

By the Committees on Comprehensive Planning; Regulated Industries; and Senator Webster

316-2462-03

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. 721.52, F.S.; redefining the term "multisite
28 timeshare plan" and defining the terms
29 "nonspecific multisite timeshare plan" and
30 "specific multisite timeshare plan"; amending
31 s. 721.53, F.S.; revising provisions with

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

24

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

26

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

29 721.02 Purposes.--The purposes of this chapter are to:

30

31

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

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

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

28 721.03 Scope of chapter.--

29 (1) This chapter applies to all timeshare plans
30 consisting of more than seven timeshare periods over a period
31 of at least 3 years in which the accommodations and

1 facilities, if any, are located within this state or offered
2 within this state; provided that:

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

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

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

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

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

26 Section 3. Section 721.05, Florida Statutes, is
27 amended to read:

28 721.05 Definitions.--As used in this chapter, the
29 term:

30 (1) "Accommodation" means any apartment, condominium
31 or cooperative unit, cabin, lodge, hotel or motel room,

1 campground, cruise ship cabin, houseboat or other vessel,
2 recreational or other motor vehicle, or any ~~or other~~ private
3 or commercial structure which is ~~situated on~~ real or personal
4 property and designed for overnight occupancy ~~or use~~ by one or
5 more individuals. The term does not include an incidental
6 benefit as defined in this section.

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

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

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

25 (5)~~(4)~~ "Closing" means:

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

1 evidenced by the irretrievable delivery of an agreement for
2 deed to the clerk of the court for recording.

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

8 ~~(6)~~~~(5)~~ "Common expenses" means:

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

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

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

18 ~~(7)~~~~(6)~~ "Completion of construction" means:

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

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

29 3. With respect to personal property timeshare plans,
30 that all accommodations have been manufactured or built and
31 acquired or leased by the developer, owners' association,

1 managing entity, trustee, or other person for the use of
2 purchasers as set forth in the timeshare instrument; and

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

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

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

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

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

24 (9)~~(8)~~ "Contract" means any agreement conferring the
25 rights and obligations of a timeshare plan on the purchaser.

26 (10)~~(9)~~ "Developer" includes:

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

29 (b) A "successor developer," which means any person
30 who succeeds to the interest of the persons in this subsection
31 by sale, lease, assignment, mortgage, or other transfer, but

1 the term includes only those persons who offer timeshare
2 interests in the ordinary course of business; and

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

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

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

14 2. A managing entity, not otherwise a developer, that
15 offers, or engages a third party to offer on its behalf,
16 timeshare interests in a timeshare plan which it manages,
17 provided that such offer complies with the provisions of s.
18 721.065;

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

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

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

- 14 1. With actual intent to hinder, delay, or defraud any
15 purchaser or the division; or
16 2. To a person that would constitute an insider under
17 s. 726.102(7).

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

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

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

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

1 (14)~~(13)~~ "Escrow agent" includes only:

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

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

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

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

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

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

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

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)4.3~~4.3~~, provided that the trust
19 does not contain any personal property timeshare interests. A
20 timeshare estate is a parcel of real property under the laws
21 of this state.

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, whichever is later. If you decide
18 to cancel this contract, you must notify the seller in writing
19 of your intent to cancel. Your notice of cancellation shall be
20 effective upon the date sent and shall be sent to ... (Name
21 of Seller) ... at ... (Address of Seller) Any attempt
22 to obtain a waiver of your cancellation right is void and of
23 no effect. While you may execute all closing documents in
24 advance, the closing, as evidenced by delivery of the deed or
25 other 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 appropriate official responsible for maintaining such records
14 in the appropriate jurisdiction within 30 days after the day
15 it is executed by the purchaser. The developer shall pay all
16 filing costs associated therewith. A form copy of such
17 instrument must be filed with the division for review pursuant
18 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 an ocean-going vessel, including a "documented
8 vessel" or "foreign vessel" as defined and governed by chapter
9 301 (Commercial Instruments and Liens), Title 46, United
10 States Code:

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

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

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

31

1 accommodations on the vessel are subject to the timeshare
2 plan, shall be common expenses of the timeshare plan.

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

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

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

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

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

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

30 (IV) In addition to the disclosures required by s.
31 721.07(5), the public offering statement and purchase contract

1 must contain a disclosure in conspicuous type in substantially
2 the following form:

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

18 4. Trust.--

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

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

1 herein. A trust established pursuant to this subparagraph
2 ~~sub-subparagraph~~ shall comply with the following provisions:

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

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

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

29 (IV) All purchasers of the timeshare plan or the
30 owners' association of the timeshare plan shall be the express
31 beneficiaries of the trust. The trustee shall act as a

1 fiduciary to the beneficiaries of the trust. The personal
2 liability of the trustee shall be governed by s. 737.306. The
3 agreement establishing the trust shall set forth the duties of
4 the trustee. The trustee shall be required to furnish promptly
5 to the division upon request a copy of the complete list of
6 the names and addresses of the owners in the timeshare plan
7 and a copy of any other books and records of the timeshare
8 plan required to be maintained pursuant to s. 721.13 that are
9 in the possession, custody, or control of the trustee. All
10 expenses reasonably incurred by the trustee in the performance
11 of its duties, together with any reasonable compensation of
12 the trustee, shall be common expenses of the timeshare plan.

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

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

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

30 (VIII) The trustee shall have appointed a registered
31 agent in this state for service of process. In the event such

1 a registered agent is not appointed, service of process may be
2 served pursuant to s. 721.265.

3 5. Owners' association.--

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

8 b. Prior to the transfer by each interestholder of the
9 subject accommodations and facilities, or all use rights
10 therein, to an owners' association, any lien or other
11 encumbrance against such accommodations and facilities, or use
12 rights therein, shall be made subject to a nondisturbance and
13 notice to creditors instrument pursuant to subsection (3). No
14 transfer pursuant to this subparagraph shall become effective
15 until the owners' association accepts such transfer and the
16 responsibilities set forth herein. An owners' association
17 established pursuant to this subparagraph shall comply with
18 the following provisions:

19 (I) The owners' association shall be a business entity
20 authorized and qualified to conduct business in this
21 state. Control of the board of directors of the owners'
22 association must be independent from any developer or managing
23 entity of the timeshare plan or any interestholder.

24 (II) The bylaws of the owners' association shall
25 provide that the corporation may not be voluntarily dissolved
26 without the unanimous vote of all owners of personal property
27 timeshare interests so long as any purchaser has a right to
28 occupy any portion of the timeshare property pursuant to the
29 timeshare plan.

30 (III) The owners' association shall not convey,
31 hypothecate, mortgage, assign, lease, or otherwise transfer or

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

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

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

30 (VI) For owners' associations holding property in a
31 timeshare plan located outside this state, the owners'

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

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

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

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

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

31

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

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

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

22 (a) The instrument shall state that:

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

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

31

1 3.(c) So long as a purchaser remains in good standing
2 with respect to her or his obligations under the timeshare
3 instrument, including making all payments to the managing
4 entity required by the timeshare instrument with respect to
5 the annual common expenses of the timeshare ~~the interestholder~~
6 ~~has any interest in the accommodations, facilities, or plan,~~
7 then the interestholder will fully honor all the rights of
8 such purchaser relating to the subject accommodation or
9 facility as reflected ~~timeshare purchasers in and to the~~
10 ~~timeshare instrument plan, will honor the purchasers' right to~~
11 ~~cancel their contracts and receive appropriate refunds, and~~
12 ~~will comply with all other requirements of this chapter and~~
13 ~~rules promulgated hereunder.~~

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

21 (b) Real property timeshare plans.--For real property
22 timeshare plans, the instrument shall be recorded in the
23 public records of the county in which the subject
24 accommodations or facilities are located.

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

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

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

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

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

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

1 facilities and to subsequent creditors of the affected
2 interestholder.

3 (d) In lieu of the requirements in
4 sub-sub-subparagraph (2)(c)3.e.(III), the director of the
5 division shall have the discretion to accept alternate means
6 of protecting the use rights of purchasers in the subject
7 accommodations and facilities of the timeshare plan against
8 unfiled and inferior claims.

9 (6) An escrow agent holding funds escrowed pursuant to
10 this section may invest such escrowed funds in securities of
11 the United States Government, or any agency thereof, or in
12 savings or time deposits in institutions insured by an agency
13 of the United States Government. The right to receive the
14 interest generated by any such investments shall be paid to
15 the party to whom the escrowed funds or other property are
16 paid unless otherwise specified by contract.

17 (7) Each escrow agent shall maintain separate books
18 and records for each timeshare plan and shall maintain such
19 books and records in accordance with good accounting
20 practices.

21 (8) An escrow agent holding escrowed funds pursuant to
22 this chapter that have not been claimed for a period of 5
23 years after the date of deposit shall make at least one
24 reasonable attempt to deliver such unclaimed funds to the
25 purchaser who submitted such funds to escrow. In making such
26 attempt, an escrow agent is entitled to rely on a purchaser's
27 last known address as set forth in the books and records of
28 the escrow agent and is not required to conduct any further
29 search for the purchaser. If an escrow agent's attempt to
30 deliver unclaimed funds to any purchaser is unsuccessful, the
31 escrow agent may deliver such unclaimed funds to the division

1 and the division shall deposit such unclaimed funds in the
2 Division of Florida Land Sales, Condominiums, and Mobile Homes
3 Trust Fund, 30 days after giving notice in a publication of
4 general circulation in the county in which the timeshare
5 property containing the purchaser' s timeshare interest is
6 located. The purchaser may claim the same at any time prior to
7 the delivery of such funds to the division. After delivery of
8 such funds to the division, the purchaser shall have no more
9 rights to the unclaimed funds. The escrow agent shall not be
10 liable for any claims from any party arising out of the escrow
11 agent's delivery of the unclaimed funds to the division
12 pursuant to this section.

13 (9) For each transfer of the legal title to a
14 timeshare estate by a developer, the developer shall deliver
15 an instrument evidencing such transfer to the purchaser or to
16 a title insurance agent or to the clerk of the court for
17 recording. For each transfer of the legal title to a personal
18 property timeshare interest by a developer, the developer
19 shall deliver an instrument evidencing such transfer to the
20 purchaser subject to the provisions of this section.

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

31

1 (b) Any developer, interestholder, trustee, or officer
2 or director of an owners' association who intentionally fails
3 to comply with the provisions of this section concerning the
4 establishment of a trust or owners' association, conveyances
5 of property into the trust or owners' association, and
6 conveyances or encumbrances of trust or owners' association
7 property is guilty of a felony of the third degree, punishable
8 as provided in s. 775.082, s. 775.083, or s. 775.084, or the
9 successor thereof. The failure to establish a trust or owners'
10 association, or to transfer property into the trust or owners'
11 association, or the failure of a trustee or officer or
12 director of an owners' association to comply with the trust
13 agreement, articles of incorporation, or bylaws with respect
14 to conveyances or encumbrances of trust or owners' association
15 property, as required by this section, is prima facie evidence
16 of an intentional and purposeful violation of this section.

17 Section 9. Paragraphs (a) and (d) of subsection (1),
18 paragraph (c) of subsection (2), and paragraph (c) of
19 subsection (3) of section 721.09, Florida Statutes, are
20 amended to read:

21 721.09 Reservation agreements; escrows.--

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

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

1 1. The seller complies with the provisions of s.
2 721.11 with respect to such advertising material.

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

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

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

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

19 (3)

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

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

31 721.11 Advertising materials; oral statements.--

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

15 (6) Failure to provide cancellation rights or
16 disclosures as required by this subsection in connection with
17 the sale of a regulated short-term product constitutes
18 misrepresentation in accordance with paragraph (4)(a). Any
19 agreement relating to the sale of a regulated short-term
20 product must be regulated as advertising material and is
21 subject to the following:

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

1 prospective purchaser, or the proceeds thereof, must be
2 returned to the prospective purchaser. Such refund must be
3 made in the same manner prescribed for refunds under s.
4 721.10.

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

1 otherwise entitled to cancel the sale, the funds or other
2 property received from or on behalf of the prospective
3 purchaser, or the proceeds thereof, shall be returned to the
4 prospective purchaser. Such refund shall be made in the manner
5 prescribed for refunds under s. 721.10.

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

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

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

29 (a) A developer of a multisite timeshare plan may
30 disseminate oral or written statements to broadcast or print
31 media describing a possible component site with no obligation

1 on the developer's part to actually add such component site to
2 the multisite timeshare plan or to amend the developer's
3 filing with the division, but only so long as such oral or
4 written statements are not considered advertising material
5 pursuant to paragraph (3)(e).

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

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

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

29 (d) Notwithstanding anything contained in this chapter
30 to the contrary, a developer or managing entity may
31 communicate with existing purchasers regarding possible

1 component sites without restriction, so long as all oral and
2 written statements made to existing purchasers pursuant to
3 this subsection comply with the provisions of subsection (4).

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

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

12 721.12 Recordkeeping by seller.--Each seller of a
13 timeshare plan shall maintain among its business records the
14 following:

15 (1) A copy of each contract for the sale of a
16 timeshare interest, which contract has not been canceled. If a
17 timeshare estate is being sold, the seller is required to
18 retain a copy of the contract only until a deed of conveyance,
19 agreement for deed, or lease is recorded in the office of the
20 clerk of the circuit court in the county wherein the plan is
21 located. If a personal property timeshare plan is being sold,
22 the seller is required to retain a copy of the contract only
23 until a certificate of transfer, agreement for transfer,
24 lease, or other instrument of transfer that fully complies
25 with s. 721.08 is delivered to the purchaser.

26 Section 12. Paragraphs (a) and (b) of subsection (1),
27 paragraph (b) of subsection (2), paragraphs (c), (d), and (e)
28 of subsection (3), paragraph (g) of subsection (6), and
29 subsections (4) and (8) of section 721.13, Florida Statutes,
30 are amended, subsection (9) is renumbered as subsection (10),
31

1 and new subsections (9) and (11) are added to that section, to
2 read:

3 721.13 Management.--

4 (1)(a) For each timeshare plan, the developer shall
5 provide for a managing entity, which shall be either the
6 developer, a separate manager or management firm, or an
7 owners' association. Any owners' association shall be created
8 prior to the first closing recording of the sale of a
9 timeshare interest instrument.

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

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

23 3. An owners' association which is the managing entity
24 of a timeshare plan that includes condominium units or
25 cooperative units shall not be considered a condominium
26 association pursuant to the provisions of chapter 718 or a
27 cooperative association pursuant to the provisions of chapter
28 719, unless such owners' association also operates the entire
29 condominium pursuant to s. 718.111 or the entire cooperative
30 pursuant to s. 719.104.

31 (2)

1 (b) The managing entity shall invest the operating and
2 reserve funds of the timeshare plan in accordance with s.
3 518.11(1); however, the managing entity shall give safety of
4 capital greater weight than production of income. In no event
5 shall the managing entity invest timeshare plan funds with a
6 developer or with any entity that is not independent of any
7 developer or any managing entity within the meaning of s.
8 721.05(20)~~(18)~~, and in no event shall the managing entity
9 invest timeshare plan funds in notes and mortgages related in
10 any way to the timeshare plan.

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

13 (c)1. Providing each year to all purchasers an
14 itemized annual budget which shall include all estimated
15 revenues and expenses. The budget shall be in the form
16 required by s. 721.07(5)(u). The budget and shall be the final
17 budget adopted by the managing entity for the current fiscal
18 year. The final adopted budget is not required to be delivered
19 if the managing entity has previously delivered a proposed
20 annual budget for the current fiscal year to purchasers in
21 accordance with chapter 718 or chapter 719, and the managing
22 entity includes a description of any changes in the adopted
23 budget with the assessment notice and a disclosure regarding
24 the purchasers' right to receive a copy of the adopted budget
25 if desired.The budget shall contain, as a footnote or
26 otherwise, any related party transaction disclosures or notes
27 which appear in the audited financial statements of the
28 managing entity for the previous budget year as required by
29 paragraph (e). A copy of the final budget shall be filed with
30 the division for review within 30 days after the beginning of
31 each fiscal year together with a statement of the number of

1 periods of 7-day annual use availability that exist within the
2 timeshare plan, including those periods filed for sale by the
3 developer but not yet committed to the timeshare plan, for
4 which annual fees are required to be paid to the division
5 under s. 721.27.

6 2. Notwithstanding anything contained in chapter 718
7 or chapter 719 to the contrary, the board of administration of
8 an owners' association which serves as the managing entity may
9 from time to time reallocate reserves for deferred maintenance
10 and capital expenditures required by s. 721.07(5)(u)3.a.(XI)
11 from any deferred maintenance or capital expenditure reserve
12 account to any other deferred maintenance or capital
13 expenditure reserve account or accounts in its discretion
14 without the consent of purchasers of the timeshare plan. Funds
15 in any deferred maintenance or capital expenditure reserve
16 account may not be transferred to any operating account
17 without the consent of a majority of the purchasers of the
18 timeshare plan. The managing entity may from time to time
19 transfer excess funds in any operating account to any deferred
20 maintenance or capital expenditure reserve account without the
21 vote or approval of purchasers of the timeshare plan. In the
22 event any amount of reserves for accommodations and facilities
23 of a timeshare plan containing timeshare licenses or personal
24 property timeshare interests exists at the end of the term of
25 the timeshare plan, such reserves shall be refunded to
26 purchasers on a pro rata basis.

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

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

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

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

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

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

1 requirement of s. 718.111(13) or s. 719.104(4), the audited
2 financial statements required by this section are the only
3 annual financial reporting requirements for timeshare
4 condominiums or timeshare cooperatives.

5 (4) The managing entity shall maintain among its
6 records and provide to the division upon request a complete
7 list of the names and addresses of all purchasers and owners
8 of timeshare units in the timeshare plan. The managing entity
9 shall update this list no less frequently than quarterly.

10 Pursuant to paragraph (3)(d), the managing entity may not
11 publish this owner's list or provide a copy of it to any
12 purchaser or to any third party other than the division.

13 However, the managing entity shall to those persons listed on
14 the owner's list materials provided by any purchaser, upon the
15 written request of that purchaser, if the purpose of the
16 mailing is to advance legitimate owners'association business,
17 such as a proxy solicitation for any purpose, including the
18 recall of one or more board members elected by the owners or
19 the discharge of the manager or management firm. The use of
20 any proxies solicited in this manner must comply with the
21 provisions of the timeshare instrument and this chapter. A
22 mailing requested for the purpose of advancing legitimate
23 owners'association business shall occur within 30 days after
24 receipt of a request from a purchaser. The board of
25 administration of the owners'association shall be responsible
26 for determining the appropriateness of any mailing requested
27 pursuant to this subsection. The purchaser who requests the
28 mailing must reimburse the owners'association in advance for
29 the owners'association's actual costs in performing the
30 mailing. It shall be a violation of this chapter and, if
31 applicable, of part VIII of chapter 468, for the board of

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

21 (6)

22 (g) A managing entity shall have breached its
23 fiduciary duty described in subsection (2) in the event it
24 enforces the denial of use pursuant to paragraph (b) against
25 any one purchaser or group of purchasers without similarly
26 enforcing it against all purchasers, including all developers
27 and owners of the underlying fee or underlying personal
28 property; however, a managing entity shall not be required to
29 solicit rentals pursuant to paragraph (f) for every delinquent
30 purchaser. A managing entity shall also have breached its
31 fiduciary duty in the event an error in the books and records

1 of the timeshare plan results in a denial of use pursuant to
2 this subsection of any purchaser who is not, in fact,
3 delinquent. In addition to any remedies otherwise available to
4 purchasers of the timeshare plan arising from such breaches of
5 fiduciary duty, such breach shall also constitute a violation
6 of this chapter. In addition, any purchaser receiving a notice
7 of delinquency pursuant to paragraph (b), or any third party
8 claiming under such purchaser pursuant to paragraph (b), may
9 immediately bring an action for injunctive or declaratory
10 relief against the managing entity seeking to have the notice
11 invalidated on the grounds that the purchaser is not, in fact,
12 delinquent, that the managing entity failed to follow the
13 procedures prescribed by this section, or on any other
14 available grounds. The prevailing party in any such action
15 shall be entitled to recover his or her reasonable attorney's
16 fees from the losing party.

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

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

7 (9) All notices or other information sent by a board
8 of administration of an owners' association may be delivered
9 to a purchaser by electronic mail, provided that the purchaser
10 first consents electronically to the use of electronic mail
11 for notice purposes in a manner that reasonably demonstrates
12 that the purchaser has the ability to access the notice by
13 electronic mail. Proxies or written consents on votes of any
14 owners' association may be received by electronic mail, shall
15 have legal effect, and may be utilized for votes of an owners'
16 association, provided that the electronic signature is
17 authenticated through use of a password, cryptography
18 software, or other reasonable means and that proof of such
19 authentication is made available to the board of directors.

20 (10)(9) Any failure of the managing entity to
21 faithfully discharge the fiduciary duty to purchasers imposed
22 by this section or to otherwise comply with the provisions of
23 this section shall be a violation of this chapter and of part
24 VIII of chapter 468.

25 (11) Notwithstanding the other provisions of this
26 section, personal property timeshare plans are only subject to
27 the provisions of subsections (1)(a)-(d), (2)(a), (3)(a)-(h),
28 (5), (6), (9), and (10).

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

31 721.14 Discharge of managing entity.--

1 (4) This section shall not apply to personal property
2 timeshare plans.

3 Section 14. Paragraph (c) of subsection (2) of section
4 721.15, Florida Statutes, is amended, and subsection (10) is
5 added to that section, to read:

6 721.15 Assessments for common expenses.--

7 (2)

8 (c) For the purpose of calculating the obligation of a
9 developer under a guarantee pursuant to paragraph (b),
10 depreciation expenses related to real property shall be
11 excluded from common expenses incurred during the guarantee
12 period, except that for real property that is used for the
13 production of fees, revenues, or other income, depreciation
14 expenses shall be excluded only to the extent that they exceed
15 the net income from the production of such fees, revenues, or
16 other income.

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

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

21 721.16 Liens for overdue assessments; liens for labor
22 performed on, or materials furnished to, a timeshare unit.--

23 (6) This section shall not apply to personal property
24 timeshare plans.

25 Section 16. Section 721.17, Florida Statutes, is
26 amended to read:

27 721.17 Transfer of interest.--Except in the case of a
28 timeshare plan subject to the provisions of chapter 718 or
29 chapter 719, no developer, or owner of the underlying fee, or
30 owner of the underlying personal property shall sell, lease,
31 assign, mortgage, or otherwise transfer his or her interest in

1 the accommodations and facilities of the timeshare plan except
2 by an instrument evidencing the transfer recorded in the
3 public records of the county in which such accommodations and
4 facilities are located, or, with respect to personal property
5 timeshare plans, in full compliance with s. 721.08. The
6 instrument shall be executed by both the transferor and
7 transferee and shall state:

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

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

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

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

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

30
31

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

14 Section 17. Section 721.18, Florida Statutes, is
15 amended to read:

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

19 (1) If a purchaser is offered the opportunity to
20 subscribe to an exchange program, the seller shall deliver to
21 the purchaser, together with the purchaser public offering
22 statement, and prior to the offering or execution of any
23 contract between the purchaser and the company offering the
24 exchange program, written information regarding such exchange
25 program; or, if the exchange company is dealing directly with
26 the purchaser, the exchange company shall deliver to the
27 purchaser, prior to the initial offering or execution of any
28 contract between the purchaser and the company offering the
29 exchange program, written information regarding such exchange
30 program. In either case, the purchaser shall certify in
31 writing to the receipt of such information. Such information

1 shall include, but is not limited to, the following
2 information, the form and substance of which shall first be
3 approved by the division in accordance with subsection (2):
4 (a) The name and address of the exchange company.
5 (b) The names of all officers, directors, and
6 shareholders of the exchange company.
7 (c) Whether the exchange company or any of its
8 officers or directors has any legal or beneficial interest in
9 any developer, seller, or managing entity for any timeshare
10 plan participating in the exchange program and, if so, the
11 name and location of the timeshare plan and the nature of the
12 interest.
13 (d) Unless otherwise stated, a statement that the
14 purchaser's contract with the exchange company is a contract
15 separate and distinct from the purchaser's contract with the
16 seller of the timeshare plan.
17 (e) Whether the purchaser's participation in the
18 exchange program is dependent upon the continued affiliation
19 of the timeshare plan with the exchange program.
20 (f) A statement that ~~whether~~ the purchaser's
21 participation in the exchange program is voluntary. This
22 statement is not required to be given by the seller or
23 managing entity of a multisite timeshare plan to purchasers in
24 the multisite timeshare plan.
25 (g) A complete and accurate description of the terms
26 and conditions of the purchaser's contractual relationship
27 with the exchange program and the procedure by which changes
28 thereto may be made.
29 (h) A complete and accurate description of the
30 procedure to qualify for and effectuate exchanges.
31

1 (i) A complete and accurate description of all
2 limitations, restrictions, or priorities employed in the
3 operation of the exchange program, including, but not limited
4 to, limitations on exchanges based on seasonality, timeshare
5 unit size, or levels of occupancy, expressed in boldfaced
6 type, and, in the event that such limitations, restrictions,
7 or priorities are not uniformly applied by the exchange
8 program, a clear description of the manner in which they are
9 applied.

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

14 (k) Whether and under what circumstances a purchaser,
15 in dealing with the exchange program, may lose the use and
16 occupancy of her or his timeshare period in any properly
17 applied for exchange without her or his being provided with
18 substitute accommodations by the exchange program.

19 (l) The fees or range of fees for membership or
20 participation by purchasers in the exchange program by
21 purchasers, including any conversion or other fees payable to
22 third parties, a statement whether any such fees may be
23 altered by the exchange company, and the circumstances under
24 which alterations may be made.

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

28 (n) The number of the timeshare units in each
29 timeshare plan which are available for occupancy and which
30 qualify for participation in the exchange program, expressed
31

1 within the following numerical groupings: 1-5; 6-10; 11-20;
2 21-50; and 51 and over.

3 (o) The number of currently enrolled purchasers for
4 each timeshare plan participating in the exchange program,
5 expressed within the following numerical groupings: 1-100;
6 101-249; 250-499; 500-999; and 1,000 and over; and a statement
7 of the criteria used to determine those purchasers who are
8 currently enrolled with the exchange program.

9 (p) The disposition made by the exchange company of
10 timeshare periods deposited with the exchange program by
11 purchasers enrolled in the exchange program and not used by
12 the exchange company in effecting exchanges.

13 (q) The following information, which shall be
14 independently audited by a certified public accountant or
15 accounting firm in accordance with the standards of the
16 Accounting Standards Board of the American Institute of
17 Certified Public Accountants and reported annually ~~beginning~~
18 ~~no later than July 1, 1982:~~

19 1. The number of purchasers currently enrolled in the
20 exchange program.

21 2. The number of accommodations and facilities that
22 have current written affiliation agreements with the exchange
23 program.

24 3. The percentage of confirmed exchanges, which is the
25 number of exchanges confirmed by the exchange program divided
26 by the number of exchanges properly applied for, together with
27 a complete and accurate statement of the criteria used to
28 determine whether an exchange request was properly applied
29 for.

30 4. The number of timeshare periods for which the
31 exchange program has an outstanding obligation to provide an

1 exchange to a purchaser who relinquished a timeshare period
2 during the year in exchange for a timeshare period in any
3 future year.

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

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

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

1 deficiencies in the filing. If the exchange company fails to
2 adequately respond to any deficiency notice within 10 days,
3 the division may reject the filing. Subsequent to such
4 rejection, a new filing fee and a new division initial review
5 period pursuant to this subsection shall apply to any refiling
6 or further review of the rejected filing.

7 (a) Any material change to an approved exchange
8 company filing shall be filed with the division for approval
9 as an amendment prior to becoming effective. Each amendment
10 filing shall be accompanied by a filing fee of \$100. The
11 exchange company may correct the deficiencies; and, within 10
12 days after receipt of corrections from the exchange company,
13 the division shall notify the exchange company in writing that
14 the division has either approved the filing or found
15 additional specified deficiencies in the filing. Each approved
16 amendment to the approved exchange company filing, other than
17 an amendment that does not materially alter or modify the
18 exchange program in a manner that is adverse to a purchaser,
19 as determined by the exchange company in its reasonable
20 discretion, shall be delivered to each purchaser who has not
21 closed. An approved exchange program filing is required to be
22 updated with respect to added or deleted resorts only once
23 each year, and such annual update shall not be deemed to be a
24 material change to the filing.

25 (b) If at any time the division determines that any of
26 such information supplied by an exchange company fails to meet
27 the requirements of this section, the division may undertake
28 enforcement action against the exchange company in accordance
29 with the provision of s. 721.26.

30 (3) No developer shall have any liability with respect
31 to any violation of this chapter arising out of the

1 publication by the developer of information provided to it by
2 an exchange company pursuant to this section. No exchange
3 company shall have any liability with respect to any violation
4 of this chapter arising out of the use by a developer of
5 information relating to an exchange program other than that
6 provided to the developer by the exchange company.

7 (4) At the request of the exchange company, the
8 division shall review any audio, written, or visual
9 publications or materials relating to an exchange company or
10 an exchange program ~~shall be~~ filed for review by the exchange
11 company and shall notify the exchange company of any
12 deficiencies within 10 ~~with the division within 3 days after~~
13 the filing of their use. If the exchange company corrects the
14 deficiencies or if there are no deficiencies, the division
15 shall notify the exchange company of its approval of the
16 advertising materials. If the exchange company fails to
17 adequately respond to any deficiency notice within 10 days,
18 the division may reject the advertising materials. Subsequent
19 to such rejection, a new division initial review period
20 pursuant to this subsection shall apply to any refiling or
21 further review.

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

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

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

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

8 Section 19. Section 721.20, Florida Statutes, is
9 amended to read:

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

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

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

21 (3) A solicitor who has violated the provisions of
22 chapter 468, chapter 718, chapter 719, this chapter, or the
23 rules of the division governing timesharing shall be subject
24 to the provisions of s. 721.26. Any developer or other person
25 who supervises, directs, or engages the services of a
26 solicitor shall be liable for any violation of the provisions
27 of chapter 468, chapter 718, chapter 719, this chapter, or the
28 rules of the division governing timesharing committed by such
29 solicitor.

30 (4) County and municipal governments shall have the
31 authority to adopt codes of conduct and regulations to govern

1 solicitor activity conducted on public property, including
2 providing for the imposition of penalties prescribed by a
3 schedule of fines adopted by ordinance for violations of any
4 such code of conduct or regulation. Any violation of any such
5 adopted code of conduct or regulation shall not constitute a
6 separate violation of this chapter. This subsection is not
7 intended to restrict or invalidate any local code of conduct
8 or regulation.

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

17 (6) Notwithstanding the provisions of s. 475.452, it
18 is unlawful for any broker, salesperson, or broker-salesperson
19 to collect any advance fee for the listing of any timeshare
20 estate or timeshare license.

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

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

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

28 721.24 Firesafety.--

29 (6) Accommodations and facilities of personal property
30 timeshare plans shall be exempt from the requirements of this
31 section.

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

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

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

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

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

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

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

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

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

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

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

28
29 If, under the circumstances, it appears that the events giving
30 rise to the petition for receivership cannot be reasonably and
31 timely corrected in a cost-effective manner consistent with

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

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

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

28 2.a. If a regulated party fails to pay a penalty, the
29 division shall thereupon issue an order directing that such
30 regulated party cease and desist from further operation until
31 such time as the penalty is paid; or the division may pursue

1 enforcement of the penalty in a court of competent
2 jurisdiction.

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

6 Section 22. Section 721.52, Florida Statutes, is
7 amended to read:

8 721.52 Definitions.--As used in this chapter, the
9 term:

10 (1) "Applicable law" means the law of the jurisdiction
11 where the accommodations and facilities referred to are
12 located.

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

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

24 (4) "Multisite timeshare plan" means any method,
25 arrangement, or procedure with respect to which a purchaser
26 obtains, by any means, a recurring right to use and occupy
27 accommodations or facilities of more than one component site,
28 only through use of a reservation system, whether or not the
29 purchaser is able to elect to cease participating in the plan.
30 However, the term "multisite timeshare plan" shall not include
31 any method, arrangement, or procedure wherein:

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

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

18
19 Multisite timeshare plan does not mean an exchange program as
20 defined in s. 721.05. Timeshare estates may only be offered in
21 a multisite timeshare plan pursuant to s. 721.57.

22 (5) "Nonspecific multisite timeshare plan" means a
23 multisite timeshare plan containing timeshare licenses or
24 personal property timeshare interests, with respect to which a
25 purchaser receives a right to use all of the accommodations
26 and facilities, if any, of the multisite timeshare plan
27 through the reservation system, but no specific right to use
28 any particular accommodations and facilities for the remaining
29 term of the multisite timeshare plan in the event that the
30 reservation system is terminated for any reason prior to the
31 expiration of the term of the multisite timeshare plan.

1 ~~(6)(5)~~ "Reservation system" means the method,
2 arrangement, or procedure by which a purchaser, in order to
3 reserve the use and occupancy of any accommodation or facility
4 of the multisite timeshare plan for one or more use periods,
5 is required to compete with other purchasers in the same
6 multisite timeshare plan regardless of whether such
7 reservation system is operated and maintained by the multisite
8 timeshare plan managing entity, an exchange company, or any
9 other person. In the event that a purchaser is required to use
10 an exchange program as the purchaser's principal means of
11 obtaining the right to use and occupy a multisite timeshare
12 plan's accommodations and facilities, such arrangement shall
13 be deemed a reservation system. When an exchange company
14 utilizes a mechanism for the exchange of use of timeshare
15 periods among members of an exchange program, such utilization
16 is not a reservation system of a multisite timeshare plan.

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

25 ~~(8)(6)~~ "Vacation club" means a multisite timeshare
26 plan.

27 Section 23. Paragraph (a) of subsection (1) of section
28 721.53, Florida Statutes, is amended and paragraph (f) is
29 added to subsection (1) of that section, to read:

30 721.53 Subordination instruments; alternate security
31 arrangements.--

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

7 (a) The interestholder has executed and recorded a
8 nondisturbance and notice to creditors instrument pursuant to
9 s. 721.08~~(2)(c)~~.

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

14 Section 24. Section 721.54, Florida Statutes, is
15 amended to read:

16 721.54 Term of nonspecific multisite timeshare
17 plans.--It shall be a violation of this part to represent to a
18 purchaser of a nonspecific multisite timeshare plan ~~as defined~~
19 ~~in s. 721.552(4)~~ that the term of the plan for that purchaser
20 is longer than the shortest term of availability of any of the
21 accommodations included within the plan at the time of
22 purchase.

23 Section 25. Section 721.55, Florida Statutes, is
24 amended to read:

25 721.55 Multisite timeshare plan public offering
26 statement.--Each filed ~~registered~~ public offering statement
27 for a multisite timeshare plan shall contain the information
28 required by this section and shall comply with the provisions
29 of s. 721.07, except as otherwise provided therein. The
30 division is authorized to provide by rule the method by which
31 a developer must provide such information to the division.

1 Each multisite timeshare plan filed ~~registered~~ public offering
2 statement shall contain the following information and
3 disclosures:

- 4 (1) A cover page containing:
5 (a) The name of the multisite timeshare plan.
6 (b) The following statement in conspicuous type:
7

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

20 (2) A summary containing all statements required to be
21 in conspicuous type in the public offering statement and in
22 all exhibits thereto.

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

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

27 (a) A description of the multisite timeshare plan,
28 including its term, legal structure, and form of ownership.
29 For multisite timeshare plans in which the purchaser will
30 receive a timeshare estate pursuant to s. 721.57 and for ~~or a~~
31 specific multisite timeshare plans ~~license as defined in s.~~

1 ~~721.552(4)~~, the description must also include the term of each
2 component site within the multisite timeshare plan.

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

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

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

29 (d) The existence of and an explanation regarding any
30 priority reservation features that affect a purchaser' s
31 ability to make reservations for the use of a given

1 accommodation or facility on a first come, first served basis,
2 including, if applicable, the following statement in
3 conspicuous type:

4

5 Component sites contained in the multisite timeshare
6 plan (or multisite vacation ownership plan or multisite
7 vacation plan or vacation club) are subject to priority
8 reservation features which may affect your ability to obtain a
9 reservation.

10

11 (e) A summary of the material rules and regulations,
12 if any, other than the reservation system rules and
13 regulations, affecting the purchaser's use of each
14 accommodation and facility at each component site.

15 (f) If the provisions of s. 721.552 and the timeshare
16 instrument permit additions, substitutions, or deletions of
17 accommodations or facilities, the public offering statement
18 must include substantially the following information:

19 1. Additions.--

20 a. A description of the basis upon which new
21 accommodations and facilities may be added to the multisite
22 timeshare plan; by whom additions may be made; and the
23 anticipated effect of the addition of new accommodations and
24 facilities upon the reservation system, its priorities, its
25 rules and regulations, and the availability of existing
26 accommodations and facilities.

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

31

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

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

18 2. Substitutions.--

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

26 b. The developer shall also disclose any extent to
27 which purchasers will have the right to consent to any
28 proposed substitutions; if the purchasers do not have the
29 right to consent, the developer must include the following
30 disclosure in conspicuous type:
31

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

11

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

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

28 1. The identity of the developer; the developer's
29 business address; the number of years of experience the
30 developer has in the timeshare, hotel, motel, travel, resort,
31 or leisure industries; and a description of any pending

1 lawsuit or judgment against the developer which is material to
2 the plan. If there are no such pending lawsuits or judgments,
3 there shall be a statement to that effect.

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

15 (h) A description of the purchaser's liability for
16 common expenses of the multisite timeshare plan, including the
17 following:

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

25 2. A description of any cap imposed upon the level of
26 common expenses payable by the purchaser. In no event shall
27 the total common expense assessment for the multisite
28 timeshare plan in a given calendar year exceed 125 percent of
29 the total common expense assessment for the plan in the
30 previous calendar year.

31

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

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

14 5. If the purchaser will receive an interest in a
15 nonspecific multisite timeshare plan license ~~as defined in s.~~
16 ~~721.552(4)~~, a statement that a multisite timeshare plan budget
17 is attached to the public offering statement as an exhibit
18 pursuant to paragraph (7)(c). The multisite timeshare plan
19 budget shall comply with the provisions of s. 721.07(5)(u).

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

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

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

1 c. The level, expressed in total dollars, at which the
2 developer guarantees the assessments. If the developer has
3 reserved the right to extend or increase the guarantee level,
4 a disclosure must be included to that effect.

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

8 a. Any limitation upon annual increases in common
9 expenses;

10 b. The existence of any bad debt or working capital
11 reserve; and

12 c. The existence of any replacement or deferred
13 maintenance reserve.

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

19
20 The sale, lease, or transfer of interests in this
21 multisite timeshare plan is restricted or controlled.

22
23 (j) The following statement in conspicuous type in
24 substantially the following form:

25
26 The purchase of an interest in a multisite timeshare
27 plan (or multisite vacation ownership plan or multisite
28 vacation plan or vacation club) should be based upon its value
29 as a vacation experience or for spending leisure time, and not
30 considered for purposes of acquiring an appreciating
31

1 investment or with an expectation that the interest may be
2 resold.

3
4 (k) If the multisite timeshare plan provides
5 purchasers with the opportunity to participate in an exchange
6 program, a description of the name and address of the exchange
7 company and the method by which a purchaser accesses the
8 exchange program. In lieu of this requirement, the public
9 offering statement text may contain a cross-reference to other
10 provisions in the public offering statement or in an exhibit
11 containing this information.

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

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

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

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

28 a. The intended use of the facility, if not apparent
29 from the description.

30 b. Any user fees associated with a purchaser's use of
31 the facility.

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

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

14 (6) Any other information that the developer, with the
15 approval of the division, desires to include in the public
16 offering statement text.

17 (7) The following documents shall be included as
18 exhibits to the filed ~~registered~~ public offering statement, if
19 applicable:

20 (a) The timeshare instrument.

21 (b) The reservation system rules and regulations.

22 (c) The multisite timeshare plan budget pursuant to
23 subparagraph (4)(h)5.

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

26 (e) Any contract, agreement, or other document through
27 which component sites are affiliated with the multisite
28 timeshare plan.

29 (f) Any escrow agreement required pursuant to s.
30 721.08 or s. 721.56(3).

31

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

3 (h) The form receipt for multisite timeshare plan
4 documents required to be given to the purchaser pursuant to s.
5 721.551(2)(b).

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

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

10 (k) Any subordination instrument required by s.
11 721.53.

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

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

27 (8)(a) A timeshare plan containing only one component
28 site must be filed with the division as a multisite timeshare
29 plan if the timeshare instrument reserves the right for the
30 developer to add future component sites. However, if the
31 developer fails to add at least one additional component site

1 to a timeshare plan described in this paragraph within 3 years
2 after the date the plan is initially filed with the division,
3 the multisite filing for such plan shall thereupon terminate,
4 and the developer may not thereafter offer any further
5 interests in such plan unless and until he or she refiles such
6 plan with the division pursuant to this chapter.

7 (b) The public offering statement for any timeshare
8 plan described in paragraph (a) must include the following
9 disclosure in conspicuous type:

10
11 This timeshare plan has been filed as a multisite
12 timeshare plan (or multisite vacation ownership plan or
13 multisite vacation plan or vacation club); however, this plan
14 currently contains only one component site. The developer is
15 not required to add any additional component sites to the
16 plan. Do not purchase an interest in this plan in reliance
17 upon the addition of any other component sites.

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

20 721.551 Delivery of multisite timeshare plan purchaser
21 public offering statement.--

22 (2) The developer shall furnish each purchaser with
23 the following:

24 (b) A receipt for multisite timeshare plan documents
25 and a list describing any exhibit to the filed ~~registered~~
26 public offering statement which is not delivered to the
27 purchaser. The division is authorized to prescribe by rule the
28 form of the receipt for multisite timeshare plan documents and
29 the description of exhibits list that must be furnished to the
30 purchaser pursuant to this section.

31

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

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

15 Section 27. Paragraph (a) of subsection (2), paragraph
16 (c) of subsection (3), and subsections (4) and (5) of section
17 721.552, Florida Statutes, are amended to read:

18 721.552 Additions, substitutions, or deletions of
19 component site accommodations or facilities; purchaser
20 remedies for violations.--Additions, substitutions, or
21 deletions of component site accommodations or facilities may
22 be made only in accordance with the following:

23 (2) SUBSTITUTIONS.--

24 (a) Substitutions are available only for nonspecific
25 multisite timeshare license ~~plans as defined in subsection~~
26 ~~(4)~~. Specific multisite timeshare license ~~plans or as defined~~
27 ~~in subsection (4)~~ and plans offering timeshare estates
28 pursuant to s. 721.57 may not contain an accommodation
29 substitution right.

30 (3) DELETIONS.--

31

1 (c) Automatic deletion.--The timeshare instrument may
2 provide that a component site will be automatically deleted
3 upon the expiration of its term in a timeshare plan other than
4 a nonspecific multisite timeshare license plan or as otherwise
5 provided in the timeshare instrument. However, the timeshare
6 instrument must also provide that in the event a component
7 site is deleted from the plan in this manner, a sufficient
8 number of purchasers of the plan will also be deleted so as to
9 maintain no greater than a one-to-one purchaser to
10 accommodation ratio.

11 ~~(4) SPECIFIC AND NONSPECIFIC TIMESHARE LICENSES.--For~~
12 ~~purposes of this chapter, a specific timeshare license means~~
13 ~~one with respect to which a purchaser receives a specific~~
14 ~~right to use accommodations and facilities, if any, at one~~
15 ~~component site of a multisite timeshare plan, together with~~
16 ~~use rights in the other accommodations and facilities of the~~
17 ~~multisite timeshare plan created by or acquired through the~~
18 ~~reservation system. For purposes of this chapter, a~~
19 ~~nonspecific timeshare license means one with respect to which~~
20 ~~a purchaser receives a right to use all of the accommodations~~
21 ~~and facilities, if any, of a multisite timeshare plan through~~
22 ~~the reservation system, but no specific right to use any~~
23 ~~particular accommodations and facilities for the remaining~~
24 ~~term of the multisite timeshare plan in the event that the~~
25 ~~reservation system is terminated for any reason prior to the~~
26 ~~expiration of the term of the multisite timeshare plan.~~

27 (4)(5) VIOLATIONS; PURCHASER REMEDIES.--All purchaser
28 remedies pursuant to s. 721.21 shall be available for any
29 violation of the provisions of this section.

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

1 721.56 Management of multisite timeshare plans;
2 reservation systems; demand balancing.--

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

14 (5)(a)1. The reservation system is a facility of any
15 nonspecific ~~timeshare license~~ multisite timeshare plan ~~as~~
16 ~~defined in s. 721.552(4)~~. The reservation system is not a
17 facility of any specific ~~timeshare license~~ multisite timeshare
18 plan ~~as defined in s. 721.552(4)~~, nor is it a facility of any
19 multisite timeshare plan in which timeshare estates are
20 offered pursuant to s. 721.57.

21 2. The reservation system of any multisite timeshare
22 plan shall include any computer software and hardware employed
23 for the purpose of enabling or facilitating the operation of
24 the reservation system. Nothing contained in this part shall
25 preclude a manager or management firm that is serving as
26 managing entity of a multisite timeshare plan from providing
27 in its contract with the purchasers or owners' association of
28 the multisite timeshare plan or in the timeshare instrument
29 that the manager or management firm owns the reservation
30 system and that the managing entity shall continue to own the
31

1 reservation system in the event the purchasers discharge the
2 managing entity pursuant to s. 721.14.

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

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

23 2. The terminated managing entity shall take all steps
24 necessary to enable the trustee or the trustee's designee to
25 operate the reservation system in the same manner as provided
26 in the timeshare instrument and the public offering statement.
27 The trustee may, but shall not be required to, contract with
28 the terminated managing entity for the continued operation of
29 the reservation system. In the event the trustee elects to
30 contract with the terminated managing entity, that managing
31 entity shall be required to operate the reservation system and

1 shall be entitled to payment for that service. The payment
2 shall in no event exceed the amount previously paid to the
3 terminated managing entity for operation of the reservation
4 system.

5 3. The trust shall remain in effect for a period of no
6 longer than 1 year following the date of termination of the
7 managing entity.

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

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

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

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

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

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

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

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

18 721.57 Offering of timeshare estates in multisite
19 timeshare plans; required provisions in the timeshare
20 instrument.--

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

25 (a) The purchaser will receive a timeshare estate as
26 defined in s. 721.05 in one of the component sites of the
27 multisite timeshare plan. The use rights in the other
28 component sites of the multisite timeshare plan shall be made
29 available to the purchaser through the reservation system
30 pursuant to the timeshare instrument.

31

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

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

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

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

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

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

28 Section 31. Section 721.96, Florida Statutes, is
29 amended to read:

30 721.96 Purpose.--The purpose of this part is to
31 provide for the appointment of commissioners of deeds to take

1 acknowledgments, proofs of execution, and oaths outside the
2 United States in connection with the execution of any deed,
3 mortgage, deed of trust, contract, power of attorney, or any
4 other agreement, instrument or writing concerning, relating
5 to, or to be used or recorded in connection with a timeshare
6 estate, personal property timeshare interest, timeshare
7 license, any property subject to a timeshare plan, or the
8 operation of a timeshare plan located within this state.

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

11 721.97 Timeshare commissioner of deeds.--

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

31

1 Section 33. With respect to any timeshare plan or
2 exchange program filing approved by the Division of Florida
3 Land Sales, Condominiums, and Mobile Homes of the Department
4 of Business and Professional Regulation prior to the date this
5 act becomes a law, the amendments made by this act to section
6 721.06(1)(g)2., section 721.07(2)(d)1. and (5)(c)4., section
7 721.075(2)(e), section 721.18(1)(l) and (m), or section
8 721.27, Florida Statutes, shall not apply to such filing until
9 the earlier of January 1, 2004, or the date that any amendment
10 to such filing is made subsequent to the date this act becomes
11 a law. With respect to any timeshare plan filing approved by
12 the division prior to the date this act becomes a law, the
13 amendments made by this act to section 721.08(3)(a), Florida
14 Statutes, shall not apply to the nondisturbance and
15 notice-to-creditors instrument required by section 721.08,
16 Florida Statutes, unless and only to the extent that the
17 developer otherwise voluntarily complies with all or a portion
18 of such provisions.

19 Section 34. This act shall take effect upon becoming a
20 law.

21
22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
23 COMMITTEE SUBSTITUTE FOR
24 CS/SB 2534

25 This CS/CS makes a number of technical changes to the CS, and
26 removes the decrease in fees proposed in the CS.
27
28
29
30
31