwithstanding the provisions of s. 475.452, it is
2863 unlawful for any broker, salesperson, or broker-salesperson to
2864 collect any advance fee for the listing of any timeshare estate
2865 or timeshare license.

2866 (7) It is unlawful for any broker, salesperson, or broker-
2867 salesperson to collect any advance fee for the listing of a
2868 personal property timeshare interest.

2869 (8) Subsections (1), (2), and (3) do not apply to persons
2870 who offer personal property timeshare plans.



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2871 Section 20. Subsection (6) is added to section 721.24,
2872 Florida Statutes, to read:

2873 721.24 Firesafety.--

2874 (6) Accommodations and facilities of personal property
2875 timeshare plans shall be exempt from the requirements of this
2876 section.

2877 Section 21. Paragraphs (a), (d), and (e) of subsection (5)
2878 of section 721.26, Florida Statutes, are amended to read:

2879 721.26 Regulation by division.--The division has the power
2880 to enforce and ensure compliance with the provisions of this
2881 chapter, except for parts III and IV, using the powers provided
2882 in this chapter, as well as the powers prescribed in chapters
2883 498, 718, and 719. In performing its duties, the division shall
2884 have the following powers and duties:

2885 (5) Notwithstanding any remedies available to purchasers,
2886 if the division has reasonable cause to believe that a violation
2887 of this chapter, or of any division rule or order promulgated or
2888 issued pursuant to this chapter, has occurred, the division may
2889 institute enforcement proceedings in its own name against any
2890 regulated party, as such term is defined in this subsection:

2891 (a)1. "Regulated party," for purposes of this section,
2892 means any developer, exchange company, seller, managing entity,
2893 owners' association, owners' association director, owners'
2894 association officer, manager, management firm, escrow agent,
2895 trustee, any respective assignees or agents, or any other person
2896 having duties or obligations pursuant to this chapter.

2897 2. Any person who materially participates in any offer or
2898 disposition of any interest in, or the management or operation



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2899 of, a timeshare plan in violation of this chapter or relevant
 2900 rules involving fraud, deception, false pretenses,
 2901 misrepresentation, or false advertising or the disbursement,
 2902 concealment, or diversion of any funds or assets, which conduct
 2903 adversely affects the interests of a purchaser, and which person
 2904 directly or indirectly controls a regulated party or is a
 2905 general partner, officer, director, agent, or employee of such
 2906 regulated party, shall be jointly and severally liable under
 2907 this subsection with such regulated party, unless such person
 2908 did not know, and in the exercise of reasonable care could not
 2909 have known, of the existence of the facts giving rise to the
 2910 violation of this chapter. A right of contribution shall exist
 2911 among jointly and severally liable persons pursuant to this
 2912 paragraph.

2913 (d)1. The division may bring an action in circuit court
 2914 for declaratory or injunctive relief or for other appropriate
 2915 relief, including restitution.

2916 2. The division shall have broad authority and discretion
 2917 to petition the circuit court to appoint a receiver with respect
 2918 to any managing entity which fails to perform its duties and
 2919 obligations under this chapter with respect to the operation of
 2920 a timeshare plan. The circumstances giving rise to an
 2921 appropriate petition for receivership under this subparagraph
 2922 include, but are not limited to:

2923 a. Damage to or destruction of any of the accommodations
 2924 or facilities of a timeshare plan, where the managing entity has
 2925 failed to repair or reconstruct same.



2926 b. A breach of fiduciary duty by the managing entity,
2927 including, but not limited to, undisclosed self-dealing or
2928 failure to timely assess, collect, or disburse the common
2929 expenses of the timeshare plan.

2930 c. Failure of the managing entity to operate the timeshare
2931 plan in accordance with the timeshare instrument and this
2932 chapter.

2933

2934 If, under the circumstances, it appears that the events giving
2935 rise to the petition for receivership cannot be reasonably and
2936 timely corrected in a cost-effective manner consistent with the
2937 timeshare instrument, the receiver may petition the circuit
2938 court to implement such amendments or revisions to the timeshare
2939 instrument as may be necessary to enable the managing entity to
2940 resume effective operation of the timeshare plan, or to enter an
2941 order terminating the timeshare plan, or to enter such further
2942 orders regarding the disposition of the timeshare property as
2943 the court deems appropriate, including the disposition and sale
2944 of the timeshare property held by the owners' association or the
2945 purchasers. In the event of a receiver's sale, all rights,
2946 title, and interest held by the owners' association or any
2947 purchaser shall be extinguished and title shall vest in the
2948 buyer. This provision applies to timeshare estates, personal
2949 property timeshare interests, and timeshare licenses. All
2950 reasonable costs and fees of the receiver relating to the
2951 receivership shall become common expenses of the timeshare plan
2952 upon order of the court.



2953 3. The division may revoke its approval of any filing for
2954 any timeshare plan for which a petition for receivership has
2955 been filed pursuant to this paragraph.

2956 (e)1. The division may impose a penalty against any
2957 regulated party for a violation of this chapter or any rule
2958 adopted thereunder. A penalty may be imposed on the basis of
2959 each day of continuing violation, but in no event may the
2960 penalty for any offense exceed \$10,000. All accounts collected
2961 shall be deposited with the Treasurer to the credit of the
2962 Division of Florida Land Sales, Condominiums, and Mobile Homes
2963 Trust Fund.

2964 2.a. If a regulated party fails to pay a penalty, the
2965 division shall thereupon issue an order directing that such
2966 regulated party cease and desist from further operation until
2967 such time as the penalty is paid; or the division may pursue
2968 enforcement of the penalty in a court of competent jurisdiction.

2969 b. If an owners' association or managing entity fails to
2970 pay a civil penalty, the division may pursue enforcement in a
2971 court of competent jurisdiction.

2972 Section 22. Section 721.52, Florida Statutes, is amended
2973 to read:

2974 721.52 Definitions.--As used in this chapter, the term:

2975 (1) "Applicable law" means the law of the jurisdiction
2976 where the accommodations and facilities referred to are located.

2977 (2) "Component site" means a specific geographic site
2978 where a portion of the accommodations and facilities of the
2979 multisite timeshare plan are located. If permitted under
2980 applicable law, separate phases operated as a single development



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2981 | located at a specific geographic site under common management
 2982 | shall be deemed a single component site for purposes of this
 2983 | part.

2984 | (3) "Inventory" means the accommodations and facilities
 2985 | located at a particular component site or sites owned, leased,
 2986 | licensed, or otherwise acquired for use by a developer and
 2987 | offered as part of the multisite timeshare plan.

2988 | (4) "Multisite timeshare plan" means any method,
 2989 | arrangement, or procedure with respect to which a purchaser
 2990 | obtains, by any means, a recurring right to use and occupy
 2991 | accommodations or facilities of more than one component site,
 2992 | only through use of a reservation system, whether or not the
 2993 | purchaser is able to elect to cease participating in the plan.
 2994 | However, the term "multisite timeshare plan" shall not include
 2995 | any method, arrangement, or procedure wherein:

2996 | (a) The contractually specified maximum total financial
 2997 | obligation on the purchaser's part is \$3,000 or less, during the
 2998 | entire term of the plan; or

2999 | (b) The term is for a period of 3 years or less,
 3000 | regardless of the purchaser's contractually specified maximum
 3001 | total financial obligation, if any. For purposes of determining
 3002 | the term of such use and occupancy rights, the period of any
 3003 | optional renewals which a purchaser, in his or her sole
 3004 | discretion, may elect to exercise, whether or not for additional
 3005 | consideration, shall not be included. For purposes of
 3006 | determining the term of such use and occupancy rights, the
 3007 | period of any automatic renewals shall be included unless a
 3008 | purchaser has the right to terminate the membership at any time



3009 and receive a pro rata refund or the purchaser receives a notice
 3010 no less than 30 days and no more than 60 days prior to the date
 3011 of renewal informing the purchaser of the right to terminate at
 3012 any time prior to the date of automatic renewal.

3013
 3014 Multisite timeshare plan does not mean an exchange program as
 3015 defined in s. 721.05. Timeshare estates may only be offered in a
 3016 multisite timeshare plan pursuant to s. 721.57.

3017 (5) "Nonspecific multisite timeshare plan" means a
 3018 multisite timeshare plan containing timeshare licenses or
 3019 personal property timeshare interests, with respect to which a
 3020 purchaser receives a right to use all of the accommodations and
 3021 facilities, if any, of the multisite timeshare plan through the
 3022 reservation system, but no specific right to use any particular
 3023 accommodations and facilities for the remaining term of the
 3024 multisite timeshare plan in the event that the reservation
 3025 system is terminated for any reason prior to the expiration of
 3026 the term of the multisite timeshare plan.

3027 (6)~~(5)~~ "Reservation system" means the method, arrangement,
 3028 or procedure by which a purchaser, in order to reserve the use
 3029 and occupancy of any accommodation or facility of the multisite
 3030 timeshare plan for one or more use periods, is required to
 3031 compete with other purchasers in the same multisite timeshare
 3032 plan regardless of whether such reservation system is operated
 3033 and maintained by the multisite timeshare plan managing entity,
 3034 an exchange company, or any other person. In the event that a
 3035 purchaser is required to use an exchange program as the
 3036 purchaser's principal means of obtaining the right to use and



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3037 occupy a multisite timeshare plan's accommodations and
3038 facilities, such arrangement shall be deemed a reservation
3039 system. When an exchange company utilizes a mechanism for the
3040 exchange of use of timeshare periods among members of an
3041 exchange program, such utilization is not a reservation system
3042 of a multisite timeshare plan.

3043 (7) "Specific multisite timeshare plan" means a multisite
3044 timeshare plan containing timeshare licenses or personal
3045 property timeshare interests, with respect to which a purchaser
3046 receives a specific right to use accommodations and facilities,
3047 if any, at one component site of a multisite timeshare plan,
3048 together with use rights in the other accommodations and
3049 facilities of the multisite timeshare plan created by or
3050 acquired through the reservation system.

3051 (8)~~(6)~~ "Vacation club" means a multisite timeshare plan.

3052 Section 23. Paragraph (a) of subsection (1) of section
3053 721.53, Florida Statutes, is amended and paragraph (f) is added
3054 to subsection (1) of said section, to read:

3055 721.53 Subordination instruments; alternate security
3056 arrangements.--

3057 (1) With respect to each accommodation or facility of a
3058 multisite timeshare plan, the developer shall provide the
3059 division with satisfactory evidence that one of the following
3060 has occurred with respect to each interestholder prior to
3061 offering the accommodation or facility as a part of the
3062 multisite timeshare plan:



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3063 (a) The interestholder has executed and recorded a
3064 nondisturbance and notice to creditors instrument pursuant to s.
3065 721.08(2)(e).

3066 (f) With respect to any personal property accommodations
3067 or facilities, the developer and any other interestholder have
3068 complied fully with the applicable provisions of s. 721.08.

3069 Section 24. Section 721.54, Florida Statutes, is amended
3070 to read:

3071 721.54 Term of nonspecific multisite timeshare plans.--It
3072 shall be a violation of this part to represent to a purchaser of
3073 a nonspecific multisite timeshare plan as defined in s.
3074 721.52(5) ~~721.552(4)~~ that the term of the plan for that
3075 purchaser is longer than the shortest term of availability of
3076 any of the accommodations included within the plan at the time
3077 of purchase.

3078 Section 25. Section 721.55, Florida Statutes, is amended
3079 to read:

3080 721.55 Multisite timeshare plan public offering
3081 statement.--Each filed ~~registered~~ public offering statement for
3082 a multisite timeshare plan shall contain the information
3083 required by this section and shall comply with the provisions of
3084 s. 721.07, except as otherwise provided therein. The division is
3085 authorized to provide by rule the method by which a developer
3086 must provide such information to the division. Each multisite
3087 timeshare plan filed ~~registered~~ public offering statement shall
3088 contain the following information and disclosures:

3089 (1) A cover page containing:

3090 (a) The name of the multisite timeshare plan.



3091 (b) The following statement in conspicuous type:

3092
3093 *This public offering statement contains important matters*
3094 *to be considered in acquiring an interest in a multisite*
3095 *timeshare plan (or multisite vacation ownership plan or*
3096 *multisite vacation plan or vacation club). The statements*
3097 *contained herein are only summary in nature. A prospective*
3098 *purchaser should refer to all references, accompanying exhibits,*
3099 *contract documents, and sales materials. The prospective*
3100 *purchaser should not rely upon oral representations as being*
3101 *correct and should refer to this document and accompanying*
3102 *exhibits for correct representations.*

3103
3104 (2) A summary containing all statements required to be in
3105 conspicuous type in the public offering statement and in all
3106 exhibits thereto.

3107 (3) A separate index for the contents and exhibits of the
3108 public offering statement.

3109 (4) A text, which shall include, where applicable, the
3110 information and disclosures set forth in paragraphs (a)-(1).

3111 (a) A description of the multisite timeshare plan,
3112 including its term, legal structure, and form of ownership. For
3113 multisite timeshare plans in which the purchaser will receive a
3114 timeshare estate pursuant to s. 721.57 and for ~~or a~~ specific
3115 multisite timeshare plans ~~license as defined in s. 721.552(4),~~
3116 the description must also include the term of each component
3117 site within the multisite timeshare plan.



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3118 (b) A description of the structure and ownership of the
3119 reservation system together with a disclosure of the entity
3120 responsible for the operation of the reservation system. The
3121 description shall include the financial terms of any lease of
3122 the reservation system, if applicable. The developer shall not
3123 be required to disclose the financial terms of any such lease if
3124 such lease is prepaid in full for the term of the multisite
3125 timeshare plan or to any extent that neither purchasers nor the
3126 managing entity will be required to make payments for the
3127 continued use of the system following default by the developer
3128 or termination of the managing entity.

3129 (c)1. A description of the manner in which the reservation
3130 system operates. The description shall include a disclosure in
3131 compliance with the demand balancing standard set forth in s.
3132 721.56(6) and shall describe the developer's efforts to comply
3133 with same in creating the reservation system. The description
3134 shall also include a summary of the rules and regulations
3135 governing access to and use of the reservation system.

3136 2. In lieu of describing the rules and regulations of the
3137 reservation system in the public offering statement text, the
3138 developer may attach the rules and regulations as a separate
3139 public offering statement exhibit, together with a cross-
3140 reference in the public offering statement text to such exhibit.

3141 (d) The existence of and an explanation regarding any
3142 priority reservation features that affect a purchaser's ability
3143 to make reservations for the use of a given accommodation or
3144 facility on a first come, first served basis, including, if
3145 applicable, the following statement in conspicuous type:



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3146

3147 *Component sites contained in the multisite timeshare plan*
3148 *(or multisite vacation ownership plan or multisite vacation plan*
3149 *or vacation club) are subject to priority reservation features*
3150 *which may affect your ability to obtain a reservation.*

3151

3152 (e) A summary of the material rules and regulations, if
3153 any, other than the reservation system rules and regulations,
3154 affecting the purchaser's use of each accommodation and facility
3155 at each component site.

3156 (f) If the provisions of s. 721.552 and the timeshare
3157 instrument permit additions, substitutions, or deletions of
3158 accommodations or facilities, the public offering statement must
3159 include substantially the following information:

3160 1. Additions.--

3161 a. A description of the basis upon which new
3162 accommodations and facilities may be added to the multisite
3163 timeshare plan; by whom additions may be made; and the
3164 anticipated effect of the addition of new accommodations and
3165 facilities upon the reservation system, its priorities, its
3166 rules and regulations, and the availability of existing
3167 accommodations and facilities.

3168 b. The developer must disclose the existence of any cap on
3169 annual increases in common expenses of the multisite timeshare
3170 plan that would apply in the event that additional
3171 accommodations and facilities are made a part of the plan.

3172 c. The developer shall also disclose any extent to which
3173 the purchasers of the multisite timeshare plan will have the



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3174 right to consent to any proposed additions; if the purchasers do
3175 not have the right to consent, the developer must include the
3176 following disclosure in conspicuous type:

3177

3178 *Accommodations and facilities may be added to this*
3179 *multisite timeshare plan (or multisite vacation ownership plan*
3180 *or multisite vacation plan or vacation club) without the consent*
3181 *of the purchasers. The addition of accommodations and facilities*
3182 *to the plan may result in the addition of new purchasers who*
3183 *will compete with existing purchasers in making reservations for*
3184 *the use of available accommodations and facilities within the*
3185 *plan, and may also result in an increase in the annual*
3186 *assessment against purchasers for common expenses.*

3187

3188 2. Substitutions.--

3189 a. A description of the basis upon which new
3190 accommodations and facilities may be substituted for existing
3191 accommodations and facilities of the multisite timeshare plan;
3192 by whom substitutions may be made; the basis upon which the
3193 determination may be made to cause such substitutions to occur;
3194 and any limitations upon the ability to cause substitutions to
3195 occur.

3196 b. The developer shall also disclose any extent to which
3197 purchasers will have the right to consent to any proposed
3198 substitutions; if the purchasers do not have the right to
3199 consent, the developer must include the following disclosure in
3200 conspicuous type:

3201



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3202 *New accommodations and facilities may be substituted for*
3203 *existing accommodations and facilities of this multisite*
3204 *timeshare plan (or multisite vacation ownership plan or*
3205 *multisite vacation plan or vacation club) without the consent of*
3206 *the purchasers. The replacement accommodations and facilities*
3207 *may be located at a different place or may be of a different*
3208 *type or quality than the replaced accommodations and facilities.*
3209 *The substitution of accommodations and facilities may also*
3210 *result in an increase in the annual assessment against*
3211 *purchasers for common expenses.*

3212

3213 3. Deletions.--A description of any provision of the
3214 timeshare instrument governing deletion of accommodations or
3215 facilities from the multisite timeshare plan. If the timeshare
3216 instrument does not provide for business interruption insurance
3217 in the event of a casualty, or if it is unavailable, or if the
3218 instrument permits the developer, the managing entity, or the
3219 purchasers to elect not to reconstruct after casualty under
3220 certain circumstances or to secure replacement accommodations or
3221 facilities in lieu of reconstruction, the public offering
3222 statement must contain a disclosure that during the
3223 reconstruction, replacement, or acquisition period, or as a
3224 result of a decision not to reconstruct, purchasers of the plan
3225 may temporarily compete for available accommodations on a
3226 greater than one-to-one purchaser to accommodation ratio.

3227 (g) A description of the developer and the managing entity
3228 of the multisite timeshare plan, including:



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3229 | 1. The identity of the developer; the developer's business
3230 | address; the number of years of experience the developer has in
3231 | the timeshare, hotel, motel, travel, resort, or leisure
3232 | industries; and a description of any pending lawsuit or judgment
3233 | against the developer which is material to the plan. If there
3234 | are no such pending lawsuits or judgments, there shall be a
3235 | statement to that effect.

3236 | 2. The identity of the managing entity of the multisite
3237 | timeshare plan; the managing entity's business address; the
3238 | number of years of experience the managing entity has in the
3239 | timeshare, hotel, motel, travel, resort, or leisure industries;
3240 | and a description of any lawsuit or judgment against the
3241 | managing entity which is material to the plan. If there are no
3242 | pending lawsuits or judgments, there shall be a statement to
3243 | that effect. The description of the managing entity shall also
3244 | include a description of the relationship among the managing
3245 | entity of the multisite timeshare plan and the various component
3246 | site managing entities.

3247 | (h) A description of the purchaser's liability for common
3248 | expenses of the multisite timeshare plan, including the
3249 | following:

3250 | 1. A description of the common expenses of the plan,
3251 | including the method of allocation and assessment of such common
3252 | expenses, whether component site common expenses and real estate
3253 | taxes are included within the total common expense assessment of
3254 | the multisite timeshare plan, and, if not, the manner in which
3255 | timely payment of component site common expenses and real estate
3256 | taxes shall be accomplished.



3257 2. A description of any cap imposed upon the level of
3258 common expenses payable by the purchaser. In no event shall the
3259 total common expense assessment for the multisite timeshare plan
3260 in a given calendar year exceed 125 percent of the total common
3261 expense assessment for the plan in the previous calendar year.

3262 3. A description of the entity responsible for the
3263 determination of the common expenses of the multisite timeshare
3264 plan, as well as any entity which may increase the level of
3265 common expenses assessed against the purchaser at the multisite
3266 timeshare plan level.

3267 4. A description of the method used to collect common
3268 expenses, including the entity responsible for such collections,
3269 and the lien rights of any entity for nonpayment of common
3270 expenses. If the common expenses of any component site are
3271 collected by the managing entity of the multisite timeshare
3272 plan, a statement to that effect together with the identity and
3273 address of the escrow agent required by s. 721.56(3).

3274 5. If the purchaser will receive an interest in a
3275 nonspecific multisite timeshare plan ~~license as defined in s.~~
3276 ~~721.552(4)~~, a statement that a multisite timeshare plan budget
3277 is attached to the public offering statement as an exhibit
3278 pursuant to paragraph (7)(c). The multisite timeshare plan
3279 budget shall comply with the provisions of s. 721.07(5)(u).

3280 6. If the developer intends to guarantee the level of
3281 assessments for the multisite timeshare plan, such guarantee
3282 must be based upon a good faith estimate of the revenues and
3283 expenses of the multisite timeshare plan. The guarantee must
3284 include a description of the following:



3285 a. The specific time period, measured in one or more
3286 calendar or fiscal years, during which the guarantee will be in
3287 effect.

3288 b. A statement that the developer will pay all common
3289 expenses incurred in excess of the total revenues of the
3290 multisite timeshare plan, if the developer is to be excused from
3291 the payment of assessments during the guarantee period.

3292 c. The level, expressed in total dollars, at which the
3293 developer guarantees the assessments. If the developer has
3294 reserved the right to extend or increase the guarantee level, a
3295 disclosure must be included to that effect.

3296 7. If required under applicable law, the developer shall
3297 also disclose the following matters for each component site:

3298 a. Any limitation upon annual increases in common
3299 expenses;

3300 b. The existence of any bad debt or working capital
3301 reserve; and

3302 c. The existence of any replacement or deferred
3303 maintenance reserve.

3304 (i) If there are any restrictions upon the sale, transfer,
3305 conveyance, or leasing of an interest in a multisite timeshare
3306 plan, a description of the restrictions together with a
3307 statement in conspicuous type in substantially the following
3308 form:

3309
3310 *The sale, lease, or transfer of interests in this multisite*
3311 *timeshare plan is restricted or controlled.*

3312



3313 (j) The following statement in conspicuous type in
3314 substantially the following form:

3315
3316 *The purchase of an interest in a multisite timeshare plan*
3317 *(or multisite vacation ownership plan or multisite vacation plan*
3318 *or vacation club) should be based upon its value as a vacation*
3319 *experience or for spending leisure time, and not considered for*
3320 *purposes of acquiring an appreciating investment or with an*
3321 *expectation that the interest may be resold.*

3322
3323 (k) If the multisite timeshare plan provides purchasers
3324 with the opportunity to participate in an exchange program, a
3325 description of the name and address of the exchange company and
3326 the method by which a purchaser accesses the exchange program.
3327 In lieu of this requirement, the public offering statement text
3328 may contain a cross-reference to other provisions in the public
3329 offering statement or in an exhibit containing this information.

3330 (l) A description of each component site, which
3331 description may be disclosed in a written, graphic, tabular, or
3332 other form approved by the division. The description of each
3333 component site shall include the following information:

- 3334 1. The name and address of each component site.
- 3335 2. The number of accommodations, timeshare interests, and
3336 timeshare periods, expressed in periods of 7-day use
3337 availability, committed to the multisite timeshare plan and
3338 available for use by purchasers.
- 3339 3. Each type of accommodation in terms of the number of
3340 bedrooms, bathrooms, sleeping capacity, and whether or not the



3341 accommodation contains a full kitchen. For purposes of this
 3342 description, a full kitchen shall mean a kitchen having a
 3343 minimum of a dishwasher, range, sink, oven, and refrigerator.

3344 4. A description of facilities available for use by the
 3345 purchaser at each component site, including the following:

3346 a. The intended use of the facility, if not apparent from
 3347 the description.

3348 b. Any user fees associated with a purchaser's use of the
 3349 facility.

3350 5. A cross-reference to the location in the public
 3351 offering statement of the description of any priority
 3352 reservation features which may affect a purchaser's ability to
 3353 obtain a reservation in the component site.

3354 (5) Such other information as the division determines is
 3355 necessary to fairly, meaningfully, and effectively disclose all
 3356 aspects of the multisite timeshare plan, including, but not
 3357 limited to, any disclosures made necessary by the operation of
 3358 s. 721.03(8). However, if a developer has, in good faith,
 3359 attempted to comply with the requirements of this section, and
 3360 if, in fact, the developer has substantially complied with the
 3361 disclosure requirements of this chapter, nonmaterial errors or
 3362 omissions shall not be actionable.

3363 (6) Any other information that the developer, with the
 3364 approval of the division, desires to include in the public
 3365 offering statement text.

3366 (7) The following documents shall be included as exhibits
 3367 to the filed ~~registered~~ public offering statement, if
 3368 applicable:



- 3369 (a) The timeshare instrument.
- 3370 (b) The reservation system rules and regulations.
- 3371 (c) The multisite timeshare plan budget pursuant to
- 3372 subparagraph (4)(h)5.
- 3373 (d) Any document containing the material rules and
- 3374 regulations described in paragraph (4)(e).
- 3375 (e) Any contract, agreement, or other document through
- 3376 which component sites are affiliated with the multisite
- 3377 timeshare plan.
- 3378 (f) Any escrow agreement required pursuant to s. 721.08 or
- 3379 s. 721.56(3).
- 3380 (g) The form agreement for sale or lease of an interest in
- 3381 the multisite timeshare plan.
- 3382 (h) The form receipt for multisite timeshare plan
- 3383 documents required to be given to the purchaser pursuant to s.
- 3384 721.551(2)(b).
- 3385 (i) The description of documents list required to be given
- 3386 to the purchaser by s. 721.551(2)(b).
- 3387 (j) The component site managing entity affidavit or
- 3388 statement required by s. 721.56(1).
- 3389 (k) Any subordination instrument required by s. 721.53.
- 3390 (l)1. If the multisite timeshare plan contains any
- 3391 component sites located in this state, the information required
- 3392 by s. 721.07(5) pertaining to each such component site unless
- 3393 exempt pursuant to s. 721.03.
- 3394 2. If the purchaser will receive a timeshare estate
- 3395 pursuant to s. 721.57, or an interest in a specific multisite
- 3396 timeshare plan, ~~license as defined in s. 721.552(4)~~ in a



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3397 component site located outside of this state but which is
3398 offered in this state, the information required by s. 721.07(5)
3399 pertaining to that component site, + provided, however, that the
3400 provisions of s. 721.07(5)(u) shall only require disclosure of
3401 information related to the estimated budget for the timeshare
3402 plan and purchaser's expenses as required by the jurisdiction in
3403 which the component site is located.

3404 (8)(a) A timeshare plan containing only one component site
3405 must be filed with the division as a multisite timeshare plan if
3406 the timeshare instrument reserves the right for the developer to
3407 add future component sites. However, if the developer fails to
3408 add at least one additional component site to a timeshare plan
3409 described in this paragraph within 3 years after the date the
3410 plan is initially filed with the division, the multisite filing
3411 for such plan shall thereupon terminate, and the developer may
3412 not thereafter offer any further interests in such plan unless
3413 and until he or she refiles such plan with the division pursuant
3414 to this chapter.

3415 (b) The public offering statement for any timeshare plan
3416 described in paragraph (a) must include the following disclosure
3417 in conspicuous type:

3418
3419 *This timeshare plan has been filed as a multisite timeshare*
3420 *plan (or multisite vacation ownership plan or multisite vacation*
3421 *plan or vacation club); however, this plan currently contains*
3422 *only one component site. The developer is not required to add*
3423 *any additional component sites to the plan. Do not purchase an*



3424 *interest in this plan in reliance upon the addition of any other*
3425 *component sites.*

3426 Section 26. Paragraphs (b), (c), and (f) of subsection (2)
3427 of section 721.551, Florida Statutes, are amended to read:

3428 721.551 Delivery of multisite timeshare plan purchaser
3429 public offering statement.--

3430 (2) The developer shall furnish each purchaser with the
3431 following:

3432 (b) A receipt for multisite timeshare plan documents and a
3433 list describing any exhibit to the filed ~~registered~~ public
3434 offering statement which is not delivered to the purchaser. The
3435 division is authorized to prescribe by rule the form of the
3436 receipt for multisite timeshare plan documents and the
3437 description of exhibits list that must be furnished to the
3438 purchaser pursuant to this section.

3439 (c) If the purchaser will receive a timeshare estate
3440 pursuant to s. 721.57, or an interest in a specific multisite
3441 timeshare plan, ~~license as defined in s. 721.552(4)~~ in a
3442 component site located in this state, the developer shall also
3443 furnish the purchaser with the information required to be
3444 delivered pursuant to s. 721.07(6)(a) and (b) for the component
3445 site in which the purchaser will receive an estate or interest
3446 in a specific multisite timeshare plan license.

3447 (f) The developer shall be required to provide the
3448 managing entity of the multisite timeshare plan with a copy of
3449 the approved filed ~~registered~~ public offering statement and any
3450 approved amendments thereto to be maintained by the managing



3451 entity as part of the books and records of the timeshare plan
3452 pursuant to s. 721.13(3)(d).

3453 Section 27. Paragraph (a) of subsection (2), paragraph (c)
3454 of subsection (3), and subsections (4) and (5) of section
3455 721.552, Florida Statutes, are amended to read:

3456 721.552 Additions, substitutions, or deletions of
3457 component site accommodations or facilities; purchaser remedies
3458 for violations.--Additions, substitutions, or deletions of
3459 component site accommodations or facilities may be made only in
3460 accordance with the following:

3461 (2) SUBSTITUTIONS.--

3462 (a) Substitutions are available only for nonspecific
3463 multisite timeshare ~~license~~ plans ~~as defined in subsection (4).~~
3464 Specific multisite timeshare ~~license~~ plans or as defined in
3465 ~~subsection (4) and~~ plans offering timeshare estates pursuant to
3466 s. 721.57 may not contain an accommodation substitution right.

3467 (3) DELETIONS.--

3468 (c) *Automatic deletion.*--The timeshare instrument may
3469 provide that a component site will be automatically deleted upon
3470 the expiration of its term in a timeshare plan other than a
3471 nonspecific multisite timeshare ~~license~~ plan or as otherwise
3472 provided in the timeshare instrument. However, the timeshare
3473 instrument must also provide that in the event a component site
3474 is deleted from the plan in this manner, a sufficient number of
3475 purchasers of the plan will also be deleted so as to maintain no
3476 greater than a one-to-one purchaser to accommodation ratio.

3477 ~~(4) SPECIFIC AND NONSPECIFIC TIMESHARE LICENSES.-- For~~
3478 ~~purposes of this chapter, a specific timeshare license means one~~



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3479 ~~with respect to which a purchaser receives a specific right to~~
3480 ~~use accommodations and facilities, if any, at one component site~~
3481 ~~of a multisite timeshare plan, together with use rights in the~~
3482 ~~other accommodations and facilities of the multisite timeshare~~
3483 ~~plan created by or acquired through the reservation system. For~~
3484 ~~purposes of this chapter, a nonspecific timeshare license means~~
3485 ~~one with respect to which a purchaser receives a right to use~~
3486 ~~all of the accommodations and facilities, if any, of a multisite~~
3487 ~~timeshare plan through the reservation system, but no specific~~
3488 ~~right to use any particular accommodations and facilities for~~
3489 ~~the remaining term of the multisite timeshare plan in the event~~
3490 ~~that the reservation system is terminated for any reason prior~~
3491 ~~to the expiration of the term of the multisite timeshare plan.~~

3492 (4)~~(5)~~ VIOLATIONS; PURCHASER REMEDIES.--All purchaser
3493 remedies pursuant to s. 721.21 shall be available for any
3494 violation of the provisions of this section.

3495 Section 28. Subsections (4) and (5) of section 721.56,
3496 Florida Statutes, are amended to read:

3497 721.56 Management of multisite timeshare plans;
3498 reservation systems; demand balancing.--

3499 (4) The managing entity of a multisite timeshare plan
3500 shall comply fully with the requirements of s. 721.13, subject
3501 to the provisions of s. 721.13(11) for personal property
3502 timeshare plans; however, with respect to a given component
3503 site, the managing entity of the multisite timeshare plan shall
3504 not be responsible for compliance as the managing entity of that
3505 component site unless the managing entity of the multisite
3506 timeshare plan is also the managing entity of that component



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3507 | site. Unless the timeshare instrument provides otherwise, the
3508 | operator of the reservation system is the managing entity of a
3509 | multisite timeshare plan.

3510 | (5)(a)1. The reservation system is a facility of any
3511 | nonspecific ~~timeshare license~~ multisite timeshare plan ~~as~~
3512 | ~~defined in s. 721.552(4)~~. The reservation system is not a
3513 | facility of any specific ~~timeshare license~~ multisite timeshare
3514 | plan ~~as defined in s. 721.552(4)~~, nor is it a facility of any
3515 | multisite timeshare plan in which timeshare estates are offered
3516 | pursuant to s. 721.57.

3517 | 2. The reservation system of any multisite timeshare plan
3518 | shall include any computer software and hardware employed for
3519 | the purpose of enabling or facilitating the operation of the
3520 | reservation system. Nothing contained in this part shall
3521 | preclude a manager or management firm that is serving as
3522 | managing entity of a multisite timeshare plan from providing in
3523 | its contract with the purchasers or owners' association of the
3524 | multisite timeshare plan or in the timeshare instrument that the
3525 | manager or management firm owns the reservation system and that
3526 | the managing entity shall continue to own the reservation system
3527 | in the event the purchasers discharge the managing entity
3528 | pursuant to s. 721.14.

3529 | (b) In the event of a termination of a managing entity of
3530 | a nonspecific ~~license~~ multisite timeshare plan ~~as defined in s.~~
3531 | ~~721.552(4)~~, which managing entity owns the reservation system,
3532 | irrespective of whether the termination is voluntary or
3533 | involuntary and irrespective of the cause of such termination,
3534 | in addition to any other remedies available to purchasers in



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3535 | this part, the terminated managing entity shall, prior to such
3536 | termination, establish a trust meeting the criteria set forth in
3537 | this paragraph. It is the intent of the Legislature that this
3538 | trust arrangement provide for an adequate period of continued
3539 | operation of the reservation system of the multisite timeshare
3540 | plan, during which period the new managing entity shall make
3541 | provision for the acquisition of a substitute reservation
3542 | system.

3543 | 1. The trust shall be established with an independent
3544 | trustee. Both the terminated managing entity and the new
3545 | managing entity shall attempt to agree on an acceptable trustee.
3546 | In the event they cannot agree on an acceptable trustee, they
3547 | shall each designate a nominee, and the two nominees shall
3548 | select the trustee.

3549 | 2. The terminated managing entity shall take all steps
3550 | necessary to enable the trustee or the trustee's designee to
3551 | operate the reservation system in the same manner as provided in
3552 | the timeshare instrument and the public offering statement. The
3553 | trustee may, but shall not be required to, contract with the
3554 | terminated managing entity for the continued operation of the
3555 | reservation system. In the event the trustee elects to contract
3556 | with the terminated managing entity, that managing entity shall
3557 | be required to operate the reservation system and shall be
3558 | entitled to payment for that service. The payment shall in no
3559 | event exceed the amount previously paid to the terminated
3560 | managing entity for operation of the reservation system.



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3561 3. The trust shall remain in effect for a period of no
3562 longer than 1 year following the date of termination of the
3563 managing entity.

3564 4. Nothing contained in this subsection shall abrogate or
3565 otherwise interfere with any proprietary rights in the
3566 reservation system that have been reserved by the discharged
3567 managing entity, in its management contract or otherwise, so
3568 long as such proprietary rights are not asserted in a manner
3569 that would prevent the continued operation of the reservation
3570 system as contemplated in this subsection.

3571 (c) In the event of a termination of a managing entity of
3572 a timeshare estate or specific ~~license~~ multisite timeshare plan
3573 ~~as defined in s. 721.552(4)~~, which managing entity owns the
3574 reservation system, irrespective of whether the termination is
3575 voluntary or involuntary and irrespective of the cause of such
3576 termination, in addition to any other remedies available to
3577 purchasers in this part, the terminated managing entity shall,
3578 prior to such termination, promptly transfer to each component
3579 site managing entity all relevant data contained in the
3580 reservation system with respect to that component site,
3581 including, but not limited to:

3582 1. The names, addresses, and reservation status of
3583 component site accommodations.

3584 2. The names and addresses of all purchasers of timeshare
3585 interests at that component site.

3586 3. All outstanding confirmed reservations and reservation
3587 requests for that component site.



3588 4. Such other component site records and information as
 3589 are necessary, in the reasonable discretion of the component
 3590 site managing entity, to permit the uninterrupted operation and
 3591 administration of the component site, provided that a given
 3592 component site managing entity shall not be entitled to any
 3593 information regarding other component sites or regarding the
 3594 terminated multisite timeshare plan managing entity.

3595
 3596 All reasonable costs incurred by the terminated managing entity
 3597 in effecting the transfer of information required by this
 3598 paragraph shall be reimbursed to the terminated managing entity
 3599 on a pro rata basis by each component site, and the amount of
 3600 such reimbursement shall constitute a common expense of each
 3601 component site.

3602 Section 29. Subsection (2) of section 721.57, Florida
 3603 Statutes, is amended to read:

3604 721.57 Offering of timeshare estates in multisite
 3605 timeshare plans; required provisions in the timeshare
 3606 instrument.--

3607 (2) The timeshare instrument of a multisite timeshare plan
 3608 in which timeshare estates are offered, other than a trust
 3609 meeting the requirements of s. 721.08, must contain or provide
 3610 for all of the following matters:

3611 (a) The purchaser will receive a timeshare estate as
 3612 defined in s. 721.05 in one of the component sites of the
 3613 multisite timeshare plan. The use rights in the other component
 3614 sites of the multisite timeshare plan shall be made available to



3615 the purchaser through the reservation system pursuant to the
3616 timeshare instrument.

3617 (b) In the event that the reservation system is terminated
3618 or otherwise becomes unavailable for any reason prior to the
3619 expiration of the term of the multisite timeshare plan:

3620 1. The purchaser will be able to continue to use the
3621 accommodations and facilities of the component site in which she
3622 or he has been conveyed a timeshare estate in the manner
3623 described in the timeshare instrument for the remaining term of
3624 the timeshare estate; and

3625 2. Any use rights in that component site which had
3626 previously been made available through the reservation system to
3627 purchasers of the multisite timeshare plan who were not offered
3628 a timeshare estate at that component site will terminate when
3629 the reservation system is terminated or otherwise becomes
3630 unavailable for any reason.

3631 Section 30. Subsection (6) of section 721.84, Florida
3632 Statutes, is amended to read:

3633 721.84 Appointment of a registered agent; duties.--

3634 (6) Unless otherwise provided in this section, a
3635 registered agent in receipt of any notice or other document
3636 addressed from the lienholder to the obligor in care of the
3637 registered agent at the registered office must mail, by first
3638 class mail if the obligor's address is within the United States,
3639 and by international air mail if the obligor's address is
3640 outside the United States, with postage fees prepaid, such
3641 notice or documents to the obligor at the obligor's last
3642 designated address within 5 days after ~~of~~ receipt.



3643 Section 31. Section 721.96, Florida Statutes, is amended
3644 to read:

3645 721.96 Purpose.--The purpose of this part is to provide
3646 for the appointment of commissioners of deeds to take
3647 acknowledgments, proofs of execution, and oaths outside the
3648 United States in connection with the execution of any deed,
3649 mortgage, deed of trust, contract, power of attorney, or any
3650 other agreement, instrument or writing concerning, relating to,
3651 or to be used or recorded in connection with a timeshare estate,
3652 personal property timeshare interest, timeshare license, any
3653 property subject to a timeshare plan, or the operation of a
3654 timeshare plan located within this state.

3655 Section 32. Subsection (1) of section 721.97, Florida
3656 Statutes, is amended to read:

3657 721.97 Timeshare commissioner of deeds.--

3658 (1) The Governor may appoint commissioners of deeds to
3659 take acknowledgments, proofs of execution, or oaths in any
3660 foreign country. The term of office is 4 years. Commissioners of
3661 deeds shall have authority to take acknowledgments, proofs of
3662 execution, and oaths in connection with the execution of any
3663 deed, mortgage, deed of trust, contract, power of attorney, or
3664 any other writing to be used or recorded in connection with a
3665 timeshare estate, personal property timeshare interest,
3666 timeshare license, any property subject to a timeshare plan, or
3667 the operation of a timeshare plan located within this state;
3668 provided such instrument or writing is executed outside the
3669 United States. Such acknowledgments, proofs of execution, and
3670 oaths must be taken or made in the manner directed by the laws



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3671 of this state, including but not limited to s. 117.05(4),
 3672 (5)(a), and (6), Florida Statutes 1997, and certified by a
 3673 commissioner of deeds. The certification must be endorsed on or
 3674 annexed to the instrument or writing aforesaid and has the same
 3675 effect as if made or taken by a notary public licensed in this
 3676 state.

3677 Section 33. Paragraph (b) of subsection (8) of section
 3678 475.011, Florida Statutes, is amended to read:

3679 475.011 Exemptions.--This part does not apply to:

3680 (8)

3681 (b) An exchange company, as that term is defined by s.
 3682 721.05(15)~~(14)~~, but only to the extent that the exchange company
 3683 is engaged in exchange program activities as described in and is
 3684 in compliance with s. 721.18.

3685 Section 34. Subsection (23) of section 718.103, Florida
 3686 Statutes, is amended to read:

3687 718.103 Definitions.--As used in this chapter, the term:

3688 (23) "Residential condominium" means a condominium
 3689 consisting of two or more units, any of which are intended for
 3690 use as a private temporary or permanent residence, except that a
 3691 condominium is not a residential condominium if the use for
 3692 which the units are intended is primarily commercial or
 3693 industrial and not more than three units are intended to be used
 3694 for private residence, and are intended to be used as housing
 3695 for maintenance, managerial, janitorial, or other operational
 3696 staff of the condominium. With respect to a condominium that is
 3697 not a timeshare condominium, a residential unit includes a unit
 3698 intended as a private temporary or permanent residence as well



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3699 as a unit not intended for commercial or industrial use. With
3700 respect to a timeshare condominium, the timeshare instrument as
3701 defined in s. 721.05(35)(~~33~~) shall govern the intended use of
3702 each unit in the condominium. If a condominium is a residential
3703 condominium but contains units intended to be used for
3704 commercial or industrial purposes, then, with respect to those
3705 units which are not intended for or used as private residences,
3706 the condominium is not a residential condominium. A condominium
3707 which contains both commercial and residential units is a mixed-
3708 use condominium and is subject to the requirements of s.
3709 718.404.

3710 Section 35. This act shall take effect upon becoming a
3711 law; however, with respect to any timeshare plan or exchange
3712 program filing approved by the division prior to the date this
3713 act becomes a law, the amendments to s. 721.06(1)(g)2., ss.
3714 721.07(2)(d)1. and (5)(e)4., s. 721.075(2)(e), ss. 721.18(1)(l)
3715 and (m), or s. 721.27, Florida Statutes, shall not apply to such
3716 filing until the earlier of January 1, 2004 or the date that any
3717 amendments to such filing are made subsequent to the date this
3718 act becomes a law. With respect to any timeshare plan filing
3719 approved by the division prior to the date this act becomes a
3720 law, the amendment to s. 721.08(3)(a), Florida Statutes, shall
3721 not apply to the nondisturbance and notice to creditors
3722 instrument required by s. 721.08, Florida Statutes, unless and
3723 only to the extent that the developer otherwise voluntarily
3724 complies with all or a portion of such provisions.