

By the Committee on Comprehensive Planning; and Senator
Webster

316-1958-04

1 A bill to be entitled
2 An act relating to timeshare plans; amending s.
3 721.02, F.S.; revising language with respect to
4 legislative purpose under the Florida Vacation
5 Plan and Timesharing Act; amending s. 721.03,
6 F.S.; revising language with respect to the
7 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 language with respect
11 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 language 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 language with respect to
19 public offering statements; amending s.
20 721.075, F.S.; revising language 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 language with respect to escrow accounts;
25 amending s. 721.09, F.S.; revising language
26 with respect to reservation agreements;
27 amending s. 721.11, F.S.; revising language
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 language with respect to
3 management; correcting a cross-reference;
4 amending s. 721.14, F.S.; providing that a
5 section of law governing the discharge of the
6 managing entity shall not apply with respect to
7 personal property timeshare plans; amending s.
8 721.15, F.S.; revising language with respect to
9 assessments for common expenses; amending s.
10 721.16, F.S.; providing that a section of law
11 governing certain liens does not apply to
12 personal property timeshare plans; amending s.
13 721.17, F.S.; revising language with respect to
14 transfer of interest; amending s. 721.18, F.S.;
15 revising language with respect to exchange
16 programs; amending s. 721.19, F.S.; including
17 reference to personal property timeshare
18 interests; amending s. 721.20, F.S., relating
19 to licensing requirements; providing for the
20 application of certain provisions to personal
21 property timeshare plans; amending s. 721.24,
22 F.S.; exempting accommodations and facilities
23 of personal property timeshare plans from a
24 provision of law governing firesafety; amending
25 s. 721.26, F.S.; revising language with respect
26 to regulation by the division; amending s.
27 721.52, 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 language with respect

1 to subordination instruments; amending s.
2 721.54, F.S.; correcting 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 multistate 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 language with respect to timeshare
14 estates in multisite timeshare plans; amending
15 s. 721.84, F.S.; revising language with respect
16 to appointment of a registered agent; amending
17 ss. 721.96 and 721.97, F.S.; including
18 reference to personal property timeshare
19 interests; amending ss. 475.011 and 718.103,
20 F.S.; correcting cross-references; providing
21 for applicability; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (1) and (5) of section 721.02,
26 Florida Statutes, are amended to read:

27 721.02 Purposes.--The purposes of this chapter are to:

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

31

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

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

25 721.03 Scope of chapter.--

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 1. If the purchaser will receive a personal property
6 timeshare interest: This personal property timeshare plan is
7 governed only by limited sections of the timeshare management
8 provisions of Florida law.

9 2. 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 3. 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 section
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

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

1 For the purpose of ad valorem assessment, taxation and
2 special assessments, the managing entity will be considered
3 the taxpayer as your agent pursuant to section 192.037,
4 Florida Statutes.

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

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

29 (k) Unless the developer is, at the time of offering
30 the plan, ~~the owner in fee simple absolute~~ of the
31 accommodations and facilities of the timeshare plan, free and

1 clear of all liens, ~~and~~ encumbrances, and claims of other
2 interestholders, a statement that the developer is not the
3 sole owner of the underlying fee or owner of the underlying
4 personal property or that the ~~such~~ accommodations or
5 facilities are subject to ~~without~~ liens or encumbrances, which
6 statement shall include:

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

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

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

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

30
31 (m) The following statement in conspicuous type:

1
2 Any resale of this timeshare interest must be
3 accompanied by certain disclosures in accordance with section
4 721.065, Florida Statutes.

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

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

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

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

23 Section 5. Paragraph (b) of subsection (2) of section
24 721.065, Florida Statutes, is amended to read:

25 721.065 Resale purchase agreements.--

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

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

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

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

30
31

1 There are many important documents relating to the timeshare
2 plan which you should review prior to purchasing a timeshare
3 interest, including the declaration of condominium or
4 covenants and restrictions; the owners'association articles
5 and bylaws; the current year's operating and reserve budgets;
6 and any rules and regulations affecting the use of timeshare
7 plan accommodations and facilities.

8
9 2. If the resale purchase agreement pertains to a
10 personal property timeshare plan:

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

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

4 Section 6. Section 721.07, Florida Statutes, is
5 amended to read:

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

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

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

31

1 within the period specified in this paragraph, the filing will
2 be deemed approved.

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

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

19 (d) A developer shall have the authority to deliver to
20 purchasers any purchaser public offering statement that is not
21 yet approved by the division, provided that the following
22 shall apply:

23 1. At the time the developer delivers an unapproved
24 purchaser public offering statement to a purchaser pursuant to
25 this paragraph, the developer shall deliver a fully completed
26 and executed copy of the purchase contract required by s.
27 721.06 that contains the following statement in conspicuous
28 type in substantially the following form which shall replace
29 the statements required by s. 721.06(1)(g):

30
31

1 The developer is delivering to you a public offering statement
2 that has been filed with but not yet approved by the Division
3 of Florida Land Sales, Condominiums, and Mobile Homes. Any
4 revisions to the unapproved public offering statement you have
5 received must be delivered to you, but only if the revisions
6 materially alter or modify the offering in a manner adverse to
7 you. After the division approves the public offering
8 statement, you will receive notice of the approval from the
9 developer and the required revisions, if any.

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

26
27 2. After receipt of approval from the division and prior to
28 closing, if any revisions made to the documents contained in
29 the purchaser public offering statement materially alter or
30 modify the offering in a manner adverse to a purchaser, the
31 developer shall send the purchaser such revisions together

1 with a notice containing a statement in conspicuous type in
2 substantially the following form:

3
4 The unapproved public offering statement previously delivered
5 to you, together with the enclosed revisions, has been
6 approved by the Division of Florida Land Sales, Condominiums,
7 and Mobile Homes. Accordingly, your cancellation right expires
8 10 calendar days after you sign your purchase contract or 10
9 calendar days after you receive these revisions, whichever is
10 later. If you have any questions regarding your cancellation
11 rights, you may contact the division at [insert division's
12 current address].

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

22
23 The unapproved public offering statement previously delivered
24 to you has been approved by the Division of Florida Land
25 Sales, Condominiums, and Mobile Homes. Revisions made to the
26 unapproved public offering statement, if any, are either not
27 required to be delivered to you or are not deemed by the
28 developer, in its opinion, to materially alter or modify the
29 offering in a manner that is adverse to you. Accordingly, your
30 cancellation right expired 10 days after you signed your
31 purchase contract. A complete copy of the approved public

1 offering statement is available through the managing entity
2 for inspection as part of the books and records of the plan.
3 If you have any questions regarding your cancellation rights,
4 you may contact the division at [insert division's current
5 address].

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

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

1 offering statement, other than an amendment made only for the
2 purpose of the addition, substitution, or deletion of a
3 component site pursuant to part II or the addition of a phase
4 or phases to a component site of a multisite timeshare plan in
5 the manner described in the timeshare instrument or any
6 amendment that does not materially alter or modify the
7 offering in a manner that is adverse to a purchaser, shall be
8 delivered to a purchaser no later than 10 days prior to
9 closing.

10 3. Amendments made to a timeshare instrument for a
11 component site located in this state are not required to be
12 delivered to purchasers who do not receive a timeshare estate
13 or an interest in a specific multisite timeshare plan license
14 in that component site. Amendments made to a timeshare
15 instrument for a component site not located in this state are
16 not required to be delivered to purchasers.

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

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

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

31

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

6 (a) A cover page stating only:

7 1. The name of the timeshare plan; and

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

19 (b) A listing of all statements required to be in
20 conspicuous type in the public offering statement and in all
21 exhibits thereto.

22 (c) A separate index of the contents and exhibits of
23 the public offering statement.

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

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

28 1. Its name and location.

29 2. An explanation of the form of timeshare ownership
30 that is being offered, including a statement as to whether any
31 interest in the underlying real property will be conveyed to

1 the purchaser. If the plan is being created or being sold on a
2 leasehold, a description of the material terms of the lease
3 shall be included. If the plan is a plan in which timeshare
4 estates or personal property timeshare interests are sold as
5 interests in a trust pursuant to the requirements of this
6 chapter, a full and accurate description of the trust
7 arrangement and the trustee's duties shall be included. If the
8 plan is a personal property timeshare plan, a description of
9 the material terms of the arrangement for the ownership or use
10 of the personal property shall be included.

11 3. An explanation of the manner in which the
12 apportionment of common expenses and ownership of the common
13 elements has been determined.

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

18 5. If any of the accommodations or facilities are part
19 of a personal property timeshare plan in which the
20 accommodations or facilities are located on or in a documented
21 vessel or foreign vessel as provided in s. 721.08(2)(c)3.e.,
22 the disclosure required by s. 721.08(2)(c)3.e.(IV).

23 (f) A description of the accommodations, including,
24 but not limited to:

25 1. The number of timeshare units in each building, the
26 total number of timeshare periods declared as part of the
27 timeshare plan and filed with the division, and the number of
28 bathrooms and bedrooms in each type of timeshare unit.

29 2. The latest date estimated for completion of
30 constructing, finishing, and equipping the timeshare units

31

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

3 3. The estimated maximum number of units and timeshare
4 periods that will use the accommodations and facilities. If
5 the maximum number of timeshare units or timeshare periods
6 will vary, a description of the basis for variation.

7 4. The duration, in years, of the timeshare plan.

8 5. If any of the accommodations are part of a personal
9 property timeshare plan, the name, vehicle registration
10 number, title certificate number, or any other identifying
11 registration number assigned to the accommodation of a
12 personal property timeshare plan by a state, federal, or
13 international governmental agency.

14 6. If any of the accommodations are part of a personal
15 property timeshare plan, the fire detection system and fire
16 safety equipment and description of method of compliance with
17 any applicable firesafety or fire detection regulations.

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

20 1. The intended purpose, if not apparent from the
21 description.

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

24 3. A statement as to whether the facilities will be
25 used exclusively by purchasers of the timeshare plan, and, if
26 not, a statement as to whether the purchasers of the timeshare
27 plan are required to pay any portion of the maintenance and
28 expenses of such facilities.

29 (h)1. If any facilities offered by the developer for
30 use by purchasers are to be leased or have club memberships
31 associated with them, other than participation in a vacation

1 club, one of the following statements in conspicuous type:
2 There is a lease associated with one or more facilities of the
3 timeshare plan; or, There is a club membership associated with
4 one or more facilities of the timeshare plan.

5 2. If it is mandatory that purchasers pay fees, rent,
6 dues, or other charges under a facilities lease or club
7 membership for the use of the facilities, other than
8 participation in a vacation club, the applicable statement in
9 conspicuous type in substantially the following form:

10 a. Membership in a facilities club is mandatory for
11 purchasers;

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

15 c. Purchasers or the owners'association(s) are
16 required to pay their share of the rent or costs and expenses
17 of maintenance, management, upkeep, and replacement under the
18 facilities lease (or the other instruments providing the
19 facilities); or

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

23
24 Immediately following the applicable statement, a description
25 of the lease or other instrument shall be stated, including a
26 description of terms of the payment of rent or costs and
27 expenses of maintenance, management, upkeep, and replacement
28 of the facilities.

29 3. If the purchasers are required to pay a use fee, or
30 other payment for the use of the facilities, not including the
31 rent or maintenance, management, upkeep, or replacement costs

1 and expenses, the following statement in conspicuous type: The
2 purchasers or the owners'association(s) must pay use fees for
3 one or more facilities. Immediately following this statement,
4 a description of the use fees shall be included.

5 4. If any person other than the owners'association
6 has the right to a lien on the timeshare interests to secure
7 the payment of assessments, rent, or other exactions, a
8 statement in conspicuous type in substantially the following
9 form:

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

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

19
20 Immediately following the applicable statement, a description
21 of the lien right shall be included.

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

31

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

8 2. For a personal property timeshare plan, an
9 explanation of the status of title to the personal property
10 underlying the timeshare plan, including a statement of the
11 existence of any lien, defect, judgment, or other encumbrance
12 affecting the title to the personal property, and how such
13 lien, defect, judgment, or other encumbrance will be removed
14 or satisfied prior to closing.

15 (k) A description of any judgment against the
16 developer, the managing entity, the owner of the underlying
17 fee, or the owner of the underlying personal property fee,
18 which judgment is material to the timeshare plan; the status
19 of any pending suit to which the developer, the managing
20 entity, the owner of the underlying fee, or the owner of the
21 underlying personal property fee is a party, which suit is
22 material to the timeshare plan; and any other suit which is
23 material to the timeshare plan of which the developer,
24 managing entity, the owner of the underlying fee, or the owner
25 of the underlying personal property fee has actual knowledge.
26 If no judgments or pending suits exist, there shall be a
27 statement of such fact.

28 (l) A description of all unusual and material
29 circumstances, features, and characteristics of the real
30 property or personal property underlying or comprising the
31 timeshare plan.

1 (m) A description of any financing to be offered to
2 purchasers by the developer or any person or entity in which
3 the developer has a financial interest, together with a
4 disclosure that the description of such financing may be
5 changed by the developer and that any change in the financing
6 offered to prospective purchasers will not be deemed to be a
7 material change.

8 (n) A detailed explanation of any financial
9 arrangements which have been provided for completion of all
10 promised improvements.

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

30 (p) If any person other than the purchasers has the
31 right to retain control of the board of administration of the

1 owners' association, if any, for a period of time which may
2 exceed 1 year after the closing of the sale of a majority of
3 the timeshare interests in that timeshare plan to persons
4 other than successors or concurrent developers and the plan is
5 one in which all purchasers automatically become members of
6 the owners' association, a statement in conspicuous type in
7 substantially the following form: The developer (or other
8 person) has the right to retain control of the owners'
9 association after a majority of the timeshare interests have
10 been sold. Immediately following this statement, a description
11 of the applicable transfer of control provisions of the
12 timeshare plan shall be included.

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

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

27 (r) If the timeshare plan is part of a phase project,
28 a statement to that effect and a complete description of the
29 phasing. Notwithstanding any provisions of s. 718.110 or s.
30 719.1055, a developer may develop a timeshare condominium or a
31 timeshare cooperative in phases if the original declaration of

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

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

31

1 (t) If there is any land or personal property that is
2 offered by the developer for use by the purchasers and which
3 is neither owned by them nor leased to them, the owners'
4 association, or any entity controlled by the purchasers, a
5 statement describing the land or personal property, how it
6 will serve the timeshare plan, and the nature and term of
7 service.

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

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

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

27 3. The estimated items of expenses of the timeshare
28 plan and the managing entity, except as excluded under
29 subparagraph 2., including, but not limited to, if applicable,
30 the following items, which shall be stated either as
31 management expenses collectible by assessments or as expenses

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

1 required by the law of the situs state, if applicable, and
2 maintained for such accommodations and facilities.

3 (B) Reserves for deferred maintenance or capital
4 expenditures of accommodations and facilities of a personal
5 property timeshare plan, if any. If such reserves are
6 maintained, the estimated operating budget shall disclose the
7 methodology of how the reserves are calculated. If a personal
8 property timeshare plan does not require reserves, the
9 following statement, in conspicuous type, shall appear in both
10 the budget and the public offering statement:

11
12 The estimated operating budget for this personal property
13 timeshare plan does not include reserves for deferred
14 maintenance or capital expenditures; each timeshare interest
15 may be subject to substantial special assessments from time to
16 time because no such reserves exist.

17
18 (XII) Fees payable to the division.

19 b. Expenses for a purchaser:

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

22 (II) Rent payable by the purchaser directly to the
23 lessor or agent under any lease for the use of facilities,
24 which use and payment is a mandatory condition of ownership
25 and is not included in the common expenses or assessments for
26 common maintenance paid by the purchasers to the managing
27 entity.

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

1 5. If the developer intends to guarantee the level of
2 assessments, such guarantee must be based upon a good faith
3 estimate of the revenues and expenses of the timeshare plan.
4 The guarantee must include a description of the following:

5 a. The specific time period measured in one or more
6 calendar or fiscal years during which the guarantee will be in
7 effect.

8 b. A statement that the developer will pay all common
9 expenses incurred in excess of the total revenues of the
10 timeshare plan pursuant to s. 721.15(2) if the developer has
11 excused himself or herself from the payment of assessments
12 during the guarantee period.

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

17 6. If the developer intends to provide a trust fund to
18 defer or reduce the payment of annual assessments, a copy of
19 the trust instrument shall be attached as an exhibit and shall
20 include a description of such arrangement, including, but not
21 limited to:

22 a. The specific amount of such trust funds and the
23 source of the funds.

24 b. The name and address of the trustee.

25 c. The investment methods permitted by the trust
26 agreement.

27 d. A statement in conspicuous type that the funds from
28 the trust account may not cover all assessments and that there
29 is no guarantee that purchasers will not have to pay
30 assessments in the future.

31

1 7. The budget of a phase timeshare plan may contain a
2 note identifying the number of timeshare interests covered by
3 the budget, indicating the number of timeshare interests, if
4 any, estimated to be declared as part of the timeshare plan
5 during that calendar year, and projecting the common expenses
6 for the timeshare plan based upon the number of timeshare
7 interests estimated to be declared as part of the timeshare
8 plan during that calendar year.

9 (v) A schedule of estimated closing expenses to be
10 paid by a purchaser or lessee of a timeshare interest and a
11 statement as to whether a title opinion or title insurance
12 policy is available to the purchaser and, if so, at whose
13 expense.

14 (w) The identity of the developer and the chief
15 operating officer or principal directing the creation and sale
16 of the timeshare plan and a statement of the experience of
17 each in this field or, if no experience, a statement of that
18 fact.

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

22 (y) The name of any person who will or may have the
23 right to alter, amend, or add to the charges to which the
24 purchaser may be subject and the terms and conditions under
25 which such alterations, amendments, or additions may be
26 imposed.

27 (z) A statement of the purchaser's right of
28 cancellation of the purchase contract.

29 (aa) A description of the insurance coverage provided
30 for the timeshare plan.

31

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

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

9
10 The right to reserve a timeshare period is subject to rules
11 and regulations of the timeshare plan reservation system.

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

25
26 Florida law has been amended and certain provisions in [insert
27 appropriate reference to timeshare instrument or component
28 site document] that were in conformance with Florida law as it
29 existed at the time the timeshare plan was created are not in
30 conformance with current Florida law. These documents may only
31 be amended by [insert appropriate reference to person or

1 entity that has the right to amend or change the timeshare
2 instrument or component site document]. The developer does not
3 warrant that such documents are in technical compliance with
4 all applicable Florida laws and regulations. All questions
5 regarding amendment of these documents should be directed to
6 [insert appropriate reference to person or entity that has the
7 right to amend or change the timeshare instrument or component
8 site document].

9
10 (ee) Any other information that a seller, with the
11 approval of the division, desires to include in the public
12 offering statement.

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

- 19 1. The declaration of condominium.
- 20 2. The cooperative documents.
- 21 3. The declaration of covenants and restrictions.
- 22 4. The articles of incorporation creating the owners'
23 association.
- 24 5. The bylaws of the owners'association.
- 25 6. Any ~~The~~ ground lease or other underlying lease of
26 the real property associated with ~~on which~~ the timeshare plan
27 ~~is situated~~. In the case of a personal property timeshare
28 plan, any lease of the personal property associated with the
29 personal property timeshare plan.

30
31

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

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

6 9. The floor plan of each type of accommodation and
7 the plot plan showing the location of all accommodations and
8 facilities declared as part of the timeshare plan and filed
9 with the division.

10 10. The lease for any facilities.

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

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

17 13. The form of agreement for sale or lease of
18 timeshare interests.

19 14. The executed agreement for escrow of payments made
20 to the developer prior to closing and the form of any
21 agreement for escrow of ad valorem tax escrow payments, if
22 any, to be made into an ad valorem tax escrow account pursuant
23 to s. 192.037(6).

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

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

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

1 18. In the case of any personal property timeshare
2 plan in which the accommodations and facilities are located on
3 or in a documented vessel or foreign vessel as provided in s.
4 721.08(2)(c)3.e., a copy of the certificate of ownership of
5 such vessel and either a copy of the certificate of
6 documentation or certificate of registry of such vessel.

7 19. An executed affidavit given under oath by an
8 attorney licensed to practice law in any jurisdiction in the
9 United States stating that the attorney has researched the
10 applicable laws of the jurisdiction in which governing law has
11 been established and the laws of the jurisdiction in which the
12 vessel is registered, and has found that the timeshare
13 instrument complies with the provisions of s.
14 721.08(2)(c)3.e.(II)(C) and (III).

15 20.16- Any other documents or instruments creating the
16 timeshare plan.

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

26 (hh) Notwithstanding the provisions of this
27 subsection, the filed ~~registered~~ public offering statement for
28 a component site of a multisite timeshare plan filed pursuant
29 to this subsection may contain cross-references to information
30 contained in the related multisite timeshare plan filed

31

1 ~~registered~~ public offering statement filed pursuant to s.
2 721.55 in lieu of repeating such information.

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

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

14 (b) Copies of the exhibits required to be filed with
15 the division pursuant to subparagraphs (5)(ff)1., 2., 4., 5.,
16 8., and 20.16.

17 (c) A receipt for timeshare plan documents and a list
18 describing any exhibit to the filed ~~registered~~ public offering
19 statement filed with the division which is not delivered to
20 the purchaser. The division is authorized to prescribe by rule
21 the form of the receipt for timeshare plan documents and the
22 description of exhibits list that must be furnished to the
23 purchaser. The description of documents list utilized by a
24 developer shall be filed with the division for review as part
25 of the filed ~~registered~~ public offering statement pursuant to
26 this section. The developer shall be required to provide the
27 managing entity with a copy of the approved filed ~~registered~~
28 public offering statement and any approved amendments thereto
29 to be maintained by the managing entity as part of the books
30 and records of the timeshare plan pursuant to s. 721.13(3)(d).

31

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

4 (e) An executed copy of any document which the
5 purchaser signs.

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

8 Section 7. Paragraph (g) of subsection (1) of section
9 721.075, Florida Statutes, is amended and paragraph (e) is
10 added to subsection (2) of that section, to read:

11 721.075 Incidental benefits.--Incidental benefits
12 shall be offered only as provided in this section.

13 (1) Accommodations, facilities, products, services,
14 discounts, or other benefits which satisfy the requirements of
15 this subsection shall be subject to the provisions of this
16 section and exempt from the other provisions of this chapter
17 which would otherwise apply to such accommodations or
18 facilities if and only if:

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

22 (2) Each purchaser shall execute a separate
23 acknowledgment and disclosure statement with respect to all
24 incidental benefits, which statement shall include the
25 following information:

26 (e) A statement indicating the source of the services,
27 points, or other products that constitute the incidental
28 benefit.

29 Section 8. Section 721.08, Florida Statutes, is
30 amended to read:

31

1 721.08 Escrow accounts; nondisturbance instruments;
2 alternate security arrangements; transfer of legal title.--

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

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

29 (a) Cancellation.--In the event a purchaser gives a
30 valid notice of cancellation pursuant to s. 721.10 or is
31 otherwise entitled to cancel the sale, the funds or other

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

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

19 1. A statement that the purchaser has defaulted and
20 that the developer has not defaulted;

21 2. A brief explanation of the nature of the default
22 and the date of its occurrence;

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

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

30 (c) Compliance with conditions.--

31

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

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

8 (I) Expiration of the cancellation period.

9 (II) Completion of construction.

10 (III) Closing.

11 (IV) Either:

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

15 (B) Transfer by the developer of legal title to the
16 subject accommodations and facilities, or all use rights
17 therein, into to a trust satisfying the requirements of
18 subparagraph 4.~~sub-subparagraph 3.b.~~and the execution,
19 delivery,and recordation by each other interestholder of the
20 nondisturbance and notice to creditors instrument, as
21 described in this section.

22 b. A certified copy of each ~~the~~ recorded
23 nondisturbance and notice to creditors instrument ~~that~~
24 ~~complies with subsection (3).~~

25 c. One of the following:

26 (I) A copy of a memorandum of agreement, as defined in
27 s. 721.05~~(21)~~, together with satisfactory evidence that the
28 original memorandum of agreement has been irretrievably
29 delivered for recording to the appropriate official
30 responsible for maintaining the public records in the county
31 in which the subject accommodations and facilities are

1 located. The original memorandum of agreement must be recorded
2 within 180 days after the date on which the purchaser executed
3 her or his purchase agreement.

4 (II) A notice delivered for recording to the
5 appropriate official responsible for maintaining the public
6 records in each county in which the subject accommodations and
7 facilities are located notifying all persons of the identity
8 of an independent escrow agent or trustee satisfying the
9 requirements of subparagraph 4.~~sub-subparagraph 3.b.~~that
10 shall maintain separate books and records, in accordance with
11 good accounting practices, for the timeshare plan in which
12 timeshare licenses are to be sold. The books and records shall
13 indicate each accommodation and facility that is subject to
14 such a timeshare plan and each purchaser of a timeshare
15 license in the timeshare plan.

16 2. Timeshare estates.--If the timeshare plan is one in
17 which timeshare estates are to be sold,~~other than interests~~
18 ~~in a trust pursuant to subparagraph 3.,~~and no cancellation or
19 default has occurred, the escrow agent may release the
20 escrowed funds or other property to or on the order of the
21 developer upon presentation of:

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

24 (I) Expiration of the cancellation period.

25 (II) Completion of construction.

26 (III) Closing.

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

30 c. Evidence that each accommodation and facility:

31

1 (I) Is free and clear of the claims of any
2 interestholders, other than the claims of interestholders
3 that, through a recorded instrument, are irrevocably made
4 subject to the timeshare instrument and the use rights of
5 purchasers made available through the timeshare instrument;

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

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

11 d. Evidence that the timeshare estate:

12 (I) Is free and clear of the claims of any
13 interestholders, other than the claims of interestholders
14 that, through a recorded instrument, are irrevocably made
15 subject to the timeshare instrument and the use rights of
16 purchasers made available through the timeshare instrument;
17 or

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

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

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

31 (I) Expiration of the cancellation period.

1 (II) Completion of construction.
2 ~~(III) Transfer of the subject accommodations and~~
3 ~~facilities, or all use rights therein, to the trust.~~
4 ~~(IV) Closing.~~
5 b. If the personal property timeshare interest is sold
6 by agreement for transfer, evidence that the agreement for
7 transfer complies fully with s. 721.06 and this section.
8 c. Evidence that one of the following has occurred:
9 (I) Transfer by the owner of the underlying personal
10 property of legal title to the subject accommodations and
11 facilities or all use rights therein into a trust satisfying
12 the requirements of subparagraph 4.; or
13 (II) Transfer by the owner of the underlying personal
14 property of legal title to the subject accommodations and
15 facilities or all use rights therein into an owners'
16 association satisfying the requirements of subparagraph 5.
17 d. Evidence of compliance with the provisions of
18 subparagraph 6., if required.
19 e. If a personal property timeshare plan is created
20 with respect to accommodations and facilities that are located
21 on or in an oceangoing vessel, including a "documented vessel"
22 or a "foreign vessel," as defined and governed by 46 U.S.C.,
23 chapter 301:
24 (I) In making the transfer required in
25 sub-subparagraph c., the developer shall use as its transfer
26 instrument a document that establishes and protects the
27 continuance of the use rights in the subject accommodations
28 and facilities in a manner that is enforceable by the trust or
29 owners' association.
30
31

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

4 (A) Prohibit the vessel owner, the developer, any
5 manager or operator of the vessel, the owners' association or
6 the trustee, the managing entity, or any other person from
7 incurring any liens against the vessel except for liens that
8 are required for the operation and upkeep of the vessel,
9 including liens for fuel expenditures, repairs, crews' wages,
10 and salvage, and except as provided in sub-sub-subparagraphs
11 4.b.(III) and 5.b.(III). All expenses, fees, and taxes
12 properly incurred in connection with the creation,
13 satisfaction, and discharge of any such permitted lien, or a
14 prorated portion thereof if less than all of the
15 accommodations on the vessel are subject to the timeshare
16 plan, shall be common expenses of the timeshare plan.

17 (B) Grant a lien against the vessel in favor of the
18 owners' association or trustee to secure the full and faithful
19 performance of the vessel owner and developer of all of their
20 obligations to the purchasers.

21 (C) Establish governing law in a jurisdiction that
22 recognizes and will enforce the timeshare instrument and the
23 laws of the jurisdiction of registry of the vessel.

24 (D) Require that a description of the use rights of
25 purchasers be posted and displayed on the vessel in a manner
26 that will give notice of such rights to any party examining
27 the vessel. This notice must identify the owners' association
28 or trustee and include a statement disclosing the limitation
29 on incurring liens against the vessel described in
30 sub-sub-sub-subparagraph (A).

31

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

3 (F) The owners' association created under subparagraph
4 5. or trustee created under subparagraph 4. shall have access
5 to any certificates of classification in accordance with the
6 timeshare instrument.

7 (III) If the vessel is a foreign vessel, the vessel
8 must be registered in a jurisdiction that permits a filing
9 evidencing the use rights of purchasers in the subject
10 accommodations and facilities, offers protection for such use
11 rights against unfiled and inferior claims, and recognizes the
12 document or instrument creating such use rights as a lien
13 against the vessel.

14 (IV) In addition to the disclosures required by s.
15 721.07(5), the public offering statement and purchase contract
16 must contain a disclosure in conspicuous type in substantially
17 the following form:

18
19 The laws of the State of Florida govern the offering of this
20 timeshare plan in this state. There are inherent risks in
21 purchasing a timeshare interest in this timeshare plan because
22 the accommodations and facilities of the timeshare plan are
23 located on a vessel that will sail into international waters
24 and into waters governed by many different jurisdictions.
25 Therefore, the laws of the State of Florida cannot fully
26 protect your purchase of an interest in this timeshare plan.
27 Specifically, management and operational issues may need to be
28 addressed in the jurisdiction in which the vessel is
29 registered, which is _____(insert jurisdiction in which
30 vessel is registered). Concerns of purchasers may be sent to
31

1 _____(insert name of applicable regulatory agency and
2 address).

3
4 4. Trust.--

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

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

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

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

30 (III) The trustee shall not convey, hypothecate,
31 mortgage, assign, lease, or otherwise transfer or encumber in

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

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

30 (V) The trustee shall not resign upon less than 90
31 days' prior written notice to the managing entity and the

1 division. No resignation shall become effective until a
2 substitute trustee, approved by the division, is appointed by
3 the managing entity and accepts the appointment.

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

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

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

20 5. Owners' association.--

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

25 b. Prior to the transfer by each interestholder of the
26 subject accommodations and facilities, or all use rights
27 therein, to an owners' association, any lien or other
28 encumbrance against such accommodations and facilities, or use
29 rights therein, shall be made subject to a nondisturbance and
30 notice to creditors instrument pursuant to subsection (3). No
31 transfer pursuant to this subparagraph shall become effective

1 until the owners' association accepts such transfer and the
2 responsibilities set forth herein. An owners' association
3 established pursuant to this subparagraph shall comply with
4 the following provisions:

5 (I) The owners' association shall be a business entity
6 authorized and qualified to conduct business in this state.
7 Control of the board of directors of the owners' association
8 must be independent from any developer or managing entity of
9 the timeshare plan or any interestholder.

10 (II) The bylaws of the owners' association shall
11 provide that the corporation may not be voluntarily dissolved
12 without the unanimous vote of all owners of personal property
13 timeshare interests so long as any purchaser has a right to
14 occupy any portion of the timeshare property pursuant to the
15 timeshare plan.

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

31

1 division's interpretation of the statute as it relates to the
2 petition.

3 (IV) All purchasers of the timeshare plan shall be
4 members of the owners' association and shall be entitled to
5 vote on matters requiring a vote of the owners' association as
6 provided in this chapter or the timeshare instrument. The
7 owners' association shall act as a fiduciary to the purchasers
8 of the timeshare plan. The articles of incorporation
9 establishing the owners' association shall set forth the
10 duties of the owners' association. All expenses reasonably
11 incurred by the owners' association in the performance of its
12 duties, together with any reasonable compensation of the
13 officers or directors of the owners' association, shall be
14 common expenses of the timeshare plan.

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

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

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

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

7
8 The further transfer or encumbrance of the property subject to
9 this certificate of title, or any lien or encumbrance thereon,
10 is subject to the requirements of section 721.17, Florida
11 Statutes, and the transferee or lienor agrees to be bound by
12 all of the obligations set forth therein.

13
14 ~~7.4.~~ If the developer has previously provided a
15 certified copy of any document required by this paragraph, she
16 or he may for all subsequent disbursements substitute a true
17 and correct copy of the certified copy, provided no changes to
18 the document have been made or are required to be made.

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

26 (d) Substitution of other assurances for escrowed
27 funds or other property.--Funds or other property escrowed as
28 provided in this section may be released from escrow to or on
29 the order of the developer upon acceptance by the director of
30 the division of other assurances pursuant to subsection (5) as
31 a substitute for such escrowed funds or other property. The

1 amount of escrowed funds or other property that may be
2 released pursuant to this paragraph shall be equal to or less
3 than the face amount of the assurances accepted by the
4 director from time to time.

5 (3) NONDISTURBANCE AND NOTICE TO CREDITORS

6 INSTRUMENT.--The nondisturbance and notice to creditors
7 instrument, when required, shall be executed by each
8 interestholder.

9 (a) The instrument shall state that:

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

13 2.(b) The instrument shall be effective as between the
14 timeshare purchaser and interestholder despite any rejection
15 or cancellation of the contract between the timeshare
16 purchaser and developer as a result of bankruptcy proceedings
17 of the developer; and

18 3.(c) So long as a purchaser remains in good standing
19 with respect to her or his obligations under the timeshare
20 instrument, including making all payments to the managing
21 entity required by the timeshare instrument with respect to
22 the annual common expenses of the timeshare ~~the interestholder~~
23 ~~has any interest in the accommodations, facilities, or plan,~~
24 then the interestholder will fully honor all the rights of
25 such purchaser relating to the subject accommodation or
26 facility as reflected ~~timeshare purchasers in and to the~~
27 timeshare instrument ~~plan, will honor the purchasers' right to~~
28 ~~cancel their contracts and receive appropriate refunds, and~~
29 ~~will comply with all other requirements of this chapter and~~
30 ~~rules promulgated hereunder.~~

31

1 The instrument shall contain language sufficient to provide
2 subsequent creditors of the developer and interestholders with
3 notice of the existence of the timeshare plan and of the
4 rights of purchasers and shall serve to protect the interest
5 of the timeshare purchasers from any claims of subsequent
6 creditors.

7 (b) Real property timeshare plans.--For real property
8 timeshare plans, the instrument shall be recorded in the
9 public records of the county in which the subject
10 accommodations or facilities are located.

11 (c) Personal property timeshare plans.--For personal
12 property timeshare plans, the instrument shall be included
13 within or attached as an exhibit to a security agreement or
14 other agreement executed by the interestholder. Constructive
15 notice of such security agreement or other agreement shall be
16 filed in the manner prescribed by chapter 679 or other
17 applicable law.

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

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

27 (5)(a) In lieu of any escrows required by this
28 section, the director of the division shall have the
29 discretion to accept other assurances, including, but not
30 limited to, a surety bond issued by a company authorized and
31 licensed to do business in this state as surety or an

1 irrevocable letter of credit in an amount equal to the escrow
2 requirements of this section.

3 (b) Notwithstanding anything in chapter 718 or chapter
4 719 to the contrary, the director of the division shall have
5 the discretion to accept other assurances pursuant to
6 paragraph (a) in lieu of any requirement that completion of
7 construction of one or more accommodations or facilities of a
8 timeshare plan be accomplished prior to closing.

9 (c) In lieu of a nondisturbance and notice to
10 creditors instrument, when such an instrument is otherwise
11 required by this section, the director of the division shall
12 have the discretion to accept alternate means of protecting
13 the continuing rights of purchasers in and to the subject
14 accommodations or facilities of the timeshare plan as and for
15 the term described in the timeshare instrument, and of
16 providing effective constructive notice of such continuing
17 purchaser rights to subsequent owners of the accommodations or
18 facilities and to subsequent creditors of the affected
19 interestholder.

20 (d) In lieu of the requirements in s.
21 721.08(2)(c)3.e.(III), the director of the division shall have
22 the discretion to accept alternate means of protecting the use
23 rights of purchasers in the subject accommodations and
24 facilities of the timeshare plan against unfiled and inferior
25 claims.

26 (6) An escrow agent holding funds escrowed pursuant to
27 this section may invest such escrowed funds in securities of
28 the United States Government, or any agency thereof, or in
29 savings or time deposits in institutions insured by an agency
30 of the United States Government. The right to receive the
31 interest generated by any such investments shall be paid to

1 the party to whom the escrowed funds or other property are
2 paid unless otherwise specified by contract.

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

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

30 (9) For each transfer of the legal title to a
31 timeshare estate by a developer, the developer shall deliver

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

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

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

1 property, as required by this section, is prima facie evidence
2 of an intentional and purposeful violation of this section.

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

7 721.09 Reservation agreements; escrows.--

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

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

18 1. The seller complies with the provisions of s.
19 721.11 with respect to such advertising material.

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

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

31

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

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

6 (3)

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

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

18 721.11 Advertising materials; oral statements.--

19 (1)(a) A developer may file ~~All~~ advertising material
20 ~~must be filed~~ with the division for review by the developer
21 ~~prior to use. At the request of the developer,~~The division
22 shall review any the advertising material filed for review by
23 the developer and notify the developer of any deficiencies
24 within 10 days after the filing. If the developer corrects the
25 deficiencies or if there are no deficiencies, the division
26 shall notify the developer of its approval of the advertising
27 materials. Notwithstanding anything to the contrary contained
28 in this subsection, so long as the developer uses advertising
29 materials approved by the division, following the developer's
30 request for a review, the developer shall not be liable for

31

1 any violation of this section or s. 721.111 with respect to
2 such advertising materials.

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

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

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

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

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

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

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

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

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

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

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

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

11
12 [Description of possible component site] is only a possible
13 component site which may never be added to the multisite
14 timeshare plan (or multisite vacation ownership plan or
15 multisite vacation plan or vacation club). Do not purchase an
16 interest in the multisite timeshare plan (or multisite
17 vacation ownership plan or multisite vacation plan or vacation
18 club) in reliance upon the addition of this component site.

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

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

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

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

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

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

24 721.13 Management.--

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

31

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

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

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

22 (2)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (6)

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

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

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

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

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

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

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

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

23 721.14 Discharge of managing entity.--

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

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

29 721.15 Assessments for common expenses.--

30 (2)

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

20 721.24 Firesafety.--

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

30 Section 22. Section 721.52, Florida Statutes, is
31 amended to read:

1 721.52 Definitions.--As used in this chapter, the
2 term:

3 (1) "Applicable law" means the law of the jurisdiction
4 where the accommodations and facilities referred to are
5 located.

6 (2) "Component site" means a specific geographic site
7 where a portion of the accommodations and facilities of the
8 multisite timeshare plan are located. If permitted under
9 applicable law, separate phases operated as a single
10 development located at a specific geographic site under common
11 management shall be deemed a single component site for
12 purposes of this part.

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

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

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

28 (b) The term is for a period of 3 years or less,
29 regardless of the purchaser's contractually specified maximum
30 total financial obligation, if any. For purposes of
31 determining the term of such use and occupancy rights, the

1 period of any optional renewals which a purchaser, in his or
2 her sole discretion, may elect to exercise, whether or not for
3 additional consideration, shall not be included. For purposes
4 of determining the term of such use and occupancy rights, the
5 period of any automatic renewals shall be included unless a
6 purchaser has the right to terminate the membership at any
7 time and receive a pro rata refund or the purchaser receives a
8 notice no less than 30 days and no more than 60 days prior to
9 the date of renewal informing the purchaser of the right to
10 terminate at any time prior to the date of automatic renewal.

11

12 Multisite timeshare plan does not mean an exchange program as
13 defined in s. 721.05. Timeshare estates may only be offered in
14 a multisite timeshare plan pursuant to s. 721.57.

15 (5) "Nonspecific multisite timeshare plan" means a
16 multisite timeshare plan containing timeshare licenses or
17 personal property timeshare interests, with respect to which a
18 purchaser receives a right to use all of the accommodations
19 and facilities, if any, of the multisite timeshare plan
20 through the reservation system, but no specific right to use
21 any particular accommodations and facilities for the remaining
22 term of the multisite timeshare plan in the event that the
23 reservation system is terminated for any reason prior to the
24 expiration of the term of the multisite timeshare plan.

25 (6)~~(5)~~ "Reservation system" means the method,
26 arrangement, or procedure by which a purchaser, in order to
27 reserve the use and occupancy of any accommodation or facility
28 of the multisite timeshare plan for one or more use periods,
29 is required to compete with other purchasers in the same
30 multisite timeshare plan regardless of whether such
31 reservation system is operated and maintained by the multisite

1 timeshare plan managing entity, an exchange company, or any
2 other person. In the event that a purchaser is required to use
3 an exchange program as the purchaser's principal means of
4 obtaining the right to use and occupy a multisite timeshare
5 plan's accommodations and facilities, such arrangement shall
6 be deemed a reservation system. When an exchange company
7 utilizes a mechanism for the exchange of use of timeshare
8 periods among members of an exchange program, such utilization
9 is not a reservation system of a multisite timeshare plan.

10 (7) "Specific multisite timeshare plan" means a
11 multisite timeshare plan containing timeshare licenses or
12 personal property timeshare interests, with respect to which a
13 purchaser receives a specific right to use accommodations and
14 facilities, if any, at one component site of a multisite
15 timeshare plan, together with use rights in the other
16 accommodations and facilities of the multisite timeshare plan
17 created by or acquired through the reservation system.

18 (8)~~(6)~~ "Vacation club" means a multisite timeshare
19 plan.

20 Section 23. Paragraph (a) of subsection (1) of section
21 721.53, Florida Statutes, is amended, and paragraph (f) is
22 added to that subsection, to read:

23 721.53 Subordination instruments; alternate security
24 arrangements.--

25 (1) With respect to each accommodation or facility of
26 a multisite timeshare plan, the developer shall provide the
27 division with satisfactory evidence that one of the following
28 has occurred with respect to each interestholder prior to
29 offering the accommodation or facility as a part of the
30 multisite timeshare plan:

31

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

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

8 Section 24. Section 721.54, Florida Statutes, is
9 amended to read:

10 721.54 Term of nonspecific multisite timeshare
11 plans.--It shall be a violation of this part to represent to a
12 purchaser of a nonspecific multisite timeshare plan as defined
13 in s. 721.52(5)~~721.552(4)~~that the term of the plan for that
14 purchaser is longer than the shortest term of availability of
15 any of the accommodations included within the plan at the time
16 of purchase.

17 Section 25. Section 721.55, Florida Statutes, is
18 amended to read:

19 721.55 Multisite timeshare plan public offering
20 statement.--Each filed ~~registered~~ public offering statement
21 for a multisite timeshare plan shall contain the information
22 required by this section and shall comply with the provisions
23 of s. 721.07, except as otherwise provided therein. The
24 division is authorized to provide by rule the method by which
25 a developer must provide such information to the division.
26 Each multisite timeshare plan filed ~~registered~~ public offering
27 statement shall contain the following information and
28 disclosures:

29 (1) A cover page containing:

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

31 (b) The following statement in conspicuous type:

1
2 This public offering statement contains important
3 matters to be considered in acquiring an interest in a
4 multisite timeshare plan (or multisite vacation ownership plan
5 or multisite vacation plan or vacation club). The statements
6 contained herein are only summary in nature. A prospective
7 purchaser should refer to all references, accompanying
8 exhibits, contract documents, and sales materials. The
9 prospective purchaser should not rely upon oral
10 representations as being correct and should refer to this
11 document and accompanying exhibits for correct
12 representations.

13
14 (2) A summary containing all statements required to be
15 in conspicuous type in the public offering statement and in
16 all exhibits thereto.

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

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

21 (a) A description of the multisite timeshare plan,
22 including its term, legal structure, and form of ownership.
23 For multisite timeshare plans in which the purchaser will
24 receive a timeshare estate pursuant to s. 721.57 and for ~~or a~~
25 specific multisite timeshare plans license as defined in s.
26 ~~721.552(4)~~, the description must also include the term of each
27 component site within the multisite timeshare plan.

28 (b) A description of the structure and ownership of
29 the reservation system together with a disclosure of the
30 entity responsible for the operation of the reservation
31 system. The description shall include the financial terms of

1 any lease of the reservation system, if applicable. The
2 developer shall not be required to disclose the financial
3 terms of any such lease if such lease is prepaid in full for
4 the term of the multisite timeshare plan or to any extent that
5 neither purchasers nor the managing entity will be required to
6 make payments for the continued use of the system following
7 default by the developer or termination of the managing
8 entity.

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

17 2. In lieu of describing the rules and regulations of
18 the reservation system in the public offering statement text,
19 the developer may attach the rules and regulations as a
20 separate public offering statement exhibit, together with a
21 cross-reference in the public offering statement text to such
22 exhibit.

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

29

30 Component sites contained in the multisite timeshare
31 plan (or multisite vacation ownership plan or multisite

1 vacation plan or vacation club) are subject to priority
2 reservation features which may affect your ability to obtain a
3 reservation.

4
5 (e) A summary of the material rules and regulations,
6 if any, other than the reservation system rules and
7 regulations, affecting the purchaser's use of each
8 accommodation and facility at each component site.

9 (f) If the provisions of s. 721.552 and the timeshare
10 instrument permit additions, substitutions, or deletions of
11 accommodations or facilities, the public offering statement
12 must include substantially the following information:

13 1. Additions.--

14 a. A description of the basis upon which new
15 accommodations and facilities may be added to the multisite
16 timeshare plan; by whom additions may be made; and the
17 anticipated effect of the addition of new accommodations and
18 facilities upon the reservation system, its priorities, its
19 rules and regulations, and the availability of existing
20 accommodations and facilities.

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

25 c. The developer shall also disclose any extent to
26 which the purchasers of the multisite timeshare plan will have
27 the right to consent to any proposed additions; if the
28 purchasers do not have the right to consent, the developer
29 must include the following disclosure in conspicuous type:

30
31

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

11

12 2. Substitutions.--

13 a. A description of the basis upon which new
14 accommodations and facilities may be substituted for existing
15 accommodations and facilities of the multisite timeshare plan;
16 by whom substitutions may be made; the basis upon which the
17 determination may be made to cause such substitutions to
18 occur; and any limitations upon the ability to cause
19 substitutions to occur.

20 b. The developer shall also disclose any extent to
21 which purchasers will have the right to consent to any
22 proposed substitutions; if the purchasers do not have the
23 right to consent, the developer must include the following
24 disclosure in conspicuous type:

25

26 New accommodations and facilities may be substituted
27 for existing accommodations and facilities of this multisite
28 timeshare plan (or multisite vacation ownership plan or
29 multisite vacation plan or vacation club) without the consent
30 of the purchasers. The replacement accommodations and
31 facilities may be located at a different place or may be of a

1 different type or quality than the replaced accommodations and
2 facilities. The substitution of accommodations and facilities
3 may also result in an increase in the annual assessment
4 against purchasers for common expenses.

5
6 3. Deletions.--A description of any provision of the
7 timeshare instrument governing deletion of accommodations or
8 facilities from the multisite timeshare plan. If the timeshare
9 instrument does not provide for business interruption
10 insurance in the event of a casualty, or if it is unavailable,
11 or if the instrument permits the developer, the managing
12 entity, or the purchasers to elect not to reconstruct after
13 casualty under certain circumstances or to secure replacement
14 accommodations or facilities in lieu of reconstruction, the
15 public offering statement must contain a disclosure that
16 during the reconstruction, replacement, or acquisition period,
17 or as a result of a decision not to reconstruct, purchasers of
18 the plan may temporarily compete for available accommodations
19 on a greater than one-to-one purchaser to accommodation ratio.

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

22 1. The identity of the developer; the developer's
23 business address; the number of years of experience the
24 developer has in the timeshare, hotel, motel, travel, resort,
25 or leisure industries; and a description of any pending
26 lawsuit or judgment against the developer which is material to
27 the plan. If there are no such pending lawsuits or judgments,
28 there shall be a statement to that effect.

29 2. The identity of the managing entity of the
30 multisite timeshare plan; the managing entity's business
31 address; the number of years of experience the managing entity

1 has in the timeshare, hotel, motel, travel, resort, or leisure
2 industries; and a description of any lawsuit or judgment
3 against the managing entity which is material to the plan. If
4 there are no pending lawsuits or judgments, there shall be a
5 statement to that effect. The description of the managing
6 entity shall also include a description of the relationship
7 among the managing entity of the multisite timeshare plan and
8 the various component site managing entities.

9 (h) A description of the purchaser's liability for
10 common expenses of the multisite timeshare plan, including the
11 following:

12 1. A description of the common expenses of the plan,
13 including the method of allocation and assessment of such
14 common expenses, whether component site common expenses and
15 real estate taxes are included within the total common expense
16 assessment of the multisite timeshare plan, and, if not, the
17 manner in which timely payment of component site common
18 expenses and real estate taxes shall be accomplished.

19 2. A description of any cap imposed upon the level of
20 common expenses payable by the purchaser. In no event shall
21 the total common expense assessment for the multisite
22 timeshare plan in a given calendar year exceed 125 percent of
23 the total common expense assessment for the plan in the
24 previous calendar year.

25 3. A description of the entity responsible for the
26 determination of the common expenses of the multisite
27 timeshare plan, as well as any entity which may increase the
28 level of common expenses assessed against the purchaser at the
29 multisite timeshare plan level.

30 4. A description of the method used to collect common
31 expenses, including the entity responsible for such

1 collections, and the lien rights of any entity for nonpayment
2 of common expenses. If the common expenses of any component
3 site are collected by the managing entity of the multisite
4 timeshare plan, a statement to that effect together with the
5 identity and address of the escrow agent required by s.

6 721.56(3).

7 5. If the purchaser will receive an interest in a
8 nonspecific multisite timeshare plan license ~~as defined in s.~~
9 ~~721.552(4)~~, a statement that a multisite timeshare plan budget
10 is attached to the public offering statement as an exhibit
11 pursuant to paragraph (7)(c). The multisite timeshare plan
12 budget shall comply with the provisions of s. 721.07(5)(u).

13 6. If the developer intends to guarantee the level of
14 assessments for the multisite timeshare plan, such guarantee
15 must be based upon a good faith estimate of the revenues and
16 expenses of the multisite timeshare plan. The guarantee must
17 include a description of the following:

18 a. The specific time period, measured in one or more
19 calendar or fiscal years, during which the guarantee will be
20 in effect.

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

25 c. The level, expressed in total dollars, at which the
26 developer guarantees the assessments. If the developer has
27 reserved the right to extend or increase the guarantee level,
28 a disclosure must be included to that effect.

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

1 a. Any limitation upon annual increases in common
2 expenses;

3 b. The existence of any bad debt or working capital
4 reserve; and

5 c. The existence of any replacement or deferred
6 maintenance reserve.

7 (i) If there are any restrictions upon the sale,
8 transfer, conveyance, or leasing of an interest in a multisite
9 timeshare plan, a description of the restrictions together
10 with a statement in conspicuous type in substantially the
11 following form:

12
13 The sale, lease, or transfer of interests in this
14 multisite timeshare plan is restricted or controlled.

15
16 (j) The following statement in conspicuous type in
17 substantially the following form:

18
19 The purchase of an interest in a multisite timeshare
20 plan (or multisite vacation ownership plan or multisite
21 vacation plan or vacation club) should be based upon its value
22 as a vacation experience or for spending leisure time, and not
23 considered for purposes of acquiring an appreciating
24 investment or with an expectation that the interest may be
25 resold.

26
27 (k) If the multisite timeshare plan provides
28 purchasers with the opportunity to participate in an exchange
29 program, a description of the name and address of the exchange
30 company and the method by which a purchaser accesses the
31 exchange program. In lieu of this requirement, the public

1 offering statement text may contain a cross-reference to other
2 provisions in the public offering statement or in an exhibit
3 containing this information.

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

8 1. The name and address of each component site.

9 2. The number of accommodations, timeshare interests,
10 and timeshare periods, expressed in periods of 7-day use
11 availability, committed to the multisite timeshare plan and
12 available for use by purchasers.

13 3. Each type of accommodation in terms of the number
14 of bedrooms, bathrooms, sleeping capacity, and whether or not
15 the accommodation contains a full kitchen. For purposes of
16 this description, a full kitchen shall mean a kitchen having a
17 minimum of a dishwasher, range, sink, oven, and refrigerator.

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

20 a. The intended use of the facility, if not apparent
21 from the description.

22 b. Any user fees associated with a purchaser's use of
23 the facility.

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

28 (5) Such other information as the division determines
29 is necessary to fairly, meaningfully, and effectively disclose
30 all aspects of the multisite timeshare plan, including, but
31 not limited to, any disclosures made necessary by the

1 operation of s. 721.03(8). However, if a developer has, in
2 good faith, attempted to comply with the requirements of this
3 section, and if, in fact, the developer has substantially
4 complied with the disclosure requirements of this chapter,
5 nonmaterial errors or omissions shall not be actionable.

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

9 (7) The following documents shall be included as
10 exhibits to the filed ~~registered~~ public offering statement, if
11 applicable:

12 (a) The timeshare instrument.

13 (b) The reservation system rules and regulations.

14 (c) The multisite timeshare plan budget pursuant to
15 subparagraph (4)(h)5.

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

18 (e) Any contract, agreement, or other document through
19 which component sites are affiliated with the multisite
20 timeshare plan.

21 (f) Any escrow agreement required pursuant to s.
22 721.08 or s. 721.56(3).

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

25 (h) The form receipt for multisite timeshare plan
26 documents required to be given to the purchaser pursuant to s.
27 721.551(2)(b).

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

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

1 (k) Any subordination instrument required by s.
2 721.53.

3 (1)1. If the multisite timeshare plan contains any
4 component sites located in this state, the information
5 required by s. 721.07(5) pertaining to each such component
6 site unless exempt pursuant to s. 721.03.

7 2. If the purchaser will receive a timeshare estate
8 pursuant to s. 721.57, or an interest in a specific multisite
9 timeshare plan, license as defined in s. 721.552(4) in a
10 component site located outside of this state but which is
11 offered in this state, the information required by s.
12 721.07(5) pertaining to that component site, ~~+~~ provided,
13 however, that the provisions of s. 721.07(5)(u) shall only
14 require disclosure of information related to the estimated
15 budget for the timeshare plan and purchaser's expenses as
16 required by the jurisdiction in which the component site is
17 located.

18 (8)(a) A timeshare plan containing only one component
19 site must be filed with the division as a multisite timeshare
20 plan if the timeshare instrument reserves the right for the
21 developer to add future component sites. However, if the
22 developer fails to add at least one additional component site
23 to a timeshare plan described in this paragraph within 3 years
24 after the date the plan is initially filed with the division,
25 the multisite filing for such plan shall thereupon terminate,
26 and the developer may not thereafter offer any further
27 interests in such plan unless and until he or she refiles such
28 plan with the division pursuant to this chapter.

29 (b) The public offering statement for any timeshare
30 plan described in paragraph (a) must include the following
31 disclosure in conspicuous type:

1
2 This timeshare plan has been filed as a multisite
3 timeshare plan (or multisite vacation ownership plan or
4 multisite vacation plan or vacation club); however, this plan
5 currently contains only one component site. The developer is
6 not required to add any additional component sites to the
7 plan. Do not purchase an interest in this plan in reliance
8 upon the addition of any other component sites.

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

11 721.551 Delivery of multisite timeshare plan purchaser
12 public offering statement.--

13 (2) The developer shall furnish each purchaser with
14 the following:

15 (b) A receipt for multisite timeshare plan documents
16 and a list describing any exhibit to the filed ~~registered~~
17 public offering statement which is not delivered to the
18 purchaser. The division is authorized to prescribe by rule the
19 form of the receipt for multisite timeshare plan documents and
20 the description of exhibits list that must be furnished to the
21 purchaser pursuant to this section.

22 (c) If the purchaser will receive a timeshare estate
23 pursuant to s. 721.57, or an interest in a specific multisite
24 timeshare plan, ~~license as defined in s. 721.552(4)~~ in a
25 component site located in this state, the developer shall also
26 furnish the purchaser with the information required to be
27 delivered pursuant to s. 721.07(6)(a) and (b) for the
28 component site in which the purchaser will receive an estate
29 or interest in a specific multisite timeshare plan ~~license~~.

30 (f) The developer shall be required to provide the
31 managing entity of the multisite timeshare plan with a copy of

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

5 Section 27. Paragraph (a) of subsection (2), paragraph
6 (c) of subsection (3), and subsections (4) and (5) of section
7 721.552, Florida Statutes, are amended to read:

8 721.552 Additions, substitutions, or deletions of
9 component site accommodations or facilities; purchaser
10 remedies for violations.--Additions, substitutions, or
11 deletions of component site accommodations or facilities may
12 be made only in accordance with the following:

13 (2) SUBSTITUTIONS.--

14 (a) Substitutions are available only for nonspecific
15 multisite timeshare ~~license~~ plans ~~as defined in subsection~~
16 ~~(4)~~. Specific multisite timeshare ~~license~~ plans or as defined
17 ~~in subsection (4) and~~ plans offering timeshare estates
18 pursuant to s. 721.57 may not contain an accommodation
19 substitution right.

20 (3) DELETIONS.--

21 (c) Automatic deletion.--The timeshare instrument may
22 provide that a component site will be automatically deleted
23 upon the expiration of its term in a timeshare plan other than
24 a nonspecific multisite timeshare ~~license~~ plan or as otherwise
25 provided in the timeshare instrument. However, the timeshare
26 instrument must also provide that in the event a component
27 site is deleted from the plan in this manner, a sufficient
28 number of purchasers of the plan will also be deleted so as to
29 maintain no greater than a one-to-one purchaser to
30 accommodation ratio.

31

1 ~~(4) SPECIFIC AND NONSPECIFIC TIMESHARE LICENSES.--For~~
2 ~~purposes of this chapter, a specific timeshare license means~~
3 ~~one with respect to which a purchaser receives a specific~~
4 ~~right to use accommodations and facilities, if any, at one~~
5 ~~component site of a multisite timeshare plan, together with~~
6 ~~use rights in the other accommodations and facilities of the~~
7 ~~multisite timeshare plan created by or acquired through the~~
8 ~~reservation system. For purposes of this chapter, a~~
9 ~~nonspecific timeshare license means one with respect to which~~
10 ~~a purchaser receives a right to use all of the accommodations~~
11 ~~and facilities, if any, of a multisite timeshare plan through~~
12 ~~the reservation system, but no specific right to use any~~
13 ~~particular accommodations and facilities for the remaining~~
14 ~~term of the multisite timeshare plan in the event that the~~
15 ~~reservation system is terminated for any reason prior to the~~
16 ~~expiration of the term of the multisite timeshare plan.~~

17 ~~(4)(5)~~ VIOLATIONS; PURCHASER REMEDIES.--All purchaser
18 remedies pursuant to s. 721.21 shall be available for any
19 violation of the provisions of this section.

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

22 721.56 Management of multisite timeshare plans;
23 reservation systems; demand balancing.--

24 (4) The managing entity of a multisite timeshare plan
25 shall comply fully with the requirements of s. 721.13, subject
26 to the provisions of s. 721.13(11) for personal property
27 timeshare plans; however, with respect to a given component
28 site, the managing entity of the multisite timeshare plan
29 shall not be responsible for compliance as the managing entity
30 of that component site unless the managing entity of the
31 multisite timeshare plan is also the managing entity of that

1 component site. Unless the timeshare instrument provides
2 otherwise, the operator of the reservation system is the
3 managing entity of a multisite timeshare plan.

4 (5)(a)1. The reservation system is a facility of any
5 nonspecific ~~timeshare license~~ multisite timeshare plan ~~as~~
6 ~~defined in s. 721.552(4)~~. The reservation system is not a
7 facility of any specific ~~timeshare license~~ multisite timeshare
8 plan ~~as defined in s. 721.552(4)~~, nor is it a facility of any
9 multisite timeshare plan in which timeshare estates are
10 offered pursuant to s. 721.57.

11 2. The reservation system of any multisite timeshare
12 plan shall include any computer software and hardware employed
13 for the purpose of enabling or facilitating the operation of
14 the reservation system. Nothing contained in this part shall
15 preclude a manager or management firm that is serving as
16 managing entity of a multisite timeshare plan from providing
17 in its contract with the purchasers or owners' association of
18 the multisite timeshare plan or in the timeshare instrument
19 that the manager or management firm owns the reservation
20 system and that the managing entity shall continue to own the
21 reservation system in the event the purchasers discharge the
22 managing entity pursuant to s. 721.14.

23 (b) In the event of a termination of a managing entity
24 of a nonspecific ~~license~~ multisite timeshare plan ~~as defined~~
25 ~~in s. 721.552(4)~~, which managing entity owns the reservation
26 system, irrespective of whether the termination is voluntary
27 or involuntary and irrespective of the cause of such
28 termination, in addition to any other remedies available to
29 purchasers in this part, the terminated managing entity shall,
30 prior to such termination, establish a trust meeting the
31 criteria set forth in this paragraph. It is the intent of the

1 Legislature that this trust arrangement provide for an
2 adequate period of continued operation of the reservation
3 system of the multisite timeshare plan, during which period
4 the new managing entity shall make provision for the
5 acquisition of a substitute reservation system.

6 1. The trust shall be established with an independent
7 trustee. Both the terminated managing entity and the new
8 managing entity shall attempt to agree on an acceptable
9 trustee. In the event they cannot agree on an acceptable
10 trustee, they shall each designate a nominee, and the two
11 nominees shall select the trustee.

12 2. The terminated managing entity shall take all steps
13 necessary to enable the trustee or the trustee's designee to
14 operate the reservation system in the same manner as provided
15 in the timeshare instrument and the public offering statement.
16 The trustee may, but shall not be required to, contract with
17 the terminated managing entity for the continued operation of
18 the reservation system. In the event the trustee elects to
19 contract with the terminated managing entity, that managing
20 entity shall be required to operate the reservation system and
21 shall be entitled to payment for that service. The payment
22 shall in no event exceed the amount previously paid to the
23 terminated managing entity for operation of the reservation
24 system.

25 3. The trust shall remain in effect for a period of no
26 longer than 1 year following the date of termination of the
27 managing entity.

28 4. Nothing contained in this subsection shall abrogate
29 or otherwise interfere with any proprietary rights in the
30 reservation system that have been reserved by the discharged
31 managing entity, in its management contract or otherwise, so

1 long as such proprietary rights are not asserted in a manner
2 that would prevent the continued operation of the reservation
3 system as contemplated in this subsection.

4 (c) In the event of a termination of a managing entity
5 of a timeshare estate or specific ~~license~~ multisite timeshare
6 plan ~~as defined in s. 721.552(4)~~, which managing entity owns
7 the reservation system, irrespective of whether the
8 termination is voluntary or involuntary and irrespective of
9 the cause of such termination, in addition to any other
10 remedies available to purchasers in this part, the terminated
11 managing entity shall, prior to such termination, promptly
12 transfer to each component site managing entity all relevant
13 data contained in the reservation system with respect to that
14 component site, including, but not limited to:

15 1. The names, addresses, and reservation status of
16 component site accommodations.

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

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

21 4. Such other component site records and information
22 as are necessary, in the reasonable discretion of the
23 component site managing entity, to permit the uninterrupted
24 operation and administration of the component site, provided
25 that a given component site managing entity shall not be
26 entitled to any information regarding other component sites or
27 regarding the terminated multisite timeshare plan managing
28 entity.

29
30 All reasonable costs incurred by the terminated managing
31 entity in effecting the transfer of information required by

1 this paragraph shall be reimbursed to the terminated managing
2 entity on a pro rata basis by each component site, and the
3 amount of such reimbursement shall constitute a common expense
4 of each component site.

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

7 721.57 Offering of timeshare estates in multisite
8 timeshare plans; required provisions in the timeshare
9 instrument.--

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

14 (a) The purchaser will receive a timeshare estate as
15 defined in s. 721.05 in one of the component sites of the
16 multisite timeshare plan. The use rights in the other
17 component sites of the multisite timeshare plan shall be made
18 available to the purchaser through the reservation system
19 pursuant to the timeshare instrument.

20 (b) In the event that the reservation system is
21 terminated or otherwise becomes unavailable for any reason
22 prior to the expiration of the term of the multisite timeshare
23 plan:

24 1. The purchaser will be able to continue to use the
25 accommodations and facilities of the component site in which
26 she or he has been conveyed a timeshare estate in the manner
27 described in the timeshare instrument for the remaining term
28 of the timeshare estate; and

29 2. Any use rights in that component site which had
30 previously been made available through the reservation system
31 to purchasers of the multisite timeshare plan who were not

1 offered a timeshare estate at that component site will
2 terminate when the reservation system is terminated or
3 otherwise becomes unavailable for any reason.

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

6 721.84 Appointment of a registered agent; duties.--

7 (6) Unless otherwise provided in this section, a
8 registered agent in receipt of any notice or other document
9 addressed from the lienholder to the obligor in care of the
10 registered agent at the registered office must mail, by first
11 class mail if the obligor's address is within the United
12 States, and by international air mail if the obligor's address
13 is outside the United States, with postage fees prepaid, such
14 notice or documents to the obligor at the obligor's last
15 designated address within 5 days after ~~of~~ receipt.

16 Section 31. Section 721.96, Florida Statutes, is
17 amended to read:

18 721.96 Purpose.--The purpose of this part is to
19 provide for the appointment of commissioners of deeds to take
20 acknowledgments, proofs of execution, and oaths outside the
21 United States in connection with the execution of any deed,
22 mortgage, deed of trust, contract, power of attorney, or any
23 other agreement, instrument or writing concerning, relating
24 to, or to be used or recorded in connection with a timeshare
25 estate, personal property timeshare interest, timeshare
26 license, any property subject to a timeshare plan, or the
27 operation of a timeshare plan located within this state.

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

30 721.97 Timeshare commissioner of deeds.--

31

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

20 Section 33. Paragraph (b) of subsection (8) of section
21 475.011, Florida Statutes, is amended to read:

22 475.011 Exemptions.--This part does not apply to:

23 (8)

24 (b) An exchange company, as that term is defined by s.
25 721.05(15)~~(14)~~, but only to the extent that the exchange
26 company is engaged in exchange program activities as described
27 in and is in compliance with s. 721.18.

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

30 718.103 Definitions.--As used in this chapter, the
31 term:

1 (23) "Residential condominium" means a condominium
2 consisting of two or more units, any of which are intended for
3 use as a private temporary or permanent residence, except that
4 a condominium is not a residential condominium if the use for
5 which the units are intended is primarily commercial or
6 industrial and not more than three units are intended to be
7 used for private residence, and are intended to be used as
8 housing for maintenance, managerial, janitorial, or other
9 operational staff of the condominium. With respect to a
10 condominium that is not a timeshare condominium, a residential
11 unit includes a unit intended as a private temporary or
12 permanent residence as well as a unit not intended for
13 commercial or industrial use. With respect to a timeshare
14 condominium, the timeshare instrument as defined in s.
15 721.05(35)~~(33)~~ shall govern the intended use of each unit in
16 the condominium. If a condominium is a residential condominium
17 but contains units intended to be used for commercial or
18 industrial purposes, then, with respect to those units which
19 are not intended for or used as private residences, the
20 condominium is not a residential condominium. A condominium
21 which contains both commercial and residential units is a
22 mixed-use condominium and is subject to the requirements of s.
23 718.404.

24 Section 35. This act shall take effect upon becoming a
25 law; however, with respect to any timeshare plan or exchange
26 program filing approved by the division prior to the date this
27 act becomes a law, the amendments to section 721.06(1)(g)2.,
28 section 721.07(2)(d)1. and (5)(e)4., section 721.075(2)(e), or
29 section 721.18(1)(l) and (m), Florida Statutes, shall not
30 apply to such filing until the earlier of January 1, 2005, or
31 the date that any amendments to such filing are made

1 subsequent to the date this act becomes a law. With respect to
2 any timeshare plan filing approved by the division prior to
3 the date this act becomes a law, the amendment to section
4 721.08(3)(a), Florida Statutes, shall not apply to the
5 nondisturbance and notice to creditors instrument required by
6 section 721.08, Florida Statutes, unless and only to the
7 extent that the developer otherwise voluntarily complies with
8 all or a portion of such provisions.

9

10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 1208

13

14 The CS differs from the bill as filed in that it corrects an
15 effective date, changing it from January 1, 2004 to January 1,
16 2005.

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