

By Senator Webster

9-1025A-03

See HB 1243

1                                   A bill to be entitled  
2           An act relating to timeshare plans; amending s.  
3           721.02, F.S.; revising provisions with respect  
4           to legislative purpose under the Florida  
5           Vacation Plan and Timesharing Act; amending s.  
6           721.03, F.S.; revising provisions with respect  
7           to the scope of the act to include reference to  
8           personal property timeshare plans; amending s.  
9           721.05, F.S.; providing definitions; amending  
10          s. 721.06, F.S.; revising provisions with  
11          respect to contracts for purchase of timeshare  
12          interests to include provisions with respect to  
13          personal property timeshare interests; amending  
14          s. 721.065, F.S.; revising provisions with  
15          respect to resale purchase agreements to  
16          include reference to certain real property and  
17          personal property timeshare plans; amending s.  
18          721.07, F.S.; revising provisions with respect  
19          to public offering statements; amending s.  
20          721.075, F.S.; revising provisions with respect  
21          to incidental benefits, requiring purchasers to  
22          execute a statement indicating the source of  
23          the benefit; amending s. 721.08, F.S.; revising  
24          provisions with respect to escrow accounts;  
25          amending s. 721.09, F.S.; revising provisions  
26          with respect to reservation agreements;  
27          amending s. 721.11, F.S.; revising provisions  
28          with respect to advertising materials;  
29          correcting cross-references; amending s.  
30          721.12, F.S.; providing for required  
31          recordkeeping by the seller of a personal

1 property timeshare plan; amending s. 721.13,  
2 F.S.; revising provisions with respect to  
3 management; amending s. 721.14, F.S.; providing  
4 that a section of law governing the discharge  
5 of the managing entity shall not apply with  
6 respect to personal property timeshare plans;  
7 amending s. 721.15, F.S.; revising provisions  
8 with respect to assessments for common  
9 expenses; amending s. 721.16, F.S.; providing  
10 that a section of law governing certain liens  
11 does not apply to personal property timeshare  
12 plans; amending s. 721.17, F.S.; revising  
13 provisions with respect to transfer of  
14 interest; amending s. 721.18, F.S.; revising  
15 provisions with respect to exchange programs;  
16 amending s. 721.19, F.S.; including reference  
17 to personal property timeshare interests;  
18 amending s. 721.20, F.S., relating to licensing  
19 requirements; providing for the application of  
20 certain provisions to personal property  
21 timeshare plans; amending s. 721.24, F.S.;  
22 exempting accommodations and facilities of  
23 personal property timeshare plans from a  
24 provision of law governing firesafety; amending  
25 s. 721.26, F.S.; revising provisions with  
26 respect to regulation by the division; amending  
27 s. 721.27, F.S.; reducing an annual fee for  
28 each timeshare unit in a timeshare plan;  
29 amending s. 721.52, F.S.; redefining the term  
30 "multisite timeshare plan" and defining the  
31 terms "nonspecific multisite timeshare plan"

1 and "specific multisite timeshare plan";  
2 amending s. 721.53, F.S.; revising provisions  
3 with respect to subordination instruments;  
4 amending s. 721.54, F.S.; deleting a  
5 cross-reference; amending s. 721.55, F.S.;  
6 providing reference to filed rather than  
7 registered public offering statements;  
8 providing reference to multisite timeshare  
9 plans; amending s. 721.551, F.S.; providing for  
10 reference to filed rather than registered  
11 public offering statements; amending s.  
12 721.552, F.S.; providing reference to multisite  
13 timeshare plans; amending s. 721.56, F.S.;  
14 providing reference to personal property  
15 timeshare plans; amending s. 721.57, F.S.;  
16 revising provisions with respect to timeshare  
17 estates in multisite timeshare plans; amending  
18 s. 721.84, F.S.; revising provisions with  
19 respect to appointment of a registered agent;  
20 amending ss. 721.96 and 721.97, F.S.; including  
21 reference to personal property timeshare  
22 interests; providing an effective date.  
23

24 Be It Enacted by the Legislature of the State of Florida:  
25

26 Section 1. Subsections (1) and (5) of section 721.02,  
27 Florida Statutes, are amended to read:

28 721.02 Purposes.--The purposes of this chapter are to:

29 (1) Give statutory recognition to real property  
30 timeshare plans ~~timesharing~~ and personal property timeshare  
31 plans ~~timesharing~~ in this ~~the~~ state.

1           (5) Recognize that the tourism industry in this state  
2 is a vital part of the state's economy; that the sale,  
3 promotion, and use of timeshare plans is an emerging, dynamic  
4 segment of the tourism industry; that this segment of the  
5 tourism industry continues to grow, both in volume of sales  
6 and in complexity and variety of product structure; and that a  
7 uniform and consistent method of regulation is necessary in  
8 order to safeguard Florida's tourism industry and the state's  
9 economic well-being. In order to protect the quality of  
10 Florida timeshare plans and the consumers who purchase them,  
11 it is the intent of the Legislature that this chapter be  
12 interpreted broadly in order to encompass all forms of  
13 timeshare plans with a duration of at least 3 years that are  
14 created with respect to accommodations and facilities that are  
15 located in the state or that are offered for sale in the state  
16 as provided herein, including, but not limited to,  
17 condominiums, cooperatives, undivided interest campgrounds,  
18 cruise ships, vessels, houseboats, recreational vehicles and  
19 other motor vehicles, and including vacation clubs, multisite  
20 vacation plans, and multiyear vacation and lodging  
21 certificates.

22           Section 2. Paragraph (d) is added to subsection (1) of  
23 section 721.03, Florida Statutes, and subsection (8) of that  
24 section, is amended to read:

25           721.03 Scope of chapter.--

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

31

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

4           (8) With respect to any personal property  
5 ~~accommodation or facility of a timeshare plan; which is~~  
6 ~~situated upon~~

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

9           (b) The division shall have the authority to adopt  
10 rules interpreting and implementing the provisions of this  
11 chapter as they apply to any personal property timeshare plan  
12 or any ~~such~~ accommodation or facility that is part of a  
13 personal property timeshare plan offered in this state, or as  
14 the provisions of this chapter ~~they~~ apply to any other laws of  
15 this state, of the several states, or of the United States, or  
16 of any other jurisdiction, with respect to any personal  
17 property timeshare plan or any ~~such~~ accommodation or facility  
18 that is part of a personal property timeshare plan offered in  
19 this state.

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

24           Section 3. Section 721.05, Florida Statutes, is  
25 amended to read:

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

28           (1) "Accommodation" means any apartment, condominium  
29 or cooperative unit, cabin, lodge, hotel or motel room,  
30 campground, cruise ship cabin, houseboat or other vessel,  
31 recreational or other motor vehicle, or any ~~or other~~ private

1 or commercial structure which is ~~situated on~~ real or personal  
2 property and designed for overnight occupancy ~~or use~~ by one or  
3 more individuals. The term does not include an incidental  
4 benefit as defined in this section.

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

12 (3) "Agreement for transfer" means any written  
13 contract utilized in the sale of personal property timeshare  
14 interests which provides that legal title will not be  
15 transferred to the purchaser until the contract price has been  
16 paid in full and the terms of payment of which extend for a  
17 period in excess of 180 days after either the date of  
18 execution of the contract or completion of construction,  
19 whichever occurs later.

20 (4)~~(3)~~ "Assessment" means the share of funds required  
21 for the payment of common expenses which is assessed from time  
22 to time against each purchaser by the managing entity.

23 (5)~~(4)~~ "Closing" means:

24 (a) For any plan selling timeshare estates, conveyance  
25 of the legal or beneficial title to a timeshare estate as  
26 evidenced by the delivery of a deed for conveyance of legal  
27 title, or other instrument for conveyance of beneficial title,  
28 to the purchaser or to the clerk of the court for recording or  
29 conveyance of the equitable title to a timeshare estate as  
30 evidenced by the irretrievable delivery of an agreement for  
31 deed to the clerk of the court for recording.

1 (b) For any plan selling timeshare licenses or  
2 personal property timeshare interests, the final execution and  
3 delivery by all parties of the last document necessary for  
4 vesting in the purchaser the full rights available under the  
5 plan.

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

7 (a) Those expenses, fees, or taxes properly incurred  
8 for the maintenance, operation, and repair of the  
9 accommodations or facilities, or both, constituting the  
10 timeshare plan.

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

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

16 (7)~~(6)~~ "Completion of construction" means:

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

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

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

1 (b) That all accommodations and facilities of the  
2 timeshare plan are available for use in a manner identical in  
3 all material respects to the manner portrayed by the  
4 promotional material, advertising, and filed ~~registered~~ public  
5 offering statements.

6 (8)~~(7)~~ "Conspicuous type" means:

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

11 (b) Where the use of 10-point type would be  
12 impractical or impossible with respect to a particular piece  
13 of written advertising material, a different style of type or  
14 print may be used, so long as the print remains conspicuous  
15 under the circumstances.

16  
17 Where conspicuous type is required, it must be separated on  
18 all sides from other type and print. Conspicuous type may be  
19 utilized in contracts for purchase or public offering  
20 statements only where required by law or as authorized by the  
21 division.

22 (9)~~(8)~~ "Contract" means any agreement conferring the  
23 rights and obligations of a timeshare plan on the purchaser.

24 (10)~~(9)~~ "Developer" includes:

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

27 (b) A "successor developer," which means any person  
28 who succeeds to the interest of the persons in this subsection  
29 by sale, lease, assignment, mortgage, or other transfer, but  
30 the term includes only those persons who offer timeshare  
31 interests in the ordinary course of business; and



1 (c) A "concurrent developer," which means any person  
2 acting concurrently with the persons in this subsection with  
3 the purpose of offering timeshare interests in the ordinary  
4 course of business.

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

6 1. An owner of a timeshare interest who has acquired  
7 the timeshare interest for his or her own use and occupancy  
8 and who later offers it for resale; provided that a rebuttable  
9 presumption shall exist that an owner who has acquired more  
10 than seven timeshare interests did not acquire them for his or  
11 her own use and occupancy;

12 2. A managing entity, not otherwise a developer, that  
13 offers, or engages a third party to offer on its behalf,  
14 timeshare interests in a timeshare plan which it manages,  
15 provided that such offer complies with the provisions of s.  
16 721.065;

17 3. A person who owns or is conveyed, assigned, or  
18 transferred more than seven timeshare interests and who  
19 subsequently conveys, assigns, or transfers all acquired  
20 timeshare interests to a single purchaser in a single  
21 transaction, which transaction may occur in stages; or

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

30 (e) A successor or concurrent developer shall be  
31 exempt from any liability inuring to a predecessor or

1 concurrent developer of the same timeshare plan, except as  
2 provided in s. 721.15(7), provided that this exemption shall  
3 not apply to any of the successor or concurrent developer's  
4 responsibilities, duties, or liabilities with respect to the  
5 timeshare plan that accrue after the date the successor or  
6 concurrent developer became a successor or concurrent  
7 developer, and provided that such transfer does not constitute  
8 a fraudulent transfer. In addition to other provisions of law,  
9 a transfer by a predecessor developer to a successor or  
10 concurrent developer shall be deemed fraudulent if the  
11 predecessor developer made the transfer:

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

14 2. To a person that would constitute an insider under  
15 s. 726.102(7).  
16

17 The provisions of this paragraph shall not be construed to  
18 relieve any successor or concurrent developer from the  
19 obligation to comply with the provisions of any applicable  
20 timeshare instrument.

21 (11)~~(10)~~ "Division" means the Division of Florida Land  
22 Sales, Condominiums, and Mobile Homes of the Department of  
23 Business and Professional Regulation.

24 (12)~~(11)~~ "Enrolled" means paid membership in an  
25 exchange program or membership in an exchange program  
26 evidenced by written acceptance or confirmation of membership.

27 (13)~~(12)~~ "Escrow account" means an account established  
28 solely for the purposes set forth in this chapter with a  
29 financial institution located within this state.

30 (14)~~(13)~~ "Escrow agent" includes only:  
31

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

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

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

9 (d) A title insurance agent that is licensed pursuant  
10 to s. 626.8417, a title insurance agency that is licensed  
11 pursuant to s. 626.8418, or a title insurer authorized to  
12 transact business in this state pursuant to s. 624.401.

13 (15)~~(14)~~ "Exchange company" means any person owning or  
14 operating, or owning and operating, an exchange program.

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

26 (17)~~(16)~~ "Facility" means any amenity, including any  
27 structure, furnishing, fixture, equipment, service,  
28 improvement, or real or personal property, improved or  
29 unimproved, other than an ~~the~~ accommodation of the timeshare  
30 plan, which is made available to the purchasers of a timeshare  
31

1 plan. The term does not include an incidental benefit as  
2 defined in this section.

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

6 (19)~~(17)~~ "Incidental benefit" means an accommodation,  
7 product, service, discount, or other benefit which is offered  
8 to a prospective purchaser of a timeshare plan or to a  
9 purchaser of a timeshare plan prior to the expiration of his  
10 or her initial 10-day voidability period pursuant to s.  
11 721.10; which is not an exchange program as defined in  
12 subsection(16)~~(15)~~; and which complies with the provisions  
13 of s. 721.075. The term shall not include an offer of the use  
14 of the accommodations and facilities of the timeshare plan on  
15 a free or discounted one-time basis.

16 (20)~~(18)~~ "Independent," for purposes of determining  
17 eligibility of escrow agents and trustees pursuant to s.  
18 721.03(7), means that:

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

23 (b) There is no financial relationship, other than the  
24 payment of fiduciary fees or as otherwise provided in this  
25 subsection, between the escrow agent or trustee and the  
26 developer, seller, or managing entity, or any officer,  
27 director, affiliate, or subsidiary thereof.

28 (c) Compensation paid by the developer to an escrow  
29 agent or trustee for services rendered shall not be paid from  
30 funds in the escrow or trust account unless and until the  
31 developer is otherwise entitled to receive the disbursement of

1 such funds from the escrow or trust account pursuant to this  
2 chapter.

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

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

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

9 3. The escrow agent or trustee provides the developer  
10 with routine banking services which do not include  
11 construction or receivables financing or any other lending  
12 activities; or

13 4. The escrow agent or trustee performs closings for  
14 the developer or seller or issues owner's or lender's title  
15 insurance commitments or policies in connection with such  
16 closings.

17 (21)~~(19)~~ "Interestholder" means a developer, an owner  
18 of the underlying fee or owner of the underlying personal  
19 property, a mortgagee, judgment creditor, or other lienor, or  
20 any other person having an interest in or lien or encumbrance  
21 against the accommodations or facilities of the timeshare  
22 plan.

23 (22)~~(20)~~ "Managing entity" means the person who  
24 operates or maintains the timeshare plan pursuant to s.  
25 721.13(1).

26 (23)~~(21)~~ "Memorandum of agreement" means a written  
27 document, in a recordable form sufficient to permit the  
28 document to be recorded or otherwise filed in the appropriate  
29 public records and to provide constructive notice of its  
30 contents under applicable law, which includes the names of the  
31 seller and the purchasers, a legal description of the

1 timeshare property, or other sufficient description for a  
2 personal property timeshare plan,and all timeshare interests  
3 to be included in such document, and a description of the type  
4 of timeshare interest ~~license~~ sold by the seller.

5 (24)~~(22)~~ "Offer to sell," "offer for sale," "offered  
6 for sale," or "offer" means the solicitation, advertisement,  
7 or inducement, or any other method or attempt, to encourage  
8 any person to acquire the opportunity to participate in a  
9 timeshare plan.

10 (25)~~(23)~~ "One-to-one purchaser to accommodation ratio"  
11 means the ratio of the number of purchasers eligible to use  
12 the accommodations of a timeshare plan on a given day to the  
13 number of accommodations available for use within the plan on  
14 that day, such that the total number of purchasers eligible to  
15 use the accommodations of the timeshare plan during a given  
16 calendar year never exceeds the total number of accommodations  
17 available for use in the timeshare plan during that year. For  
18 purposes of calculation under this subsection, each purchaser  
19 must be counted at least once, and no individual timeshare  
20 unit may be counted more than 365 times per calendar year (or  
21 more than 366 times per leap year). A purchaser who is  
22 delinquent in the payment of timeshare plan assessments shall  
23 continue to be considered eligible to use the accommodations  
24 of the timeshare plan for purposes of this subsection  
25 notwithstanding any application of s. 721.13(6).

26 (26)~~(24)~~ "Owner of the underlying fee" or "owner of  
27 the underlying personal property"means any person having an  
28 interest in the real property or personal property comprising  
29 or underlying the accommodations or facilities of a ~~the~~  
30 timeshare plan at or subsequent to the time of creation of the  
31 timeshare plan.

1           ~~(27)~~(25) "Owners' association" means an the  
2 association made up of all owners of timeshare interests in a  
3 timeshare plan, including developers and purchasers of such a  
4 timeshare plan who have purchased timeshare estates.

5           (28) "Personal property timeshare interest" means a  
6 right to occupy an accommodation located on or in or comprised  
7 of personal property that is not permanently affixed to real  
8 property, whether or not coupled with a beneficial or  
9 ownership interest in the accommodations or personal property.

10           ~~(29)~~(26) "Public offering statement" means the written  
11 materials describing a single-site timeshare plan or a  
12 multisite timeshare plan, including a text and any exhibits  
13 attached thereto as required by ss. 721.07, 721.55, and  
14 721.551. The term "public offering statement" shall refer to  
15 both a filed ~~registered~~ public offering statement and a  
16 purchaser public offering statement.

17           ~~(30)~~(27) "Purchaser" means any person, other than a  
18 developer, who by means of a voluntary transfer acquires a  
19 legal or equitable interest in a timeshare plan other than as  
20 security for an obligation.

21           ~~(31)~~(28) "Purchaser public offering statement" means  
22 that portion of the filed ~~registered~~ public offering statement  
23 which must be delivered to purchasers pursuant to s. 721.07(6)  
24 or s. 721.551.

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

28           ~~(32)~~(30) "Regulated short-term product" means a  
29 contractual right, offered by the seller, to use  
30 accommodations of a timeshare plan or other accommodations,  
31 provided that:

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

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

13           (33)~~(31)~~ "Seller" means any developer or any other  
14 person, or any agent or employee thereof, who offers timeshare  
15 interests in the ordinary course of business. The term  
16 "seller" does not include:

17           (a) An owner of a timeshare interest who has acquired  
18 the timeshare interest for his or her own use and occupancy  
19 and who later offers it for resale; provided that a rebuttable  
20 presumption shall exist that an owner who has acquired more  
21 than seven timeshare interests did not acquire them for his or  
22 her own use and occupancy;

23           (b) A managing entity, not otherwise a seller, that  
24 offers, or engages a third party to offer on its behalf,  
25 timeshare interests in a timeshare plan which it manages,  
26 provided that such offer complies with the provisions of s.  
27 721.065;

28           (c) A person who owns or is conveyed, assigned, or  
29 transferred more than seven timeshare interests and who  
30 subsequently conveys, assigns, or transfers all acquired  
31



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

11 (34)~~(32)~~ "Timeshare estate" means a right to occupy a  
12 timeshare unit, coupled with a freehold estate or an estate  
13 for years with a future interest in a timeshare property or a  
14 specified portion thereof. The term shall also mean an  
15 interest in a condominium unit pursuant to s. 718.103, an  
16 interest in a cooperative unit pursuant to s. 719.103, or an  
17 interest in a trust that complies in all respects with the  
18 provisions of s. 721.08(2)(c)4., provided that the trust does  
19 not contain any personal property timeshare interests. A  
20 timeshare estate is a parcel of real property under the laws  
21 of this state 3.

22 (35)~~(33)~~ "Timeshare instrument" means one or more  
23 documents, by whatever name denominated, creating or governing  
24 the operation of a timeshare plan.

25 (36)~~(34)~~ "Timeshare interest" means a timeshare  
26 estate, a personal property timeshare interest, or a timeshare  
27 license.

28 (37)~~(35)~~ "Timeshare license" means a right to occupy a  
29 timeshare unit, which right is not a personal property  
30 timeshare ~~neither coupled with a freehold interest or a~~  
31

1 ~~timeshare, nor coupled with an estate for years with a future~~  
2 ~~interest, in a timeshare property.~~

3 (38)~~(36)~~ "Timeshare period" means the period or  
4 periods of time when a purchaser of a timeshare interest is  
5 afforded the opportunity to use the accommodations ~~or~~  
6 ~~facilities, or both,~~of a timeshare plan.

7 (39)~~(37)~~ "Timeshare plan" means any arrangement, plan,  
8 scheme, or similar device, other than an exchange program,  
9 whether by membership, agreement, tenancy in common, sale,  
10 lease, deed, rental agreement, license, or right-to-use  
11 agreement or by any other means, whereby a purchaser, for  
12 consideration, receives ownership rights in or a right to use  
13 accommodations, and facilities, if any, for a period of time  
14 less than a full year during any given year, but not  
15 necessarily for consecutive years. The term "timeshare plan"  
16 includes:

17 (a) A "personal property timeshare plan," which means  
18 a timeshare plan in which the accommodations are comprised of  
19 personal property that is not permanently affixed to real  
20 property; and

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

24 (40)~~(38)~~ "Timeshare property" means one or more  
25 timeshare units subject to the same timeshare instrument,  
26 together with any other property or rights to property  
27 appurtenant to those timeshare units. Notwithstanding anything  
28 to the contrary contained in chapter 718 or chapter 719, the  
29 timeshare instrument for a timeshare condominium or  
30 cooperative may designate personal property, contractual  
31 rights, affiliation agreements of component sites of vacation

1 clubs, exchange companies, or reservation systems, or any  
2 other agreements or personal property, as common elements or  
3 limited common elements of the timeshare condominium or  
4 cooperative.

5 (41)~~(39)~~ "Timeshare unit" means an accommodation of a  
6 timeshare plan which is divided into timeshare periods. Any  
7 timeshare unit in which a door or doors connecting two or more  
8 separate rooms are capable of being locked to create two or  
9 more private dwellings shall only constitute one timeshare  
10 unit for purposes of this chapter, unless the timeshare  
11 instrument provides that timeshare interests may be separately  
12 conveyed in such locked-off portions.

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

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

19 Section 4. Section 721.06, Florida Statutes, is  
20 amended to read:

21 721.06 Contracts for purchase of timeshare  
22 interests.--

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

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

29 (b) The names and addresses of the developer and the  
30 timeshare plan.

31

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

7 (d)1. For real property timeshare plans, an estimate  
8 of any anticipated annual assessment stated on an ~~Any~~ annually  
9 recurring basis for any use charges, fees, ~~charge and the next~~  
10 year's estimated annual assessment for common expenses, ~~or and~~  
11 for ad valorem taxes or, if an estimate for ~~next year's~~  
12 assessment is unavailable, the current year's actual annual  
13 assessment for any use charges, fees, common expenses, ~~or and~~  
14 for ad valorem taxes.

15 2. For personal property timeshare plans, an estimate  
16 of any anticipated annual assessment stated on an annually  
17 recurring basis for any use charges, fees, common expenses, or  
18 taxes or, if an estimate is unavailable, the current year's  
19 actual annual assessment for any use charges, fees, common  
20 expenses or taxes.

21 (e) The estimated date of completion of construction  
22 of each accommodation or facility promised to be completed  
23 which is not completed at the time the contract is executed  
24 and the estimated date of closing.

25 (f) A brief description of the nature and duration of  
26 the timeshare interest being sold, including whether any  
27 interest in real property or personal property is being  
28 conveyed and the specific number of years constituting the  
29 term of the timeshare plan.

30  
31

1 (g) Immediately prior to the space reserved in the  
2 contract for the signature of the purchaser, in conspicuous  
3 type, substantially the following statements:

4 1. If the purchaser will receive a personal property  
5 timeshare interest:

6 a. This personal property timeshare plan is governed  
7 only by limited sections of the timeshare management  
8 provisions of Florida law.

9 b. If the accommodations or facilities are located on  
10 or in a documented vessel or foreign vessel as provided in s.  
11 721.08(2)(c)3.e., the disclosure required by s.  
12 721.08(2)(c)3.e.IV.

13 2. You may cancel this contract without any penalty or  
14 obligation within 10 calendar days after the date you sign  
15 this contract or the date on which you receive the last of all  
16 documents required to be given to you pursuant to s.  
17 721.07(6), Florida Statutes. If you decide to cancel this  
18 contract, you must notify the seller in writing of your intent  
19 to cancel. Your notice of cancellation shall be effective upon  
20 the date sent and shall be sent to ... (Name of Seller) ...  
21 at ... (Address of Seller) .... Any attempt to obtain a  
22 waiver of your cancellation right is void and of no effect.  
23 While you may execute all closing documents in advance, the  
24 closing, as evidenced by delivery of the deed or other  
25 document, before expiration of your 10-day cancellation  
26 period, is prohibited.

27 (h) If a timeshare estate is being conveyed, the  
28 following statement in conspicuous type:

29

30 For the purpose of ad valorem assessment, taxation and  
31 special assessments, the managing entity will be considered

1 the taxpayer as your agent pursuant to section 192.037,  
2 Florida Statutes.

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

20 (j) If the timeshare interest is being sold pursuant  
21 to an agreement for deed or an agreement for transfer, a  
22 statement that the signing of the agreement for deed or  
23 agreement for transfer does not entitle the purchaser to  
24 receive the conveyance or transfer of his or her timeshare  
25 estate or personal property timeshare interest ~~a deed~~ until  
26 all payments under the agreement have been made.

27 (k) Unless the developer is, at the time of offering  
28 the plan, ~~the owner in fee simple absolute~~ of the  
29 accommodations and facilities of the timeshare plan, free and  
30 clear of all liens, and encumbrances, and claims of other  
31 interestholders, a statement that the developer is not the

1 sole owner of the underlying fee or owner of the underlying  
2 personal property or that the ~~such~~ accommodations or  
3 facilities are subject to ~~without~~ liens or encumbrances, which  
4 statement shall include:

5 1. The names and addresses of all other  
6 interestholders ~~persons or entities having an ownership~~  
7 ~~interest or other interest in the accommodations or~~  
8 ~~facilities;~~ and

9 2. The actual interest of the developer in the  
10 accommodations or facilities. As an alternative to including  
11 the statement in the purchase contract, a seller may include a  
12 reference in the purchase contract to the location in the  
13 purchaser public offering statement text of such information.

14 (1) If the purchaser will receive an interest in a  
15 multisite timeshare plan pursuant to part II, a statement  
16 shall be provided in conspicuous type in substantially the  
17 following form:

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

28  
29 (m) The following statement in conspicuous type:

30  
31

1 Any resale of this timeshare interest must be  
2 accompanied by certain disclosures in accordance with section  
3 721.065, Florida Statutes.

4  
5 (n) A description of any rights reserved by the  
6 developer to alter or modify the offering prior to closing.

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

12 (b) An agreement for transfer shall be filed with the  
13 Secretary of State or other appropriate official responsible  
14 for maintaining such records in the appropriate jurisdiction  
15 within 30 days after the day it is executed by the purchaser.  
16 The developer shall pay all filing costs associated therewith.  
17 A form copy of such instrument must be filed with the division  
18 for review pursuant to s. 721.07.

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

22 Section 5. Paragraph (b) of subsection (2) of section  
23 721.065, Florida Statutes, is amended to read:

24 721.065 Resale purchase agreements.--

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

27 (b) One of the following statements in conspicuous  
28 type located immediately prior to the disclosure required by  
29 paragraph (c):

30 1. If the resale purchase agreement pertains to a real  
31 property timeshare plan:



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

28  
29 There are many important documents relating to the timeshare  
30 plan which you should review prior to purchasing a timeshare  
31 interest, including the declaration of condominium or

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

5 2. If the resale purchase agreement pertains to a  
6 personal property timeshare plan:

7  
8 The current year's assessment for any common expenses, use  
9 charges, fees, or taxes allocable to the timeshare interest  
10 you are purchasing is \$\_\_\_\_. This assessment, which may be  
11 increased from time to time by the managing entity of the  
12 timeshare plan, is payable in full each year on or before  
13 \_\_\_\_\_. (If there are any delinquent assessments for  
14 common expenses, use charges, fees, or taxes outstanding with  
15 respect to the timeshare interest in question, the following  
16 statement must be included: A delinquency in the amount of  
17 \$\_\_\_\_ for unpaid common expenses, use charges, fees, or taxes  
18 currently exists with respect to the timeshare interest you  
19 are purchasing, together with a per diem charge of \$\_\_\_\_ for  
20 interest and late charges.) Each owner is personally liable  
21 for the payment of her or his assessments for common expenses,  
22 and failure to timely pay these assessments may result in  
23 restriction or loss of your use and/or ownership rights.

24  
25 There are many important documents relating to the timeshare  
26 plan which you should review prior to purchasing a timeshare  
27 interest, including any owners association articles and  
28 bylaws; the current year's operating and reserve budgets; and  
29 any rules and regulations affecting the use of timeshare plan  
30 accommodations and facilities.

31

1           Section 6. Section 721.07, Florida Statutes, is  
2 amended to read:

3           721.07 Public offering statement.--Prior to offering  
4 any timeshare plan, the developer must submit a filed  
5 ~~registered~~ public offering statement to the division for  
6 approval as prescribed by s. 721.03, s. 721.55, or this  
7 section. Until the division approves such filing, any contract  
8 regarding the sale of that timeshare plan is subject to  
9 cancellation voidable by the purchaser pursuant to s. 721.10.

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

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

30           (b) If the developer fails to respond to any cited  
31 deficiencies within 20 days after receipt of the division's

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

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

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

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

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

1 materially alter or modify the offering in a manner adverse to  
2 you. After the division approves the public offering  
3 statement, you will receive notice of the approval from the  
4 developer and the required revisions, if any.

5  
6 Your statutory right to cancel this transaction without any  
7 penalty or obligation expires 10 calendar days after the date  
8 you signed your purchase contract or the date on which you  
9 receive the last of all documents required to be given to you  
10 pursuant to section 721.07(6), Florida Statutes, or 10  
11 calendar days after you receive revisions required to be  
12 delivered to you, if any, whichever is later. If you decide to  
13 cancel this contract, you must notify the seller in writing of  
14 your intent to cancel. Your notice of cancellation shall be  
15 effective upon the date sent and shall be sent to (Name of  
16 Seller) at (Address of Seller). Any attempt to obtain a waiver  
17 of your cancellation right is void and of no effect. While you  
18 may execute all closing documents in advance, the closing, as  
19 evidenced by delivery of the deed or other document, before  
20 expiration of your 10-day cancellation period, is prohibited.

21  
22 2. After receipt of approval from the division and prior to  
23 closing, if any revisions made to the documents contained in  
24 the purchaser public offering statement materially alter or  
25 modify the offering in a manner adverse to a purchaser, the  
26 developer shall send the purchaser such revisions together  
27 with a notice containing a statement in conspicuous type in  
28 substantially the following form:

29  
30 The unapproved public offering statement previously delivered  
31 to you, together with the enclosed revisions, has been

1 approved by the Division of Florida Land Sales, Condominiums,  
2 and Mobile Homes. Accordingly, your cancellation right expires  
3 10 calendar days after you sign your purchase contract or 10  
4 calendar days after you receive these revisions, whichever is  
5 later. If you have any questions regarding your cancellation  
6 rights, you may contact the division at [insert division's  
7 current address].

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

16  
17 The unapproved public offering statement previously delivered  
18 to you has been approved by the Division of Florida Land  
19 Sales, Condominiums, and Mobile Homes. Revisions made to the  
20 unapproved public offering statement, if any, are either not  
21 required to be delivered to you or are not deemed by the  
22 developer, in its opinion, to materially alter or modify the  
23 offering in a manner that is adverse to you. Accordingly, your  
24 cancellation right expired 10 days after you signed your  
25 purchase contract. A complete copy of the approved public  
26 offering statement is available through the managing entity  
27 for inspection as part of the books and records of the plan.  
28 If you have any questions regarding your cancellation rights,  
29 you may contact the division at [insert division's current  
30 address].

31

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

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

1 offering in a manner that is adverse to a purchaser, shall be  
2 delivered to a purchaser no later than 10 days prior to  
3 closing.

4 3. Amendments made to a timeshare instrument for a  
5 component site located in this state are not required to be  
6 delivered to purchasers who do not receive a timeshare estate  
7 or an interest in a specific multisite timeshare plan license  
8 in that component site. Amendments made to a timeshare  
9 instrument for a component site not located in this state are  
10 not required to be delivered to purchasers.

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

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

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

25 (5) Every filed ~~registered~~ public offering statement  
26 for a timeshare plan which is not a multisite timeshare plan  
27 shall contain the information required by this subsection. The  
28 division is authorized to provide by rule the method by which  
29 a developer must provide such information to the division.

30 (a) A cover page stating only:

31 1. The name of the timeshare plan; and



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

12           (b) A listing of all statements required to be in  
13 conspicuous type in the public offering statement and in all  
14 exhibits thereto.

15           (c) A separate index of the contents and exhibits of  
16 the public offering statement.

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

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

21           1. Its name and location.

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

1 plan is a personal property timeshare plan, a description of  
2 the material terms of the arrangement for the ownership or use  
3 of the personal property shall be included.

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

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

11           5. If any of the accommodations or facilities are part  
12 of a personal property timeshare plan in which the  
13 accommodations or facilities are located on or in a documented  
14 vessel or foreign vessel as provided in s. 721.08(2)(c)3.e.,  
15 the disclosure required by s. 721.08(2)(c)3.e.IV.

16           (f) A description of the accommodations, including,  
17 but not limited to:

18           1. The number of timeshare units in each building, the  
19 total number of timeshare periods declared as part of the  
20 timeshare plan and filed with the division, and the number of  
21 bathrooms and bedrooms in each type of timeshare unit.

22           2. The latest date estimated for completion of  
23 constructing, finishing, and equipping the timeshare units  
24 declared as part of the timeshare plan and filed with the  
25 division.

26           3. The estimated maximum number of units and timeshare  
27 periods that will use the accommodations and facilities. If  
28 the maximum number of timeshare units or timeshare periods  
29 will vary, a description of the basis for variation.

30           4. The duration, in years, of the timeshare plan.  
31

1           5. If any of the accommodations are part of a personal  
2 property timeshare plan, the name, vehicle registration  
3 number, title certificate number, or any other identifying  
4 registration number assigned to the accommodation of a  
5 personal property timeshare plan by a state, federal, or  
6 international governmental agency.

7           6. If any of the accommodations are part of a personal  
8 property timeshare plan, the fire detection system and fire  
9 safety equipment and description of method of compliance with  
10 any applicable firesafety or fire detection regulations.

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

13           1. The intended purpose, if not apparent from the  
14 description.

15           2. The estimated date when each facility will be  
16 available for use by the purchaser.

17           3. A statement as to whether the facilities will be  
18 used exclusively by purchasers of the timeshare plan, and, if  
19 not, a statement as to whether the purchasers of the timeshare  
20 plan are required to pay any portion of the maintenance and  
21 expenses of such facilities.

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

29           2. If it is mandatory that purchasers pay fees, rent,  
30 dues, or other charges under a facilities lease or club  
31 membership for the use of the facilities, other than

1 participation in a vacation club, the applicable statement in  
2 conspicuous type in substantially the following form:

3 a. Membership in a facilities club is mandatory for  
4 purchasers;

5 b. Purchasers or the owners'association(s) are  
6 required, as a condition of ownership, to be lessees under the  
7 facilities lease;

8 c. Purchasers or the owners'association(s) are  
9 required to pay their share of the rent or costs and expenses  
10 of maintenance, management, upkeep, and replacement under the  
11 facilities lease (or the other instruments providing the  
12 facilities); or

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

16  
17 Immediately following the applicable statement, a description  
18 of the lease or other instrument shall be stated, including a  
19 description of terms of the payment of rent or costs and  
20 expenses of maintenance, management, upkeep, and replacement  
21 of the facilities.

22 3. If the purchasers are required to pay a use fee, or  
23 other payment for the use of the facilities, not including the  
24 rent or maintenance, management, upkeep, or replacement costs  
25 and expenses, the following statement in conspicuous type: The  
26 purchasers or the owners'association(s) must pay use fees for  
27 one or more facilities. Immediately following this statement,  
28 a description of the use fees shall be included.

29 4. If any person other than the owners'association  
30 has the right to a lien on the timeshare interests to secure  
31 the payment of assessments, rent, or other exactions, a

1 statement in conspicuous type in substantially the following  
2 form:

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

7 b. There is a lien or lien right against each  
8 timeshare interest to secure the payment of assessments or  
9 other exactions coming due for the use, maintenance, upkeep,  
10 or repair of one or more facilities. A purchaser's failure to  
11 make these payments may result in foreclosure of the lien.

12

13 Immediately following the applicable statement, a description  
14 of the lien right shall be included.

15 (i) If the developer or any other person has the right  
16 to increase or add to the facilities at any time after the  
17 establishment of the timeshare plan, without the consent of  
18 the purchasers or owners'association being required, a  
19 statement in conspicuous type in substantially the following  
20 form: Facilities may be expanded or added without consent of  
21 the purchasers or the owners'association(s). Immediately  
22 following this statement, a description of such reserved  
23 rights shall be included.

24 (j)1. For a real property timeshare plan, an  
25 explanation of the status of the title to the real property  
26 underlying the timeshare plan, including a statement of the  
27 existence of any lien, defect, judgment, mortgage, or other  
28 encumbrance affecting the title to the property, and how such  
29 lien, defect, judgment, mortgage, or other encumbrance will be  
30 removed or satisfied prior to closing.

31

1           2. For a personal property timeshare plan, an  
2 explanation of the status of title to the personal property  
3 underlying the timeshare plan, including a statement of the  
4 existence of any lien, defect, judgment, or other encumbrance  
5 affecting the title to the personal property, and how such  
6 lien, defect, judgment, or other encumbrance will be removed  
7 or satisfied prior to closing.

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

20           (l) A description of all unusual and material  
21 circumstances, features, and characteristics of the real  
22 property or personal property underlying or comprising the  
23 timeshare plan.

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

31

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

4 (o) The name and address of the managing entity; a  
5 statement whether the seller may change the managing entity or  
6 its control and, if so, the manner by which the seller may  
7 change the managing entity; a statement of the arrangements  
8 for management, maintenance, and operation of the  
9 accommodations and facilities and of other property that will  
10 serve the purchasers; and a description of the management  
11 arrangement and any contracts for these purposes having a term  
12 in excess of 1 year, including the names of the contracting  
13 parties, the term of the contract, the nature of the services  
14 included, and the compensation, stated for a month and for a  
15 year, and provisions for increases in the compensation. In the  
16 case of a personal property timeshare plan in which the  
17 accommodations or facilities are located on or in a documented  
18 vessel or foreign vessel as provided in s. 721.08(2)(c)3.e., a  
19 statement shall be included that describes the trustee's or  
20 owners' association's access to the certificates of  
21 classification and indicates that the certificate of  
22 classification will be made available to purchasers on  
23 request.

24 (p) If any person other than the purchasers has the  
25 right to retain control of the board of administration of the  
26 owners' association, if any, for a period of time which may  
27 exceed 1 year after the closing of the sale of a majority of  
28 the timeshare interests in that timeshare plan to persons  
29 other than successors or concurrent developers and the plan is  
30 one in which all purchasers automatically become members of  
31 the owners' association, a statement in conspicuous type in

1 substantially the following form: The developer (or other  
2 person) has the right to retain control of the owners'  
3 association after a majority of the timeshare interests have  
4 been sold. Immediately following this statement, a description  
5 of the applicable transfer of control provisions of the  
6 timeshare plan shall be included.

7 (q)1. If there are any restrictions upon the sale,  
8 transfer, conveyance, or leasing of a timeshare interest, a  
9 statement in conspicuous type in substantially the following  
10 form: The sale, lease, or transfer of timeshare interests is  
11 restricted or controlled. Immediately following this  
12 statement, a description of the nature of the restriction,  
13 limitation, or control on the sale, lease, or transfer of  
14 timeshare interests shall be included.

15 2. The following statement in conspicuous type in  
16 substantially the following form: The purchase of a timeshare  
17 interest should be based upon its value as a vacation  
18 experience or for spending leisure time, and not considered  
19 for purposes of acquiring an appreciating investment or with  
20 an expectation that the timeshare interest may be resold.

21 (r) If the timeshare plan is part of a phase project,  
22 a statement to that effect and a complete description of the  
23 phasing. Notwithstanding any provisions of s. 718.110 or s.  
24 719.1055, a developer may develop a timeshare condominium or a  
25 timeshare cooperative in phases if the original declaration of  
26 condominium or cooperative documents submitting the initial  
27 phase to condominium ownership or cooperative ownership or an  
28 amendment to the declaration of condominium or cooperative  
29 documents which has been approved by all of the unit owners  
30 and unit mortgagees provides for phasing. Notwithstanding any  
31 provisions of s. 718.403 or s. 719.403 to the contrary, the



1 original declaration of condominium or cooperative documents,  
2 or an amendment to the declaration of condominium or  
3 cooperative documents adopted pursuant to this subsection,  
4 need only generally describe the developer's phasing plan and  
5 the land which may become part of the condominium or  
6 cooperative, and, in conjunction therewith, the developer may  
7 also reserve all rights to vary his or her phasing plan as to  
8 phase boundaries, plot plans and floor plans, timeshare unit  
9 types, timeshare unit sizes and timeshare unit type mixes,  
10 numbers of timeshare units, and facilities with respect to  
11 each subsequent phase. There shall be no time limit during  
12 which a developer of a timeshare condominium or timeshare  
13 cooperative must complete his or her phasing plan, and the  
14 developer shall not be required to notify owners of existing  
15 timeshare estates of his or her decision not to add one or  
16 more proposed phases.

17 (s) A description of the material restrictions, if  
18 any, to be imposed on timeshare interests concerning the use  
19 of any of the accommodations or facilities, including  
20 statements as to whether there are restrictions upon children  
21 and pets or a reference to a copy of the documents containing  
22 the restrictions which shall be attached as an exhibit. If  
23 there are no restrictions, there shall be a statement of such  
24 fact.

25 (t) If there is any land or personal property that is  
26 offered by the developer for use by the purchasers and which  
27 is neither owned by them nor leased to them, the owners'  
28 association, or any entity controlled by the purchasers, a  
29 statement describing the land or personal property, how it  
30 will serve the timeshare plan, and the nature and term of  
31 service.

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

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

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

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

27 a. Expenses for the managing entity:

28 (I) Administration of the managing entity.

29 (II) Management fees.

30 (III) Maintenance.

31 (IV) Rent for facilities.

- 1 (V) Taxes upon timeshare property.  
2 (VI) Taxes upon leased areas.  
3 (VII) Insurance.  
4 (VIII) Security provisions.  
5 (IX) Other expenses.  
6 (X) Operating capital.  
7 (XI) Reserves for deferred maintenance and reserves  
8 for capital expenditures.

9 (A) All reserves for any accommodations and facilities  
10 of real property timeshare plans located in this state shall  
11 be calculated by a formula which is based upon estimated life  
12 and replacement cost of each reserve item. Reserves for  
13 deferred maintenance for such accommodations and facilities  
14 shall include accounts for roof replacement, building  
15 painting, pavement resurfacing, replacement of timeshare unit  
16 furnishings and equipment, and any other component, the useful  
17 life of which is less than the useful life of the overall  
18 structure. For any accommodations and facilities of real  
19 property timeshare plans located outside of this state, the  
20 developer shall disclose the amount of reserves for deferred  
21 maintenance or capital expenditures required by the law of the  
22 situs state, if applicable, and maintained for such  
23 accommodations and facilities.

24 (B) Reserves for deferred maintenance or capital  
25 expenditures of accommodations and facilities of a personal  
26 property timeshare plan, if any. If such reserves are  
27 maintained, the estimated operating budget shall disclose the  
28 methodology of how the reserves are calculated. If a personal  
29 property timeshare plan does not require reserves, the  
30 following statement, in conspicuous type, shall appear in both  
31 the budget and the public offering statement:

1  
2 The estimated operating budget for this personal property  
3 timeshare plan does not include reserves for deferred  
4 maintenance or capital expenditures; each timeshare interest  
5 may be subject to substantial special assessments from time to  
6 time because no such reserves exist.

7  
8 (XII) Fees payable to the division.

9 b. Expenses for a purchaser:

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

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

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

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

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

29 b. A statement that the developer will pay all common  
30 expenses incurred in excess of the total revenues of the  
31 timeshare plan pursuant to s. 721.15(2) if the developer has

1 excused himself or herself from the payment of assessments  
2 during the guarantee period.

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

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

12 a. The specific amount of such trust funds and the  
13 source of the funds.

14 b. The name and address of the trustee.

15 c. The investment methods permitted by the trust  
16 agreement.

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

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

29 (v) A schedule of estimated closing expenses to be  
30 paid by a purchaser or lessee of a timeshare interest and a  
31 statement as to whether a title opinion or title insurance

1 policy is available to the purchaser and, if so, at whose  
2 expense.

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

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

11 (y) The name of any person who will or may have the  
12 right to alter, amend, or add to the charges to which the  
13 purchaser may be subject and the terms and conditions under  
14 which such alterations, amendments, or additions may be  
15 imposed.

16 (z) A statement of the purchaser's right of  
17 cancellation of the purchase contract.

18 (aa) A description of the insurance coverage provided  
19 for the timeshare plan.

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

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

28  
29 The right to reserve a timeshare period is subject to rules  
30 and regulations of the timeshare plan reservation system.  
31

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

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

28  
29 (ee) Any other information that a seller, with the  
30 approval of the division, desires to include in the public  
31 offering statement.

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

7 1. The declaration of condominium.

8 2. The cooperative documents.

9 3. The declaration of covenants and restrictions.

10 4. The articles of incorporation creating the owners'  
11 association.

12 5. The bylaws of the owners'association.

13 6. Any ~~The~~ ground lease or other underlying lease of  
14 the real property associated with ~~on which~~ the timeshare plan  
15 ~~is situated~~. In the case of a personal property timeshare  
16 plan, any lease of the personal property associated with the  
17 personal property timeshare plan.

18 7. The management agreement and all maintenance and  
19 other contracts regarding the management and operation of the  
20 timeshare property which have terms in excess of 1 year.

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

23 9. The floor plan of each type of accommodation and  
24 the plot plan showing the location of all accommodations and  
25 facilities declared as part of the timeshare plan and filed  
26 with the division.

27 10. The lease for any facilities.

28 11. A declaration of servitude of properties serving  
29 the accommodations and facilities, but not owned by purchasers  
30 or leased to them or the owners'association.

31



1           12. Any documents required by s. 721.03(3)(e) as the  
2 result of the inclusion of a timeshare plan in the conversion  
3 of the building to condominium or cooperative ownership.

4           13. The form of agreement for sale or lease of  
5 timeshare interests.

6           14. The executed agreement for escrow of payments made  
7 to the developer prior to closing and the form of any  
8 agreement for escrow of ad valorem tax escrow payments, if  
9 any, to be made into an ad valorem tax escrow account pursuant  
10 to s. 192.037(6).

11           15. The documents containing any restrictions on use  
12 of the property required by paragraph (s).

13           16. A letter from the escrow agent or filing attorney  
14 confirming that the escrow agent and its officers, directors,  
15 or other partners are independent pursuant to the requirements  
16 of this chapter.

17           17. Any nondisturbance and notice to creditors  
18 instrument required by s. 721.08.

19           18. In the case of any personal property timeshare  
20 plan in which the accommodations and facilities are located on  
21 or in a documented vessel or foreign vessel as provided in s.  
22 721.08(2)(c)3.e., a copy of the certificate of ownership of  
23 such vessel and either a copy of the certificate of  
24 documentation or certificate of registry of such vessel.

25           19. An executed affidavit given under oath by an  
26 attorney licensed to practice law in any jurisdiction in the  
27 United States stating that the attorney has researched the  
28 applicable laws of the jurisdiction in which governing law has  
29 been established and the laws of the jurisdiction in which the  
30 vessel is registered and has found that the timeshare

31

1 instrument complies with the provisions of s.

2 721.08(2)(c)3.e.(II)(C) and s. 721.08(2)(c)3.e.(III).

3 20.16. Any other documents or instruments creating the  
4 timeshare plan.

5 (gg) Such other information as is necessary to fairly,  
6 meaningfully, and effectively disclose all aspects of the  
7 timeshare plan, including, but not limited to, any disclosures  
8 made necessary by the operation of s. 721.03(8). However, if a  
9 developer has, in good faith, attempted to comply with the  
10 requirements of this section, and if, in fact, he or she has  
11 substantially complied with the disclosure requirements of  
12 this chapter, nonmaterial errors or omissions shall not be  
13 actionable.

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

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

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

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

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

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

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

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

25 Section 7. Paragraph (g) of subsection (1) of section  
26 721.075, Florida Statutes, is amended and paragraph (e) is  
27 added to subsection (2) of that section, to read:

28 721.075 Incidental benefits.--Incidental benefits  
29 shall be offered only as provided in this section.

30 (1) Accommodations, facilities, products, services,  
31 discounts, or other benefits which satisfy the requirements of

1 this subsection shall be subject to the provisions of this  
2 section and exempt from the other provisions of this chapter  
3 which would otherwise apply to such accommodations or  
4 facilities if and only if:

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

8 (2) Each purchaser shall execute a separate  
9 acknowledgment and disclosure statement with respect to all  
10 incidental benefits, which statement shall include the  
11 following information:

12 (e) A statement indicating the source of the services,  
13 points, or other products that constitute the incidental  
14 benefit.

15 Section 8. Section 721.08, Florida Statutes, is  
16 amended to read:

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

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

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

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

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

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

1 escrowed funds or other property and shall provide a copy of  
2 such affidavit to the purchaser who has defaulted. The  
3 developer' s affidavit, as required herein, shall include:  
4       1. A statement that the purchaser has defaulted and  
5 that the developer has not defaulted;  
6       2. A brief explanation of the nature of the default  
7 and the date of its occurrence;  
8       3. A statement that pursuant to the terms of the  
9 contract the developer is entitled to the funds held by the  
10 escrow agent; and  
11       4. A statement that the developer has not received  
12 from the purchaser any written notice of a dispute between the  
13 purchaser and developer or a claim by the purchaser to the  
14 escrow.

15       (c) Compliance with conditions.--  
16       1. Timeshare licenses.--If the timeshare plan is one  
17 in which timeshare licenses are to be sold and no cancellation  
18 or default has occurred, the escrow agent may release the  
19 escrowed funds or other property to or on the order of the  
20 developer upon presentation of:  
21       a. An affidavit by the developer that all of the  
22 following conditions have been met:  
23       (I) Expiration of the cancellation period.  
24       (II) Completion of construction.  
25       (III) Closing.  
26       (IV) Either:  
27       (A) Execution, delivery, and recordation by each  
28 interestholder of the nondisturbance and notice to creditors  
29 instrument, as described in this section;~~or, alternatively,~~  
30       (B) Transfer by the developer of legal title to the  
31 subject accommodations and facilities, or all use rights

1 therein, into ~~to~~ a trust satisfying the requirements of  
2 subparagraph 4.~~sub-subparagraph 3.b.~~and the execution,  
3 delivery,and recordation by each other interestholder of the  
4 nondisturbance and notice to creditors instrument, as  
5 described in this section.

6 b. A certified copy of each ~~the~~ recorded  
7 nondisturbance and notice to creditors instrument ~~that~~  
8 ~~complies with subsection (3).~~

9 c. One of the following:

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

19 (II) A notice delivered for recording to the  
20 appropriate official responsible for maintaining the public  
21 records in each county in which the subject accommodations and  
22 facilities are located notifying all persons of the identity  
23 of an independent escrow agent or trustee satisfying the  
24 requirements of subparagraph 4.~~sub-subparagraph 3.b.~~that  
25 shall maintain separate books and records, in accordance with  
26 good accounting practices, for the timeshare plan in which  
27 timeshare licenses are to be sold. The books and records shall  
28 indicate each accommodation and facility that is subject to  
29 such a timeshare plan and each purchaser of a timeshare  
30 license in the timeshare plan.

31

1           2. Timeshare estates.--If the timeshare plan is one in  
2 which timeshare estates are to be sold,~~other than interests~~  
3 ~~in a trust pursuant to subparagraph 3.,~~and no cancellation or  
4 default has occurred, the escrow agent may release the  
5 escrowed funds or other property to or on the order of the  
6 developer upon presentation of:  
7           a. An affidavit by the developer that all of the  
8 following conditions have been met:  
9           (I) Expiration of the cancellation period.  
10           (II) Completion of construction.  
11           (III) Closing.  
12           b. If the timeshare estate is sold by agreement for  
13 deed, a certified copy of the recorded nondisturbance and  
14 notice to creditors instrument, as described in this section.  
15           c. Evidence that each accommodation and facility:  
16           (I) Is free and clear of the claims of any  
17 interestholders, other than the claims of interestholders  
18 that, through a recorded instrument, are irrevocably made  
19 subject to the timeshare instrument and the use rights of  
20 purchasers made available through the timeshare instrument;  
21           (II) Is the subject of a recorded nondisturbance and  
22 notice to creditors instrument that complies with subsection  
23 (3) and s. 721.17; or  
24           (III) Has been transferred into a trust satisfying the  
25 requirements of subparagraph 4.  
26           d. Evidence that the timeshare estate:  
27           (I) Is free and clear of the claims of any  
28 interestholders, other than the claims of interestholders  
29 that, through a recorded instrument, are irrevocably made  
30 subject to the timeshare instrument and the use rights of  
31



1 purchasers made available through the timeshare instrument;i  
2 or

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

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

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

16 (I) Expiration of the cancellation period.

17 (II) Completion of construction.

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

20 ~~(IV) Closing.~~

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

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

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

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

31

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

3 d. Evidence of compliance with the provisions of  
4 subparagraph 6., if required.

5 e. If a personal property timeshare plan is created  
6 with respect to accommodations and facilities that are located  
7 on or in a "documented vessel" or "foreign vessel" as defined  
8 and governed by chapter 313 (Commercial Instruments and  
9 Liens), Title 46, United States Code:

10 (I) In making the transfer required in  
11 sub-subparagraph c., the developer shall use as its transfer  
12 instrument a document that establishes and protects the  
13 continuance of the use rights in the subject accommodations  
14 and facilities in a manner that is enforceable by the trust or  
15 owners' association.

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

19 (A) Prohibit the vessel owner, the developer, any  
20 manager or operator of the vessel, the owners' association or  
21 the trustee, the managing entity, or any other person from  
22 incurring any liens against the vessel except for liens that  
23 are required for the operation and upkeep of the vessel,  
24 including liens for fuel expenditures, repairs, crews' wages,  
25 and salvage, and except as provided in sub-sub-subparagraphs  
26 4.b.(III) and 5.b.(III). All expenses, fees, and taxes  
27 properly incurred in connection with the creation,  
28 satisfaction, and discharge of any such permitted lien, or a  
29 prorated portion thereof if less than all of the  
30 accommodations on the vessel are subject to the timeshare  
31 plan, shall be common expenses of the timeshare plan.

1           (B) Grant a lien against the vessel in favor of the  
2 owners' association or trustee to secure the full and faithful  
3 performance of the vessel owner and developer of all of their  
4 obligations to the purchasers.

5           (C) Establish governing law in a jurisdiction that  
6 recognizes and will enforce the timeshare instrument and the  
7 laws of the country of registry of the vessel.

8           (D) Require that a description of the use rights of  
9 purchasers be posted and displayed on the vessel in a manner  
10 that will give notice of such rights to any party examining  
11 the vessel. This notice must identify the owners' association  
12 or trustee and include a statement disclosing the limitation  
13 on incurring liens against the vessel described in  
14 sub-sub-sub-subparagraph (A).

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

17           (F) The owners' association created under subparagraph  
18 5. or trustee created under subparagraph 6. shall have access  
19 to the certificates of classification in accordance with the  
20 timeshare instrument.

21           (III) If the vessel is a foreign vessel, the vessel  
22 must be registered in a jurisdiction that permits a filing  
23 evidencing the use rights of purchasers in the subject  
24 accommodations and facilities, offers protection for such use  
25 rights against unfiled and inferior claims, and recognizes the  
26 document or instrument creating such use rights as a lien  
27 against the vessel.

28           (IV) In addition to the disclosures required by s.  
29 721.07(5), the public offering statement and purchase contract  
30 must contain a disclosure in conspicuous type in substantially  
31 the following form:

1  
2 The laws of the State of Florida govern the offering of this  
3 timeshare plan in this state. There are inherent risks in  
4 purchasing a timeshare interest in this timeshare plan because  
5 the accommodations and facilities of the timeshare plan are  
6 located on a vessel that will sail into international waters  
7 and into waters governed by many different jurisdictions.  
8 Therefore, the laws of the State of Florida cannot fully  
9 protect your purchase of an interest in this timeshare plan.  
10 Specifically, management and operational issues may need to be  
11 addressed in the jurisdiction in which the vessel is  
12 registered, which is \_\_\_\_\_ [insert jurisdiction in  
13 which vessel is registered]. Concerns of purchasers may be  
14 sent to \_\_\_\_\_ [insert name of applicable regulatory  
15 agency and address].

16 4. Trust.--

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

21 b. Prior to the transfer by each interestholder of the  
22 subject accommodations and facilities, or all use rights  
23 therein, to a trust, any lien or other encumbrance against  
24 such accommodations and facilities, or use rights therein,  
25 shall be made subject to a nondisturbance and notice to  
26 creditors instrument pursuant to subsection (3)~~as described~~  
27 ~~in this section.~~ No transfer pursuant to this subparagraph  
28 ~~sub-subparagraph~~ shall become effective until the trustee  
29 accepts such transfer and the responsibilities set forth  
30 herein. A trust established pursuant to this subparagraph  
31 ~~sub-subparagraph~~ shall comply with the following provisions:

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

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

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

27 (IV) All purchasers of the timeshare plan or the  
28 owners' association of the timeshare plan shall be the express  
29 beneficiaries of the trust. The trustee shall act as a  
30 fiduciary to the beneficiaries of the trust. The personal  
31 liability of the trustee shall be governed by s. 737.306. The

1 agreement establishing the trust shall set forth the duties of  
2 the trustee. The trustee shall be required to furnish promptly  
3 to the division upon request a copy of the complete list of  
4 the names and addresses of the owners in the timeshare plan  
5 and a copy of any other books and records of the timeshare  
6 plan required to be maintained pursuant to s. 721.13 that are  
7 in the possession, custody, or control of the trustee. All  
8 expenses reasonably incurred by the trustee in the performance  
9 of its duties, together with any reasonable compensation of  
10 the trustee, shall be common expenses of the timeshare plan.

11 (V) The trustee shall not resign upon less than 90  
12 days' prior written notice to the managing entity and the  
13 division. No resignation shall become effective until a  
14 substitute trustee, approved by the division, is appointed by  
15 the managing entity and accepts the appointment.

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

18 (VII) For trusts holding property in a timeshare plan  
19 located outside this state, the trust and trustee holding such  
20 property shall be deemed in compliance with the requirements  
21 of this subparagraph if such trust and trustee are is  
22 authorized and qualified to conduct trust business under the  
23 laws of such jurisdiction and the agreement or law governing  
24 such trust arrangement provides substantially similar  
25 protections for the purchaser as are required in this  
26 subparagraph for trusts holding property in a timeshare plan  
27 in this state.

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

1           5. Owners' association.--  
2           a. If the subject accommodations or facilities, or all  
3 use rights therein, are to be transferred into an owners'  
4 association in order to comply with this paragraph, such  
5 transfer shall take place pursuant to this subparagraph.  
6           b. Prior to the transfer by each interestholder of the  
7 subject accommodations and facilities, or all use rights  
8 therein, to an owners' association, any lien or other  
9 encumbrance against such accommodations and facilities, or use  
10 rights therein, shall be made subject to a nondisturbance and  
11 notice to creditors instrument pursuant to subsection (3). No  
12 transfer pursuant to this subparagraph shall become effective  
13 until the owners' association accepts such transfer and the  
14 responsibilities set forth herein. An owners' association  
15 established pursuant to this subparagraph shall comply with  
16 the following provisions:  
17           (I) The owners' association shall be a business entity  
18 authorized and qualified to conduct business in this  
19 state. Control of the board of directors of the owners'  
20 association must be independent from any developer or managing  
21 entity of the timeshare plan or any interestholder.  
22           (II) The articles of incorporation of the owners'  
23 association shall provide that the corporation may not be  
24 voluntarily dissolved without the unanimous vote of all owners  
25 of personal property timeshare interests so long as any  
26 purchaser has a right to occupy any portion of the timeshare  
27 property pursuant to the timeshare plan.  
28           (III) The owners' association shall not convey,  
29 hypothecate, mortgage, assign, lease, or otherwise transfer or  
30 encumber in any fashion any interest in or portion of the  
31 timeshare property with respect to which any purchaser has a

1 right of use or occupancy unless the timeshare plan is  
2 terminated pursuant to the timeshare instrument, or such  
3 conveyance, hypothecation, mortgage, assignment, lease,  
4 transfer, or encumbrance is approved by a vote of two-thirds  
5 of all voting interests of the association and such decision  
6 is declared by a court of competent jurisdiction to be in the  
7 best interests of the purchasers of the timeshare plan. The  
8 owners' association shall notify the division in writing  
9 within 10 days after receiving notice of the filing of any  
10 petition relating to obtaining such a court order. The  
11 division shall have standing to advise the court of the  
12 division's interpretation of the statute as it relates to the  
13 petition.

14 (IV) All purchasers of the timeshare plan shall be  
15 members of the owners' association and shall be entitled to  
16 vote on matters requiring a vote of the owners' association as  
17 provided in this chapter or the timeshare instrument. The  
18 owners' association shall act as a fiduciary to the purchasers  
19 of the timeshare plan. The articles of incorporation  
20 establishing the owners' association shall set forth the  
21 duties of the owners' association. All expenses reasonably  
22 incurred by the owners' association in the performance of its  
23 duties, together with any reasonable compensation of the  
24 officers or directors of the owners' association, shall be  
25 common expenses of the timeshare plan.

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

28 (VI) For owners' associations holding property in a  
29 timeshare plan located outside this state, the owners'  
30 association holding such property shall be deemed in  
31 compliance with the requirements of this subparagraph if such



1 owners' association is authorized and qualified to conduct  
2 owners' association business under the laws of such  
3 jurisdiction and the agreement or law governing such  
4 arrangement provides substantially similar protections for the  
5 purchaser as are required in this subparagraph for owners'  
6 associations holding property in a timeshare plan in this  
7 state.

8 (VII) The owners' association shall have appointed a  
9 registered agent in this state for service of process. In the  
10 event such a registered agent is not appointed, service of  
11 process may be made pursuant to s. 721.265.

12 6. Personal property subject to certificate of  
13 title.--If any personal property that is an accommodation or  
14 facility of a timeshare plan is subject to a certificate of  
15 title in this state pursuant to chapter 319 or chapter 328,  
16 the following notation must be made on such certificate of  
17 title pursuant to s. 319.27(1) or s. 328.15(1):

18  
19 The further transfer or encumbrance of the property subject to  
20 this certificate of title, or any lien or encumbrance thereon,  
21 is subject to the requirements of section 721.17, Florida  
22 Statutes, and the transferee or lienor agrees to be bound by  
23 all of the obligations set forth therein.

24 7.4. If the developer has previously provided a  
25 certified copy of any document required by this paragraph, she  
26 or he may for all subsequent disbursements substitute a true  
27 and correct copy of the certified copy, provided no changes to  
28 the document have been made or are required to be made.

29 8. In the event that use rights relating to an  
30 accommodation or facility are transferred into a trust  
31 pursuant to subparagraph 4. or into an owners' association

1 pursuant to subparagraph 5., all other interestholders,  
2 including the owner of the underlying fee or underlying  
3 personal property, must execute a nondisturbance and notice to  
4 creditors instrument pursuant to subsection (3).

5 (d) Substitution of other assurances for escrowed funds  
6 or other property.--Funds or other property escrowed as  
7 provided in this section may be released from escrow to or on  
8 the order of the developer upon acceptance by the director of  
9 the division of other assurances pursuant to subsection (5) as  
10 a substitute for such escrowed funds or other property. The  
11 amount of escrowed funds or other property that may be  
12 released pursuant to this paragraph shall be equal to or less  
13 than the face amount of the assurances accepted by the  
14 director from time to time.

15 (3) NONDISTURBANCE AND NOTICE TO CREDITORS  
16 INSTRUMENT.--The nondisturbance and notice to creditors  
17 instrument, when required, shall be executed by each  
18 interestholder.

19 (a) The instrument shall state that:

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

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

28 3.(c) So long as a purchaser remains in good standing  
29 with respect to her or his obligations under the timeshare  
30 instrument, including making all payments to the managing  
31 entity required by the timeshare instrument with respect to

1 ~~the annual common expenses of the timeshare the interestholder~~  
2 ~~has any interest in the accommodations, facilities, or plan,~~  
3 ~~then~~ the interestholder will fully honor all the rights of  
4 ~~such purchaser relating to the subject accommodation or~~  
5 ~~facility as reflected timeshare purchasers in and to the~~  
6 timeshare instrument plan, will honor the purchasers' right to  
7 ~~cancel their contracts and receive appropriate refunds, and~~  
8 ~~will comply with all other requirements of this chapter and~~  
9 ~~rules promulgated hereunder.~~

10  
11 The instrument shall contain language sufficient to provide  
12 subsequent creditors of the developer and interestholders with  
13 notice of the existence of the timeshare plan and of the  
14 rights of purchasers and shall serve to protect the interest  
15 of the timeshare purchasers from any claims of subsequent  
16 creditors.

17 (b) Real property timeshare plans.--For real property  
18 timeshare plans, the instrument shall be recorded in the  
19 public records of the county in which the subject  
20 accommodations or facilities are located.

21 (c) Personal property timeshare plans.--For personal  
22 property timeshare plans, the instrument shall be included  
23 within or attached as an exhibit to a security agreement or  
24 other agreement executed by the interestholder. Constructive  
25 notice of such security agreement or other agreement shall be  
26 filed in the manner prescribed by chapter 679 or other  
27 applicable law.

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

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

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

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

19           (c) In lieu of a nondisturbance and notice to  
20 creditors instrument, when such an instrument is otherwise  
21 required by this section, the director of the division shall  
22 have the discretion to accept alternate means of protecting  
23 the continuing rights of purchasers in and to the subject  
24 accommodations or facilities of the timeshare plan as and for  
25 the term described in the timeshare instrument, and of  
26 providing effective constructive notice of such continuing  
27 purchaser rights to subsequent owners of the accommodations or  
28 facilities and to subsequent creditors of the affected  
29 interestholder.

30           (6) An escrow agent holding funds escrowed pursuant to  
31 this section may invest such escrowed funds in securities of

1 the United States Government, or any agency thereof, or in  
2 savings or time deposits in institutions insured by an agency  
3 of the United States Government. The right to receive the  
4 interest generated by any such investments shall be paid to  
5 the party to whom the escrowed funds or other property are  
6 paid unless otherwise specified by contract.

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

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

1 agent's delivery of the unclaimed funds to the division  
2 pursuant to this section.

3 (9) For each transfer of the legal title to a  
4 timeshare estate by a developer, the developer shall deliver  
5 an instrument evidencing such transfer to the purchaser or to  
6 a title insurance agent or to the clerk of the court for  
7 recording. For each transfer of the legal title to a personal  
8 property timeshare interest by a developer, the developer  
9 shall deliver an instrument evidencing such transfer to the  
10 purchaser subject to the provisions of this section.

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

21 (b) Any developer, interestholder, trustee, or officer  
22 or director of an owners' association who intentionally fails  
23 to comply with the provisions of this section concerning the  
24 establishment of a trust or owners' association, conveyances  
25 of property into the trust or owners' association, and  
26 conveyances or encumbrances of trust or owners' association  
27 property is guilty of a felony of the third degree, punishable  
28 as provided in s. 775.082, s. 775.083, or s. 775.084, or the  
29 successor thereof. The failure to establish a trust or owners'  
30 association, or to transfer property into the trust or owners'  
31 association, or the failure of a trustee or officer or

1 director of an owners' association to comply with the trust  
2 agreement, articles of incorporation, or bylaws with respect  
3 to conveyances or encumbrances of trust or owners' association  
4 property, as required by this section, is prima facie evidence  
5 of an intentional and purposeful violation of this section.

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

10 721.09 Reservation agreements; escrows.--

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

17 (d) A seller who has filed a reservation agreement and  
18 an escrow agreement under this section may advertise the  
19 reservation agreement program if the advertising material  
20 meets the following requirements:

21 1. The seller complies with the provisions of s.  
22 721.11 with respect to such advertising material.

23 2. The advertising material is limited to a general  
24 description of the proposed timeshare plan, including, but not  
25 limited to, a general description of the type, number, and  
26 size of accommodations and facilities and the name of the  
27 proposed timeshare plan.

28 3. The advertising material contains a statement that  
29 the advertising material is being distributed in connection  
30 with an approved reservation agreement filing only and that  
31 the seller cannot offer an interest in the timeshare plan for

1 sale until a filed ~~registered~~ public offering statement has  
2 been filed with the division under this chapter.

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

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

8 (3)

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

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

20 721.11 Advertising materials; oral statements.--

21 (1)(a) A developer may file ~~All~~ advertising material  
22 ~~must be filed~~ with the division for review ~~by the developer~~  
23 ~~prior to use. At the request of the developer,~~ The division  
24 shall review any the advertising material filed for review by  
25 the developer and notify the developer of any deficiencies  
26 within 10 days after the filing. If the developer corrects the  
27 deficiencies or if there are no deficiencies, the division  
28 shall notify the developer of its approval of the advertising  
29 materials. Notwithstanding anything to the contrary contained  
30 in this subsection, so long as the developer uses advertising  
31 materials approved by the division, following the developer's



1 request for a review, the developer shall not be liable for  
2 any violation of this section or s. 721.111 with respect to  
3 such advertising materials.

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

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

25           (e) If the seller provides the purchaser with the  
26 right to cancel the purchase of a regulated short-term product  
27 at any time up to 7 days prior to the purchaser's reserved use  
28 of the accommodations, but in no event less than 10 days, and  
29 if the seller refunds the total amount of all payments made by  
30 the purchaser reduced by the proportion of any benefits the  
31 purchaser has actually received prior to the effective date of

1 the cancellation, the specific value of which has been agreed  
2 to between the purchaser and the seller, the short-term  
3 product offer shall be exempt from the requirements of  
4 paragraphs (b), (c), and (d). An agreement relating to the  
5 sale of the regulated short-term product made pursuant to this  
6 paragraph must contain a statement setting forth the  
7 cancellation and refund rights of the prospective purchaser in  
8 a manner that is consistent with this section and s. 721.10,  
9 including a description of the length of the cancellation  
10 right, a statement that the purchaser's intent to cancel must  
11 be in writing and sent to the seller at a specified address, a  
12 statement that the notice of cancellation is effective upon  
13 the date sent, and a statement that any attempt to waive the  
14 cancellation right is unlawful. The right of cancellation  
15 provided to the purchaser pursuant to this paragraph may not  
16 be waived by the prospective purchaser or by any other person  
17 on behalf of the prospective purchaser. Notice of cancellation  
18 must be given in the same manner prescribed for giving notice  
19 of cancellation pursuant to s. 721.10(2). If the prospective  
20 purchaser gives a valid notice of cancellation, or is  
21 otherwise entitled to cancel the sale, the funds or other  
22 property received from or on behalf of the prospective  
23 purchaser, or the proceeds thereof, shall be returned to the  
24 prospective purchaser. Such refund shall be made in the manner  
25 prescribed for refunds under s. 721.10.

26 (7) Notwithstanding the provisions of s. 721.05(7)  
27 ~~(6)~~(b), a seller may portray possible accommodations or  
28 facilities to prospective purchasers in advertising material,  
29 or a purchaser public offering statement, without such  
30 accommodations or facilities being available for use by  
31 purchasers so long as the advertising material or purchaser

1 public offering statement complies with the provisions of  
2 subsection (4).

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

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

18 (a) A developer of a multisite timeshare plan may  
19 disseminate oral or written statements to broadcast or print  
20 media describing a possible component site with no obligation  
21 on the developer's part to actually add such component site to  
22 the multisite timeshare plan or to amend the developer's  
23 filing with the division, but only so long as such oral or  
24 written statements are not considered advertising material  
25 pursuant to paragraph (3)(e).

26 (b) A seller may make representations to purchasers in  
27 advertising material or in a purchaser public offering  
28 statement regarding the possible accommodations and facilities  
29 of a possible component site without such accommodations or  
30 facilities being available for use by purchasers so long as

31

1 the advertising material or purchaser public offering  
2 statement complies with the provisions of subsection (4).

3 (c) In the event a seller makes any of the  
4 representations permitted by paragraph (b), the purchase  
5 agreement must contain the following conspicuous disclosure  
6 unless and until such time as the developer has committed  
7 itself in the timeshare instrument to adding the possible  
8 component site to the multisite timeshare plan, at which time  
9 the seller may portray the component site pursuant to the  
10 timeshare instrument without restriction:

11

12 [Description of possible component site] is only a possible  
13 component site which may never be added to the multisite  
14 timeshare plan (or multisite vacation ownership plan or  
15 multisite vacation plan or vacation club). Do not purchase an  
16 interest in the multisite timeshare plan (or multisite  
17 vacation ownership plan or multisite vacation plan or vacation  
18 club) in reliance upon the addition of this component site.

19 (d) Notwithstanding anything contained in this chapter  
20 to the contrary, a developer or managing entity may  
21 communicate with existing purchasers regarding possible  
22 component sites without restriction, so long as all oral and  
23 written statements made to existing purchasers pursuant to  
24 this subsection comply with the provisions of subsection (4).

25 (e) Any violation of this subsection by a developer,  
26 seller, or managing entity shall constitute a violation of  
27 this chapter. Any violation of this subsection with respect to  
28 a purchaser whose purchase has not yet closed shall be deemed  
29 to provide that purchaser with a new 10-day voidability  
30 period.

31

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

3           721.12 Recordkeeping by seller.--Each seller of a  
4 timeshare plan shall maintain among its business records the  
5 following:

6           (1) A copy of each contract for the sale of a  
7 timeshare interest, which contract has not been canceled. If a  
8 timeshare estate is being sold, the seller is required to  
9 retain a copy of the contract only until a deed of conveyance,  
10 agreement for deed, or lease is recorded in the office of the  
11 clerk of the circuit court in the county wherein the plan is  
12 located. If a personal property timeshare plan is being sold,  
13 the seller is required to retain a copy of the contract only  
14 until a certificate of transfer, agreement for transfer,  
15 lease, or other instrument of transfer that fully complies  
16 with s. 721.08 is delivered to the purchaser.

17           Section 12. Paragraphs (a) and (b) of subsection (1),  
18 paragraph (b) of subsection (2), paragraphs (c), (d), and (e)  
19 of subsection (3), paragraph (g) of subsection (6), and  
20 subsections (4) and (8) of section 721.13, Florida Statutes,  
21 are amended, subsection (9) is renumbered as subsection (10),  
22 and new subsections (9) and (11) are added to that section, to  
23 read:

24           721.13 Management.--

25           (1)(a) For each timeshare plan, the developer shall  
26 provide for a managing entity, which shall be either the  
27 developer, a separate manager or management firm, or an  
28 owners' association. Any owners' association shall be created  
29 prior to the first closing ~~recording~~ of the sale of a  
30 timeshare interest instrument.

31

1 (b)1. With respect to a timeshare plan which is also  
2 regulated under chapter 718 or chapter 719, or which contains  
3 a mandatory owners' association, the board of administration  
4 of the owners'association shall be considered the managing  
5 entity of the timeshare plan.

6 2. During any period of time in which such owners'  
7 association has entered into a contract with a manager or  
8 management firm to provide some or all of the management  
9 services to the timeshare plan, both the board of  
10 administration and the manager or management firm shall be  
11 considered the managing entity of the timeshare plan and shall  
12 be jointly and severally responsible for the faithful  
13 discharge of the duties of the managing entity.

14 3. An owners' association which is the managing entity  
15 of a timeshare plan that includes condominium units or  
16 cooperative units shall not be considered a condominium  
17 association pursuant to the provisions of chapter 718 or a  
18 cooperative association pursuant to the provisions of chapter  
19 719, unless such owners' association also operates the entire  
20 condominium pursuant to s. 718.111 or the entire cooperative  
21 pursuant to s. 719.104.

22 (2)

23 (b) The managing entity shall invest the operating and  
24 reserve funds of the timeshare plan in accordance with s.  
25 518.11(1); however, the managing entity shall give safety of  
26 capital greater weight than production of income. In no event  
27 shall the managing entity invest timeshare plan funds with a  
28 developer or with any entity that is not independent of any  
29 developer or any managing entity within the meaning of s.  
30 721.05(20)(~~18~~), and in no event shall the managing entity  
31

1 invest timeshare plan funds in notes and mortgages related in  
2 any way to the timeshare plan.

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

5 (c)1. Providing each year to all purchasers an  
6 itemized annual budget which shall include all estimated  
7 revenues and expenses. The budget shall be in the form  
8 required by s. 721.07(5)(u). The budget and shall be the final  
9 budget adopted by the managing entity for the current fiscal  
10 year. The final adopted budget is not required to be delivered  
11 if the managing entity has previously delivered a proposed  
12 annual budget for the current fiscal year to purchasers in  
13 accordance with chapter 718 or chapter 719, and the managing  
14 entity includes a description of any changes in the adopted  
15 budget with the assessment notice and a disclosure regarding  
16 the purchasers' right to receive a copy of the adopted budget  
17 if desired.The budget shall contain, as a footnote or  
18 otherwise, any related party transaction disclosures or notes  
19 which appear in the audited financial statements of the  
20 managing entity for the previous budget year as required by  
21 paragraph (e). A copy of the final budget shall be filed with  
22 the division for review within 30 days after the beginning of  
23 each fiscal year together with a statement of the number of  
24 periods of 7-day annual use availability that exist within the  
25 timeshare plan, including those periods filed for sale by the  
26 developer but not yet committed to the timeshare plan, for  
27 which annual fees are required to be paid to the division  
28 under s. 721.27.

29 2. Notwithstanding anything contained in chapter 718  
30 or chapter 719 to the contrary, the board of administration of  
31 an owners' association which serves as the managing entity may

1 from time to time reallocate reserves for deferred maintenance  
2 and capital expenditures required by s. 721.07(5)(u)3.a.(XI)  
3 from any deferred maintenance or capital expenditure reserve  
4 account to any other deferred maintenance or capital  
5 expenditure reserve account or accounts in its discretion  
6 without the consent of purchasers of the timeshare plan. Funds  
7 in any deferred maintenance or capital expenditure reserve  
8 account may not be transferred to any operating account  
9 without the consent of a majority of the purchasers of the  
10 timeshare plan. The managing entity may from time to time  
11 transfer excess funds in any operating account to any deferred  
12 maintenance or capital expenditure reserve account without the  
13 vote or approval of purchasers of the timeshare plan. In the  
14 event any amount of reserves for accommodations and facilities  
15 of a timeshare plan containing timeshare licenses or personal  
16 property timeshare interests exists at the end of the term of  
17 the timeshare plan, such reserves shall be refunded to  
18 purchasers on a pro rata basis.

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



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

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

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

29           4. Notwithstanding any provision of chapter 718 or  
30 chapter 719 to the contrary, the managing entity may not  
31 furnish the name, address, or electronic mail address of any

1 purchaser to any other purchaser or authorized agent thereof  
2 unless the purchaser whose name, ~~and~~ address, or electronic  
3 mail address is ~~are~~ requested first approves the disclosure in  
4 writing.

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

28 (4) The managing entity shall maintain among its  
29 records and provide to the division upon request a complete  
30 list of the names and addresses of all purchasers and owners  
31 of timeshare units in the timeshare plan. The managing entity

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

1 purchaser, the circuit court in the county where the timeshare  
2 plan is located may, upon application from the requesting  
3 purchaser, summarily order the mailing of the materials solely  
4 related to the recall of one or more board members elected by  
5 the owners or the discharge of the manager or management firm.  
6 The court shall dispose of an application on an expedited  
7 basis. In the event of such an order, the court may order the  
8 managing entity to pay the purchaser's costs, including  
9 attorney's fees reasonably incurred to enforce the purchaser's  
10 rights, unless the managing entity can prove it refused the  
11 mailing in good faith because of a reasonable basis for doubt  
12 about the legitimacy of the mailing.

13 (6)

14 (g) A managing entity shall have breached its  
15 fiduciary duty described in subsection (2) in the event it  
16 enforces the denial of use pursuant to paragraph (b) against  
17 any one purchaser or group of purchasers without similarly  
18 enforcing it against all purchasers, including all developers  
19 and owners of the underlying fee or underlying personal  
20 property; however, a managing entity shall not be required to  
21 solicit rentals pursuant to paragraph (f) for every delinquent  
22 purchaser. A managing entity shall also have breached its  
23 fiduciary duty in the event an error in the books and records  
24 of the timeshare plan results in a denial of use pursuant to  
25 this subsection of any purchaser who is not, in fact,  
26 delinquent. In addition to any remedies otherwise available to  
27 purchasers of the timeshare plan arising from such breaches of  
28 fiduciary duty, such breach shall also constitute a violation  
29 of this chapter. In addition, any purchaser receiving a notice  
30 of delinquency pursuant to paragraph (b), or any third party  
31 claiming under such purchaser pursuant to paragraph (b), may

1 immediately bring an action for injunctive or declaratory  
2 relief against the managing entity seeking to have the notice  
3 invalidated on the grounds that the purchaser is not, in fact,  
4 delinquent, that the managing entity failed to follow the  
5 procedures prescribed by this section, or on any other  
6 available grounds. The prevailing party in any such action  
7 shall be entitled to recover his or her reasonable attorney's  
8 fees from the losing party.

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

30           (9) All notices or other information sent by a board  
31 of administration of an owners' association may be delivered

1 to a purchaser by electronic mail, provided that the purchaser  
2 first consents electronically to the use of electronic mail  
3 for notice purposes in a manner that reasonably demonstrates  
4 that the purchaser has the ability to access the notice by  
5 electronic mail. Proxies or written consents on votes of any  
6 owners' association may be received by electronic mail, shall  
7 have legal effect, and may be utilized for votes of an owners'  
8 association, provided that the electronic signature is  
9 authenticated through use of a password, cryptography  
10 software, or other reasonable means and that proof of such  
11 authentication is made available to the board of directors.

12 (10)(9) Any failure of the managing entity to  
13 faithfully discharge the fiduciary duty to purchasers imposed  
14 by this section or to otherwise comply with the provisions of  
15 this section shall be a violation of this chapter and of part  
16 VIII of chapter 468.

17 (11) Notwithstanding the other provisions of this  
18 section, personal property timeshare plans are only subject to  
19 the provisions of subsections (1)(a)-(d), (2)(a), (3)(a)-(h),  
20 (5), (6), (9), and (10).

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

23 721.14 Discharge of managing entity.--

24 (4) This section shall not apply to personal property  
25 timeshare plans.

26 Section 14. Paragraph (c) of subsection (2) of section  
27 721.15, Florida Statutes, is amended, and subsection (10) is  
28 added to that section, to read:

29 721.15 Assessments for common expenses.--

30 (2)

31

1 (c) For the purpose of calculating the obligation of a  
2 developer under a guarantee pursuant to paragraph (b),  
3 depreciation expenses related to real property shall be  
4 excluded from common expenses incurred during the guarantee  
5 period, except that for real property that is used for the  
6 production of fees, revenues, or other income, depreciation  
7 expenses shall be excluded only to the extent that they exceed  
8 the net income from the production of such fees, revenues, or  
9 other income.

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

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

14 721.16 Liens for overdue assessments; liens for labor  
15 performed on, or materials furnished to, a timeshare unit.--

16 (6) This section shall not apply to personal property  
17 timeshare plans.

18 Section 16. Section 721.17, Florida Statutes, is  
19 amended to read:

20 721.17 Transfer of interest.--Except in the case of a  
21 timeshare plan subject to the provisions of chapter 718 or  
22 chapter 719, no developer, ~~or~~ owner of the underlying fee, or  
23 owner of the underlying personal property shall sell, lease,  
24 assign, mortgage, or otherwise transfer his or her interest in  
25 the accommodations and facilities of the timeshare plan except  
26 by an instrument evidencing the transfer recorded in the  
27 public records of the county in which such accommodations and  
28 facilities are located, or, with respect to personal property  
29 timeshare plans, in full compliance with s. 721.08. The  
30 instrument shall be executed by both the transferor and  
31 transferee and shall state:

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

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

6           (3) That so long as a purchaser remains in good  
7 standing with respect to her or his obligations under the  
8 timeshare instrument, including making all payments to the  
9 managing entity required by the timeshare instrument with  
10 respect to the annual common expenses of the timeshare plan,  
11 the transferee shall will fully honor all the rights of such  
12 purchaser relating to the subject accommodation or facility as  
13 reflected the purchasers to occupy and use the accommodations  
14 and facilities as provided in their original contracts and the  
15 timeshare instrument instruments.

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

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

23  
24 Should any transfer of the interest of the developer, ~~or~~ owner  
25 of the underlying fee, or owner of the underlying property  
26 occur in a manner which is not in compliance with this  
27 section, the terms set forth in this section shall be presumed  
28 to be a part of the transfer and shall be deemed to be  
29 included in the instrument of transfer. Notice shall be mailed  
30 to each purchaser of record within 30 days after ~~of~~ the  
31 transfer unless such transfer does not affect the purchaser's



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

6 Section 17. Section 721.18, Florida Statutes, is  
7 amended to read:

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

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

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

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

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

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

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

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

12 (f) A statement that whether the purchaser's  
13 participation in the exchange program is voluntary. This  
14 statement is not required to be given by the seller or  
15 managing entity of a multisite timeshare plan to purchasers in  
16 the multisite timeshare plan.

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

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

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

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

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

10 (l) The fees or range of fees for membership or  
11 participation by purchasers in the exchange program by  
12 purchasers, including any conversion or other fees payable to  
13 third parties, a statement whether any such fees may be  
14 altered by the exchange company, and the circumstances under  
15 which alterations may be made.

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

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

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

30 (p) The disposition made by the exchange company of  
31 timeshare periods deposited with the exchange program by

1 purchasers enrolled in the exchange program and not used by  
2 the exchange company in effecting exchanges.

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

9 1. The number of purchasers currently enrolled in the  
10 exchange program.

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

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

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

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

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

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

3 (2) Each exchange company offering an exchange program  
4 to purchasers in this state shall file with the division for  
5 review the information specified in subsection (1), together  
6 with any membership agreement and application between the  
7 purchaser and the exchange company, and the audit specified in  
8 subsection (1) on or before June 1 of each year. However, an  
9 exchange company shall make its initial filing at least 20  
10 days prior to offering an exchange program to any purchaser in  
11 this state. Each filing shall be accompanied by an annual  
12 filing fee of \$500. Within 20 days after ~~of~~ receipt of such  
13 filing, the division shall determine whether the filing is  
14 adequate to meet the requirements of this section and shall  
15 notify the exchange company in writing that the division has  
16 either approved the filing or found specified deficiencies in  
17 the filing. If the division fails to respond within 20 days,  
18 the filing shall be deemed approved. The exchange company may  
19 correct the deficiencies; and, within 10 days after receipt of  
20 corrections from the exchange company, the division shall  
21 notify the exchange company in writing that the division has  
22 either approved the filing or found additional specified  
23 deficiencies in the filing. If the exchange company fails to  
24 adequately respond to any deficiency notice within 10 days,  
25 the division may reject the filing. Subsequent to such  
26 rejection, a new filing fee and a new division initial review  
27 period pursuant to this subsection shall apply to any refiling  
28 or further review of the rejected filing.

29 (a) Any material change to an approved exchange  
30 company filing shall be filed with the division for approval  
31 as an amendment prior to becoming effective. Each amendment

1 filing shall be accompanied by a filing fee of \$100. The  
2 exchange company may correct the deficiencies; and, within 10  
3 days after receipt of corrections from the exchange company,  
4 the division shall notify the exchange company in writing that  
5 the division has either approved the filing or found  
6 additional specified deficiencies in the filing. Each approved  
7 amendment to the approved exchange company filing, other than  
8 an amendment that does not materially alter or modify the  
9 exchange program in a manner that is adverse to a purchaser,  
10 as determined by the exchange company in its reasonable  
11 discretion, shall be delivered to each purchaser who has not  
12 closed. An approved exchange program filing is required to be  
13 updated with respect to added or deleted resorts only once  
14 each year, and such annual update shall not be deemed to be a  
15 material change to the filing.

16 (b) If at any time the division determines that any of  
17 such information supplied by an exchange company fails to meet  
18 the requirements of this section, the division may undertake  
19 enforcement action against the exchange company in accordance  
20 with the provision of s. 721.26.

21 (3) No developer shall have any liability with respect  
22 to any violation of this chapter arising out of the  
23 publication by the developer of information provided to it by  
24 an exchange company pursuant to this section. No exchange  
25 company shall have any liability with respect to any violation  
26 of this chapter arising out of the use by a developer of  
27 information relating to an exchange program other than that  
28 provided to the developer by the exchange company.

29 (4) At the request of the exchange company, the  
30 division shall review any audio, written, or visual  
31 publications or materials relating to an exchange company or

1 an exchange program ~~shall be~~ filed for review by the exchange  
2 company and shall notify the exchange company of any  
3 deficiencies within 10 ~~with the division within 3~~ days after  
4 the filing of their use. If the exchange company corrects the  
5 deficiencies or if there are no deficiencies, the division  
6 shall notify the exchange company of its approval of the  
7 advertising materials. If the exchange company fails to  
8 adequately respond to any deficiency notice within 10 days,  
9 the division may reject the advertising materials. Subsequent  
10 to such rejection, a new division initial review period  
11 pursuant to this subsection shall apply to any refiling or  
12 further review.

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

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

19 721.19 Provisions requiring purchase or lease of  
20 timeshare property by owners' association or purchasers;  
21 validity.--In any timeshare plan in which timeshare estates or  
22 personal property timeshare interests are sold, no grant or  
23 reservation made by a declaration, lease, or other document,  
24 nor any contract made by the developer, managing entity, or  
25 owners' association, which requires the owners' association or  
26 purchasers to purchase or lease any portion of the timeshare  
27 property shall be valid unless approved by a majority of the  
28 purchasers other than the developer, after more than 50  
29 percent of the timeshare periods have been sold.

30 Section 19. Section 721.20, Florida Statutes, is  
31 amended to read:

1           721.20 Licensing requirements; suspension or  
2 revocation of license; exceptions to applicability; collection  
3 of advance fees for listings unlawful.--

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

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

12           (3) A solicitor who has violated the provisions of  
13 chapter 468, chapter 718, chapter 719, this chapter, or the  
14 rules of the division governing timesharing shall be subject  
15 to the provisions of s. 721.26. Any developer or other person  
16 who supervises, directs, or engages the services of a  
17 solicitor shall be liable for any violation of the provisions  
18 of chapter 468, chapter 718, chapter 719, this chapter, or the  
19 rules of the division governing timesharing committed by such  
20 solicitor.

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

31



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

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

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

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

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

20           721.24 Firesafety.--

21           (6) Accommodations and facilities of personal property  
22 timeshare plans shall be exempt from the requirements of this  
23 section.

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

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

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

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

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

31

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

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

11 a. Damage to or destruction of any of the  
12 accommodations or facilities of a timeshare plan, where the  
13 managing entity has failed to repair or reconstruct same.

14 b. A breach of fiduciary duty by the managing entity,  
15 including, but not limited to, undisclosed self-dealing or  
16 failure to timely assess, collect, or disburse the common  
17 expenses of the timeshare plan.

18 c. Failure of the managing entity to operate the  
19 timeshare plan in accordance with the timeshare instrument and  
20 this chapter.

21  
22 If, under the circumstances, it appears that the events giving  
23 rise to the petition for receivership cannot be reasonably and  
24 timely corrected in a cost-effective manner consistent with  
25 the timeshare instrument, the receiver may petition the  
26 circuit court to implement such amendments or revisions to the  
27 timeshare instrument as may be necessary to enable the  
28 managing entity to resume effective operation of the timeshare  
29 plan, or to enter an order terminating the timeshare plan, or  
30 to enter such further orders regarding the disposition of the  
31 timeshare property as the court deems appropriate, including

1 the disposition and sale of the timeshare property held by the  
2 owners'association or the purchasers. In the event of a  
3 receiver's sale, all rights, title, and interest held by the  
4 owners'association or any purchaser shall be extinguished and  
5 title shall vest in the buyer. This provision applies to  
6 timeshare estates, personal property timeshare interests, and  
7 timeshare licenses. All reasonable costs and fees of the  
8 receiver relating to the receivership shall become common  
9 expenses of the timeshare plan upon order of the court.

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

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

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

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

30 Section 22. Section 721.27, Florida Statutes, is  
31 amended to read:

1           721.27 Annual fee for each timeshare unit in plan.--On  
2 January 1 of each year, each managing entity of a timeshare  
3 plan located in this state shall collect as a common expense  
4 and pay to the division an annual fee of \$1.50~~\$2~~ for each 7  
5 days of annual use availability that exist within the  
6 timeshare plan at that time, subject to any limitations on the  
7 amount of such annual fee pursuant to s. 721.58. If any  
8 portion of the annual fee is not paid by March 1, the managing  
9 entity may be assessed a penalty pursuant to s. 721.26.

10           Section 23. Section 721.52, Florida Statutes, is  
11 amended to read:

12           721.52 Definitions.--As used in this chapter, the  
13 term:

14           (1) "Applicable law" means the law of the jurisdiction  
15 where the accommodations and facilities referred to are  
16 located.

17           (2) "Component site" means a specific geographic site  
18 where a portion of the accommodations and facilities of the  
19 multisite timeshare plan are located. If permitted under  
20 applicable law, separate phases operated as a single  
21 development located at a specific geographic site under common  
22 management shall be deemed a single component site for  
23 purposes of this part.

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

28           (4) "Multisite timeshare plan" means any method,  
29 arrangement, or procedure with respect to which a purchaser  
30 obtains, by any means, a recurring right to use and occupy  
31 accommodations or facilities of more than one component site,

1 only through use of a reservation system, whether or not the  
2 purchaser is able to elect to cease participating in the plan.  
3 However, the term "multisite timeshare plan" shall not include  
4 any method, arrangement, or procedure wherein:

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

8 (b) The term is for a period of 3 years or less,  
9 regardless of the purchaser's contractually specified maximum  
10 total financial obligation, if any. For purposes of  
11 determining the term of such use and occupancy rights, the  
12 period of any optional renewals which a purchaser, in his or  
13 her sole discretion, may elect to exercise, whether or not for  
14 additional consideration, shall not be included. For purposes  
15 of determining the term of such use and occupancy rights, the  
16 period of any automatic renewals shall be included unless a  
17 purchaser has the right to terminate the membership at any  
18 time and receive a pro rata refund or the purchaser receives a  
19 notice no less than 30 days and no more than 60 days prior to  
20 the date of renewal informing the purchaser of the right to  
21 terminate at any time prior to the date of automatic renewal.

22  
23 Multisite timeshare plan does not mean an exchange program as  
24 defined in s. 721.05. Timeshare estates may only be offered in  
25 a multisite timeshare plan pursuant to s. 721.57.

26 (5) "Nonspecific multisite timeshare plan" means a  
27 multisite timeshare plan containing timeshare licenses or  
28 personal property timeshare interests, with respect to which a  
29 purchaser receives a right to use all of the accommodations  
30 and facilities, if any, of the multisite timeshare plan  
31 through the reservation system, but no specific right to use

1 any particular accommodations and facilities for the remaining  
2 term of the multisite timeshare plan in the event that the  
3 reservation system is terminated for any reason prior to the  
4 expiration of the term of the multisite timeshare plan.

5 (6)(5) "Reservation system" means the method,  
6 arrangement, or procedure by which a purchaser, in order to  
7 reserve the use and occupancy of any accommodation or facility  
8 of the multisite timeshare plan for one or more use periods,  
9 is required to compete with other purchasers in the same  
10 multisite timeshare plan regardless of whether such  
11 reservation system is operated and maintained by the multisite  
12 timeshare plan managing entity, an exchange company, or any  
13 other person. In the event that a purchaser is required to use  
14 an exchange program as the purchaser's principal means of  
15 obtaining the right to use and occupy a multisite timeshare  
16 plan's accommodations and facilities, such arrangement shall  
17 be deemed a reservation system. When an exchange company  
18 utilizes a mechanism for the exchange of use of timeshare  
19 periods among members of an exchange program, such utilization  
20 is not a reservation system of a multisite timeshare plan.

21 (7) "Specific multisite timeshare plan" means a  
22 multisite timeshare plan containing timeshare licenses or  
23 personal property timeshare interests, with respect to which a  
24 purchaser receives a specific right to use accommodations and  
25 facilities, if any, at one component site of a multisite  
26 timeshare plan, together with use rights in the other  
27 accommodations and facilities of the multisite timeshare plan  
28 created by or acquired through the reservation system.

29 (8)(6) "Vacation club" means a multisite timeshare  
30 plan.

31

1           Section 24. Paragraph (a) of subsection (1) of section  
2 721.53, Florida Statutes, is amended and paragraph (f) is  
3 added to subsection (1) of that section, to read:

4           721.53 Subordination instruments; alternate security  
5 arrangements.--

6           (1) With respect to each accommodation or facility of  
7 a multisite timeshare plan, the developer shall provide the  
8 division with satisfactory evidence that one of the following  
9 has occurred with respect to each interestholder prior to  
10 offering the accommodation or facility as a part of the  
11 multisite timeshare plan:

12           (a) The interestholder has executed and recorded a  
13 nondisturbance and notice to creditors instrument pursuant to  
14 s. 721.08(2)(c).

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

19           Section 25. Section 721.54, Florida Statutes, is  
20 amended to read:

21           721.54 Term of nonspecific multisite timeshare  
22 plans.--It shall be a violation of this part to represent to a  
23 purchaser of a nonspecific multisite timeshare plan ~~as defined~~  
24 ~~in s. 721.552(4)~~ that the term of the plan for that purchaser  
25 is longer than the shortest term of availability of any of the  
26 accommodations included within the plan at the time of  
27 purchase.

28           Section 26. Section 721.55, Florida Statutes, is  
29 amended to read:

30           721.55 Multisite timeshare plan public offering  
31 statement.--Each filed ~~registered~~ public offering statement



1 for a multisite timeshare plan shall contain the information  
2 required by this section and shall comply with the provisions  
3 of s. 721.07, except as otherwise provided therein. The  
4 division is authorized to provide by rule the method by which  
5 a developer must provide such information to the division.  
6 Each multisite timeshare plan filed ~~registered~~ public offering  
7 statement shall contain the following information and  
8 disclosures:

- 9 (1) A cover page containing:  
10 (a) The name of the multisite timeshare plan.  
11 (b) The following statement in conspicuous type:  
12

13 This public offering statement contains important  
14 matters to be considered in acquiring an interest in a  
15 multisite timeshare plan (or multisite vacation ownership plan  
16 or multisite vacation plan or vacation club). The statements  
17 contained herein are only summary in nature. A prospective  
18 purchaser should refer to all references, accompanying  
19 exhibits, contract documents, and sales materials. The  
20 prospective purchaser should not rely upon oral  
21 representations as being correct and should refer to this  
22 document and accompanying exhibits for correct  
23 representations.  
24

25 (2) A summary containing all statements required to be  
26 in conspicuous type in the public offering statement and in  
27 all exhibits thereto.

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

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

1 (a) A description of the multisite timeshare plan,  
2 including its term, legal structure, and form of ownership.  
3 For multisite timeshare plans in which the purchaser will  
4 receive a timeshare estate pursuant to s. 721.57 and for or a  
5 specific multisite timeshare plans license as defined in s.  
6 721.552(4), the description must also include the term of each  
7 component site within the multisite timeshare plan.

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

20 (c)1. A description of the manner in which the  
21 reservation system operates. The description shall include a  
22 disclosure in compliance with the demand balancing standard  
23 set forth in s. 721.56(6) and shall describe the developer's  
24 efforts to comply with same in creating the reservation  
25 system. The description shall also include a summary of the  
26 rules and regulations governing access to and use of the  
27 reservation system.

28 2. In lieu of describing the rules and regulations of  
29 the reservation system in the public offering statement text,  
30 the developer may attach the rules and regulations as a  
31 separate public offering statement exhibit, together with a

1 cross-reference in the public offering statement text to such  
2 exhibit.

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

9  
10 Component sites contained in the multisite timeshare  
11 plan (or multisite vacation ownership plan or multisite  
12 vacation plan or vacation club) are subject to priority  
13 reservation features which may affect your ability to obtain a  
14 reservation.

15  
16 (e) A summary of the material rules and regulations,  
17 if any, other than the reservation system rules and  
18 regulations, affecting the purchaser's use of each  
19 accommodation and facility at each component site.

20 (f) If the provisions of s. 721.552 and the timeshare  
21 instrument permit additions, substitutions, or deletions of  
22 accommodations or facilities, the public offering statement  
23 must include substantially the following information:

24 1. Additions.--

25 a. A description of the basis upon which new  
26 accommodations and facilities may be added to the multisite  
27 timeshare plan; by whom additions may be made; and the  
28 anticipated effect of the addition of new accommodations and  
29 facilities upon the reservation system, its priorities, its  
30 rules and regulations, and the availability of existing  
31 accommodations and facilities.

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

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

10  
11           Accommodations and facilities may be added to this  
12 multisite timeshare plan (or multisite vacation ownership plan  
13 or multisite vacation plan or vacation club) without the  
14 consent of the purchasers. The addition of accommodations and  
15 facilities to the plan may result in the addition of new  
16 purchasers who will compete with existing purchasers in making  
17 reservations for the use of available accommodations and  
18 facilities within the plan, and may also result in an increase  
19 in the annual assessment against purchasers for common  
20 expenses.

21  
22           2. Substitutions.--

23           a. A description of the basis upon which new  
24 accommodations and facilities may be substituted for existing  
25 accommodations and facilities of the multisite timeshare plan;  
26 by whom substitutions may be made; the basis upon which the  
27 determination may be made to cause such substitutions to  
28 occur; and any limitations upon the ability to cause  
29 substitutions to occur.

30           b. The developer shall also disclose any extent to  
31 which purchasers will have the right to consent to any

1 proposed substitutions; if the purchasers do not have the  
2 right to consent, the developer must include the following  
3 disclosure in conspicuous type:

4  
5           New accommodations and facilities may be substituted  
6 for existing accommodations and facilities of this multisite  
7 timeshare plan (or multisite vacation ownership plan or  
8 multisite vacation plan or vacation club) without the consent  
9 of the purchasers. The replacement accommodations and  
10 facilities may be located at a different place or may be of a  
11 different type or quality than the replaced accommodations and  
12 facilities. The substitution of accommodations and facilities  
13 may also result in an increase in the annual assessment  
14 against purchasers for common expenses.

15  
16           3. Deletions.--A description of any provision of the  
17 timeshare instrument governing deletion of accommodations or  
18 facilities from the multisite timeshare plan. If the timeshare  
19 instrument does not provide for business interruption  
20 insurance in the event of a casualty, or if it is unavailable,  
21 or if the instrument permits the developer, the managing  
22 entity, or the purchasers to elect not to reconstruct after  
23 casualty under certain circumstances or to secure replacement  
24 accommodations or facilities in lieu of reconstruction, the  
25 public offering statement must contain a disclosure that  
26 during the reconstruction, replacement, or acquisition period,  
27 or as a result of a decision not to reconstruct, purchasers of  
28 the plan may temporarily compete for available accommodations  
29 on a greater than one-to-one purchaser to accommodation ratio.

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

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

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

19           (h) A description of the purchaser's liability for  
20 common expenses of the multisite timeshare plan, including the  
21 following:

22           1. A description of the common expenses of the plan,  
23 including the method of allocation and assessment of such  
24 common expenses, whether component site common expenses and  
25 real estate taxes are included within the total common expense  
26 assessment of the multisite timeshare plan, and, if not, the  
27 manner in which timely payment of component site common  
28 expenses and real estate taxes shall be accomplished.

29           2. A description of any cap imposed upon the level of  
30 common expenses payable by the purchaser. In no event shall  
31 the total common expense assessment for the multisite

1 timeshare plan in a given calendar year exceed 125 percent of  
2 the total common expense assessment for the plan in the  
3 previous calendar year.

4 3. A description of the entity responsible for the  
5 determination of the common expenses of the multisite  
6 timeshare plan, as well as any entity which may increase the  
7 level of common expenses assessed against the purchaser at the  
8 multisite timeshare plan level.

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

17 5. If the purchaser will receive an interest in a  
18 nonspecific multisite timeshare plan license ~~as defined in s.~~  
19 ~~721.552(4)~~, a statement that a multisite timeshare plan budget  
20 is attached to the public offering statement as an exhibit  
21 pursuant to paragraph (7)(c). The multisite timeshare plan  
22 budget shall comply with the provisions of s. 721.07(5)(u).

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

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

31

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

5           c. The level, expressed in total dollars, at which the  
6 developer guarantees the assessments. If the developer has  
7 reserved the right to extend or increase the guarantee level,  
8 a disclosure must be included to that effect.

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

12           a. Any limitation upon annual increases in common  
13 expenses;

14           b. The existence of any bad debt or working capital  
15 reserve; and

16           c. The existence of any replacement or deferred  
17 maintenance reserve.

18           (i) If there are any restrictions upon the sale,  
19 transfer, conveyance, or leasing of an interest in a multisite  
20 timeshare plan, a description of the restrictions together  
21 with a statement in conspicuous type in substantially the  
22 following form:

23

24           The sale, lease, or transfer of interests in this  
25 multisite timeshare plan is restricted or controlled.

26

27           (j) The following statement in conspicuous type in  
28 substantially the following form:

29

30           The purchase of an interest in a multisite timeshare  
31 plan (or multisite vacation ownership plan or multisite



1 vacation plan or vacation club) should be based upon its value  
2 as a vacation experience or for spending leisure time, and not  
3 considered for purposes of acquiring an appreciating  
4 investment or with an expectation that the interest may be  
5 resold.

6  
7 (k) If the multisite timeshare plan provides  
8 purchasers with the opportunity to participate in an exchange  
9 program, a description of the name and address of the exchange  
10 company and the method by which a purchaser accesses the  
11 exchange program. In lieu of this requirement, the public  
12 offering statement text may contain a cross-reference to other  
13 provisions in the public offering statement or in an exhibit  
14 containing this information.

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

19 1. The name and address of each component site.  
20 2. The number of accommodations, timeshare interests,  
21 and timeshare periods, expressed in periods of 7-day use  
22 availability, committed to the multisite timeshare plan and  
23 available for use by purchasers.

24 3. Each type of accommodation in terms of the number  
25 of bedrooms, bathrooms, sleeping capacity, and whether or not  
26 the accommodation contains a full kitchen. For purposes of  
27 this description, a full kitchen shall mean a kitchen having a  
28 minimum of a dishwasher, range, sink, oven, and refrigerator.

29 4. A description of facilities available for use by  
30 the purchaser at each component site, including the following:  
31

1           a. The intended use of the facility, if not apparent  
2 from the description.

3           b. Any user fees associated with a purchaser's use of  
4 the facility.

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

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

18           (6) Any other information that the developer, with the  
19 approval of the division, desires to include in the public  
20 offering statement text.

21           (7) The following documents shall be included as  
22 exhibits to the filed ~~registered~~ public offering statement, if  
23 applicable:

24           (a) The timeshare instrument.

25           (b) The reservation system rules and regulations.

26           (c) The multisite timeshare plan budget pursuant to  
27 subparagraph (4)(h)5.

28           (d) Any document containing the material rules and  
29 regulations described in paragraph (4)(e).

30  
31

1 (e) Any contract, agreement, or other document through  
2 which component sites are affiliated with the multisite  
3 timeshare plan.

4 (f) Any escrow agreement required pursuant to s.  
5 721.08 or s. 721.56(3).

6 (g) The form agreement for sale or lease of an  
7 interest in the multisite timeshare plan.

8 (h) The form receipt for multisite timeshare plan  
9 documents required to be given to the purchaser pursuant to s.  
10 721.551(2)(b).

11 (i) The description of documents list required to be  
12 given to the purchaser by s. 721.551(2)(b).

13 (j) The component site managing entity affidavit or  
14 statement required by s. 721.56(1).

15 (k) Any subordination instrument required by s.  
16 721.53.

17 (l)1. If the multisite timeshare plan contains any  
18 component sites located in this state, the information  
19 required by s. 721.07(5) pertaining to each such component  
20 site unless exempt pursuant to s. 721.03.

21 2. If the purchaser will receive a timeshare estate  
22 pursuant to s. 721.57, or an interest in a specific multisite  
23 timeshare plan, ~~license as defined in s. 721.552(4)~~ in a  
24 component site located outside of this state but which is  
25 offered in this state, the information required by s.  
26 721.07(5) pertaining to that component site, ~~provided,~~  
27 however, that the provisions of s. 721.07(5)(u) shall only  
28 require disclosure of information related to the estimated  
29 budget for the timeshare plan and purchaser's expenses as  
30 required by the jurisdiction in which the component site is  
31 located.

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

12           (b) The public offering statement for any timeshare  
13 plan described in paragraph (a) must include the following  
14 disclosure in conspicuous type:

15  
16           This timeshare plan has been filed as a multisite  
17 timeshare plan (or multisite vacation ownership plan or  
18 multisite vacation plan or vacation club); however, this plan  
19 currently contains only one component site. The developer is  
20 not required to add any additional component sites to the  
21 plan. Do not purchase an interest in this plan in reliance  
22 upon the addition of any other component sites.

23           Section 27. Paragraphs (b), (c), and (f) of subsection  
24 (2) of section 721.551, Florida Statutes, are amended to read:

25           721.551 Delivery of multisite timeshare plan purchaser  
26 public offering statement.--

27           (2) The developer shall furnish each purchaser with  
28 the following:

29           (b) A receipt for multisite timeshare plan documents  
30 and a list describing any exhibit to the filed ~~registered~~  
31 public offering statement which is not delivered to the

1 purchaser. The division is authorized to prescribe by rule the  
2 form of the receipt for multisite timeshare plan documents and  
3 the description of exhibits list that must be furnished to the  
4 purchaser pursuant to this section.

5 (c) If the purchaser will receive a timeshare estate  
6 pursuant to s. 721.57, or an interest in a specific multisite  
7 timeshare plan, license as defined in s. 721.552(4) in a  
8 component site located in this state, the developer shall also  
9 furnish the purchaser with the information required to be  
10 delivered pursuant to s. 721.07(6)(a) and (b) for the  
11 component site in which the purchaser will receive an estate  
12 or interest in a specific multisite timeshare plan license.

13 (f) The developer shall be required to provide the  
14 managing entity of the multisite timeshare plan with a copy of  
15 the approved filed ~~registered~~ public offering statement and  
16 any approved amendments thereto to be maintained by the  
17 managing entity as part of the books and records of the  
18 timeshare plan pursuant to s. 721.13(3)(d).

19 Section 28. Paragraph (a) of subsection (2), paragraph  
20 (c) of subsection (3), and subsections (4) and (5) of section  
21 721.552, Florida Statutes, are amended to read:

22 721.552 Additions, substitutions, or deletions of  
23 component site accommodations or facilities; purchaser  
24 remedies for violations.--Additions, substitutions, or  
25 deletions of component site accommodations or facilities may  
26 be made only in accordance with the following:

27 (2) SUBSTITUTIONS.--

28 (a) Substitutions are available only for nonspecific  
29 multisite timeshare license plans as defined in subsection  
30 ~~(4)~~. Specific multisite timeshare license plans or as defined  
31 ~~in subsection (4) and plans offering timeshare estates~~

1 pursuant to s. 721.57 may not contain an accommodation  
2 substitution right.  
3 (3) DELETIONS.--  
4 (c) Automatic deletion.--The timeshare instrument may  
5 provide that a component site will be automatically deleted  
6 upon the expiration of its term in a timeshare plan other than  
7 a nonspecific multisite timeshare license plan or as otherwise  
8 provided in the timeshare instrument. However, the timeshare  
9 instrument must also provide that in the event a component  
10 site is deleted from the plan in this manner, a sufficient  
11 number of purchasers of the plan will also be deleted so as to  
12 maintain no greater than a one-to-one purchaser to  
13 accommodation ratio.  
14 ~~(4) SPECIFIC AND NONSPECIFIC TIMESHARE LICENSES.--For~~  
15 ~~purposes of this chapter, a specific timeshare license means~~  
16 ~~one with respect to which a purchaser receives a specific~~  
17 ~~right to use accommodations and facilities, if any, at one~~  
18 ~~component site of a multisite timeshare plan, together with~~  
19 ~~use rights in the other accommodations and facilities of the~~  
20 ~~multisite timeshare plan created by or acquired through the~~  
21 ~~reservation system. For purposes of this chapter, a~~  
22 ~~nonspecific timeshare license means one with respect to which~~  
23 ~~a purchaser receives a right to use all of the accommodations~~  
24 ~~and facilities, if any, of a multisite timeshare plan through~~  
25 ~~the reservation system, but no specific right to use any~~  
26 ~~particular accommodations and facilities for the remaining~~  
27 ~~term of the multisite timeshare plan in the event that the~~  
28 ~~reservation system is terminated for any reason prior to the~~  
29 ~~expiration of the term of the multisite timeshare plan.~~  
30  
31

1           ~~(4)(5)~~ VIOLATIONS; PURCHASER REMEDIES.--All purchaser  
2 remedies pursuant to s. 721.21 shall be available for any  
3 violation of the provisions of this section.

4           Section 29. Subsections (4) and (5) of section 721.56,  
5 Florida Statutes, are amended to read:

6           721.56 Management of multisite timeshare plans;  
7 reservation systems; demand balancing.--

8           (4) The managing entity of a multisite timeshare plan  
9 shall comply fully with the requirements of s. 721.13, subject  
10 to the provisions of s. 721.13(11) for personal property  
11 timeshare plans; however, with respect to a given component  
12 site, the managing entity of the multisite timeshare plan  
13 shall not be responsible for compliance as the managing entity  
14 of that component site unless the managing entity of the  
15 multisite timeshare plan is also the managing entity of that  
16 component site. Unless the timeshare instrument provides  
17 otherwise, the operator of the reservation system is the  
18 managing entity of a multisite timeshare plan.

19           (5)(a)1. The reservation system is a facility of any  
20 nonspecific ~~timeshare license~~ multisite timeshare plan ~~as~~  
21 ~~defined in s. 721.552(4)~~. The reservation system is not a  
22 facility of any specific ~~timeshare license~~ multisite timeshare  
23 plan ~~as defined in s. 721.552(4)~~, nor is it a facility of any  
24 multisite timeshare plan in which timeshare estates are  
25 offered pursuant to s. 721.57.

26           2. The reservation system of any multisite timeshare  
27 plan shall include any computer software and hardware employed  
28 for the purpose of enabling or facilitating the operation of  
29 the reservation system. Nothing contained in this part shall  
30 preclude a manager or management firm that is serving as  
31 managing entity of a multisite timeshare plan from providing

1 in its contract with the purchasers or owners' association of  
2 the multisite timeshare plan or in the timeshare instrument  
3 that the manager or management firm owns the reservation  
4 system and that the managing entity shall continue to own the  
5 reservation system in the event the purchasers discharge the  
6 managing entity pursuant to s. 721.14.

7 (b) In the event of a termination of a managing entity  
8 of a nonspecific ~~license~~ multisite timeshare plan ~~as defined~~  
9 ~~in s. 721.552(4)~~, which managing entity owns the reservation  
10 system, irrespective of whether the termination is voluntary  
11 or involuntary and irrespective of the cause of such  
12 termination, in addition to any other remedies available to  
13 purchasers in this part, the terminated managing entity shall,  
14 prior to such termination, establish a trust meeting the  
15 criteria set forth in this paragraph. It is the intent of the  
16 Legislature that this trust arrangement provide for an  
17 adequate period of continued operation of the reservation  
18 system of the multisite timeshare plan, during which period  
19 the new managing entity shall make provision for the  
20 acquisition of a substitute reservation system.

21 1. The trust shall be established with an independent  
22 trustee. Both the terminated managing entity and the new  
23 managing entity shall attempt to agree on an acceptable  
24 trustee. In the event they cannot agree on an acceptable  
25 trustee, they shall each designate a nominee, and the two  
26 nominees shall select the trustee.

27 2. The terminated managing entity shall take all steps  
28 necessary to enable the trustee or the trustee's designee to  
29 operate the reservation system in the same manner as provided  
30 in the timeshare instrument and the public offering statement.  
31 The trustee may, but shall not be required to, contract with



1 the terminated managing entity for the continued operation of  
2 the reservation system. In the event the trustee elects to  
3 contract with the terminated managing entity, that managing  
4 entity shall be required to operate the reservation system and  
5 shall be entitled to payment for that service. The payment  
6 shall in no event exceed the amount previously paid to the  
7 terminated managing entity for operation of the reservation  
8 system.

9           3. The trust shall remain in effect for a period of no  
10 longer than 1 year following the date of termination of the  
11 managing entity.

12           4. Nothing contained in this subsection shall abrogate  
13 or otherwise interfere with any proprietary rights in the  
14 reservation system that have been reserved by the discharged  
15 managing entity, in its management contract or otherwise, so  
16 long as such proprietary rights are not asserted in a manner  
17 that would prevent the continued operation of the reservation  
18 system as contemplated in this subsection.

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

30           1. The names, addresses, and reservation status of  
31 component site accommodations.

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

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

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

13

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

20           Section 30. Subsection (2) of section 721.57, Florida  
21 Statutes, is amended to read:

22           721.57 Offering of timeshare estates in multisite  
23 timeshare plans; required provisions in the timeshare  
24 instrument.--

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

29           (a) The purchaser will receive a timeshare estate as  
30 defined in s. 721.05 in one of the component sites of the  
31 multisite timeshare plan. The use rights in the other

1 component sites of the multisite timeshare plan shall be made  
2 available to the purchaser through the reservation system  
3 pursuant to the timeshare instrument.

4 (b) In the event that the reservation system is  
5 terminated or otherwise becomes unavailable for any reason  
6 prior to the expiration of the term of the multisite timeshare  
7 plan:

8 1. The purchaser will be able to continue to use the  
9 accommodations and facilities of the component site in which  
10 she or he has been conveyed a timeshare estate in the manner  
11 described in the timeshare instrument for the remaining term  
12 of the timeshare estate; and

13 2. Any use rights in that component site which had  
14 previously been made available through the reservation system  
15 to purchasers of the multisite timeshare plan who were not  
16 offered a timeshare estate at that component site will  
17 terminate when the reservation system is terminated or  
18 otherwise becomes unavailable for any reason.

19 Section 31. Subsection (6) of section 721.84, Florida  
20 Statutes, is amended to read:

21 721.84 Appointment of a registered agent; duties.--

22 (6) Unless otherwise provided in this section, a  
23 registered agent in receipt of any notice or other document  
24 addressed from the lienholder to the obligor in care of the  
25 registered agent at the registered office must mail, by first  
26 class mail if the obligor's address is within the United  
27 States, and by international air mail if the obligor's address  
28 is outside the United States, with postage fees prepaid, such  
29 notice or documents to the obligor at the obligor's last  
30 designated address within 5 days after ~~of~~ receipt.

31

1           Section 32. Section 721.96, Florida Statutes, is  
2 amended to read:

3           721.96 Purpose.--The purpose of this part is to  
4 provide for the appointment of commissioners of deeds to take  
5 acknowledgments, proofs of execution, and oaths outside the  
6 United States in connection with the execution of any deed,  
7 mortgage, deed of trust, contract, power of attorney, or any  
8 other agreement, instrument or writing concerning, relating  
9 to, or to be used or recorded in connection with a timeshare  
10 estate, personal property timeshare interest, timeshare  
11 license, any property subject to a timeshare plan, or the  
12 operation of a timeshare plan located within this state.

13           Section 33. Subsection (1) of section 721.97, Florida  
14 Statutes, is amended to read:

15           721.97 Timeshare commissioner of deeds.--

16           (1) The Governor may appoint commissioners of deeds to  
17 take acknowledgments, proofs of execution, or oaths in any  
18 foreign country. The term of office is 4 years. Commissioners  
19 of deeds shall have authority to take acknowledgments, proofs  
20 of execution, and oaths in connection with the execution of  
21 any deed, mortgage, deed of trust, contract, power of  
22 attorney, or any other writing to be used or recorded in  
23 connection with a timeshare estate, personal property  
24 timeshare interest, timeshare license, any property subject to  
25 a timeshare plan, or the operation of a timeshare plan located  
26 within this state; provided such instrument or writing is  
27 executed outside the United States. Such acknowledgments,  
28 proofs of execution, and oaths must be taken or made in the  
29 manner directed by the laws of this state, including but not  
30 limited to s. 117.05(4), (5)(a), and (6), Florida Statutes  
31 1997, and certified by a commissioner of deeds. The

1 certification must be endorsed on or annexed to the instrument  
2 or writing aforesaid and has the same effect as if made or  
3 taken by a notary public licensed in this state.

4           Section 34. This act shall take effect upon becoming a  
5 law.

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