

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; including a possession, territory,
20 or commonwealth of the United States that is
21 located outside the 50 states in the areas
22 where the Governor may appoint a timeshare
23 commissioner of deeds; amending ss. 475.011 and
24 718.103, F.S.; correcting cross-references;
25 providing for applicability; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsections (1) and (5) of section 721.02,
31 Florida Statutes, are amended to read:

1 721.02 Purposes.--The purposes of this chapter are to:

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

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

26 Section 2. Subsection (8) of section 721.03, Florida
27 Statutes, is amended to read:

28 721.03 Scope of chapter.--

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

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

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

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

18 Section 3. Section 721.05, Florida Statutes, is
 19 amended to read:

20 721.05 Definitions.--As used in this chapter, the
 21 term:

22 (1) "Accommodation" means any apartment, condominium
 23 or cooperative unit, cabin, lodge, hotel or motel room,
 24 campground, cruise ship cabin, houseboat or other vessel,
 25 recreational or other motor vehicle, or any ~~or other~~ private
 26 or commercial structure which is ~~situated on~~ real or personal
 27 property and designed for overnight occupancy ~~or use~~ by one or
 28 more individuals. The term does not include an incidental
 29 benefit as defined in this section.

30 (2) "Agreement for deed" means any written contract
 31 utilized in the sale of timeshare estates which provides that

1 legal title will not be conveyed to the purchaser until the
2 contract price has been paid in full and the terms of payment
3 of which extend for a period in excess of 180 days after
4 either the date of execution of the contract or completion of
5 construction, whichever occurs later.

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

14 ~~(4)(3)~~ "Assessment" means the share of funds required
15 for the payment of common expenses which is assessed from time
16 to time against each purchaser by the managing entity.

17 ~~(5)(4)~~ "Closing" means:

18 (a) For any plan selling timeshare estates, conveyance
19 of the legal or beneficial title to a timeshare estate as
20 evidenced by the delivery of a deed for conveyance of legal
21 title, or other instrument for conveyance of beneficial title,
22 to the purchaser or to the clerk of the court for recording or
23 conveyance of the equitable title to a timeshare estate as
24 evidenced by the irretrievable delivery of an agreement for
25 deed to the clerk of the court for recording.

26 (b) For any plan selling timeshare licenses or
27 personal property timeshare interests, the final execution and
28 delivery by all parties of the last document necessary for
29 vesting in the purchaser the full rights available under the
30 plan.

31 ~~(6)(5)~~ "Common expenses" means:

1 (a) Those expenses, fees, or taxes properly incurred
 2 for the maintenance, operation, and repair of the
 3 accommodations or facilities, or both, constituting the
 4 timeshare plan.

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

7 (c) Any past due and uncollected ad valorem taxes
 8 assessed against a timeshare development pursuant to s.
 9 192.037.

10 ~~(7)(6)~~ "Completion of construction" means:

11 (a)1. That a certificate of occupancy has been issued
 12 for the entire building in which the timeshare unit being sold
 13 is located, or for the improvement, or that the equivalent
 14 authorization has been issued, by the governmental body having
 15 jurisdiction; ~~or~~

16 2. In a jurisdiction in which no certificate of
 17 occupancy or equivalent authorization is issued, that the
 18 construction, finishing, and equipping of the building or
 19 improvements according to the plans and specifications have
 20 been substantially completed; or

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

26 (b) That all accommodations and facilities of the
 27 timeshare plan are available for use in a manner identical in
 28 all material respects to the manner portrayed by the
 29 promotional material, advertising, and filed ~~registered~~ public
 30 offering statements.

31 ~~(8)(7)~~ "Conspicuous type" means:

1 (a) Type in upper and lower case letters two point
2 sizes larger than the largest nonconspicuous type, exclusive
3 of headings, on the page on which it appears but in at least
4 10-point type; or

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

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

16 ~~(9)~~~~(8)~~ "Contract" means any agreement conferring the
17 rights and obligations of a timeshare plan on the purchaser.

18 ~~(10)~~~~(9)~~ "Developer" includes:

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

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

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

30 (d) The term "developer" does not include:
31

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

7 2. A managing entity, not otherwise a developer, that
8 offers, or engages a third party to offer on its behalf,
9 timeshare interests in a timeshare plan which it manages,
10 provided that such offer complies with the provisions of s.
11 721.065;

12 3. A person who owns or is conveyed, assigned, or
13 transferred more than seven timeshare interests and who
14 subsequently conveys, assigns, or transfers all acquired
15 timeshare interests to a single purchaser in a single
16 transaction, which transaction may occur in stages; or

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

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

1 concurrent developer became a successor or concurrent
2 developer, and provided that such transfer does not constitute
3 a fraudulent transfer. In addition to other provisions of law,
4 a transfer by a predecessor developer to a successor or
5 concurrent developer shall be deemed fraudulent if the
6 predecessor developer made the transfer:

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

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

11
12 The provisions of this paragraph shall not be construed to
13 relieve any successor or concurrent developer from the
14 obligation to comply with the provisions of any applicable
15 timeshare instrument.

16 ~~(11)~~~~(10)~~ "Division" means the Division of Florida Land
17 Sales, Condominiums, and Mobile Homes of the Department of
18 Business and Professional Regulation.

19 ~~(12)~~~~(11)~~ "Enrolled" means paid membership in an
20 exchange program or membership in an exchange program
21 evidenced by written acceptance or confirmation of membership.

22 ~~(13)~~~~(12)~~ "Escrow account" means an account established
23 solely for the purposes set forth in this chapter with a
24 financial institution located within this state.

25 ~~(14)~~~~(13)~~ "Escrow agent" includes only:

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

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

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

3 (d) A title insurance agent that is licensed pursuant
4 to s. 626.8417, a title insurance agency that is licensed
5 pursuant to s. 626.8418, or a title insurer authorized to
6 transact business in this state pursuant to s. 624.401.

7 ~~(15)(14)~~ "Exchange company" means any person owning or
8 operating, or owning and operating, an exchange program.

9 ~~(16)(15)~~ "Exchange program" means any method,
10 arrangement, or procedure for the voluntary exchange of the
11 right to use and occupy accommodations and facilities among
12 purchasers. The term does not include the assignment of the
13 right to use and occupy accommodations and facilities to
14 purchasers pursuant to a particular multisite timeshare plan's
15 reservation system. Any method, arrangement, or procedure that
16 otherwise meets this definition, wherein the purchaser's total
17 contractual financial obligation exceeds \$3,000 per any
18 individual, recurring timeshare period, shall be regulated as
19 a multisite timeshare plan in accordance with part II.

20 ~~(17)(16)~~ "Facility" means any amenity, including any
21 structure, furnishing, fixture, equipment, service,
22 improvement, or real or personal property, improved or
23 unimproved, other than an ~~the~~ accommodation of the timeshare
24 plan, which is made available to the purchasers of a timeshare
25 plan. The term does not include an incidental benefit as
26 defined in this section.

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

30 ~~(19)(17)~~ "Incidental benefit" means an accommodation,
31 product, service, discount, or other benefit which is offered

1 to a prospective purchaser of a timeshare plan or to a
2 purchaser of a timeshare plan prior to the expiration of his
3 or her initial 10-day voidability period pursuant to s.
4 721.10; which is not an exchange program as defined in
5 subsection ~~(16)~~(15); and which complies with the provisions
6 of s. 721.075. The term shall not include an offer of the use
7 of the accommodations and facilities of the timeshare plan on
8 a free or discounted one-time basis.

9 ~~(20)~~(18) "Independent," for purposes of determining
10 eligibility of escrow agents and trustees pursuant to s.
11 721.03(7), means that:

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

16 (b) There is no financial relationship, other than the
17 payment of fiduciary fees or as otherwise provided in this
18 subsection, between the escrow agent or trustee and the
19 developer, seller, or managing entity, or any officer,
20 director, affiliate, or subsidiary thereof.

21 (c) Compensation paid by the developer to an escrow
22 agent or trustee for services rendered shall not be paid from
23 funds in the escrow or trust account unless and until the
24 developer is otherwise entitled to receive the disbursement of
25 such funds from the escrow or trust account pursuant to this
26 chapter.

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

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

31

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

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

7 4. The escrow agent or trustee performs closings for
8 the developer or seller or issues owner's or lender's title
9 insurance commitments or policies in connection with such
10 closings.

11 ~~(21)~~~~(19)~~ "Interestholder" means a developer, an owner
12 of the underlying fee or owner of the underlying personal
13 property, a mortgagee, judgment creditor, or other lienor, or
14 any other person having an interest in or lien or encumbrance
15 against the accommodations or facilities of the timeshare
16 plan.

17 ~~(22)~~~~(20)~~ "Managing entity" means the person who
18 operates or maintains the timeshare plan pursuant to s.
19 721.13(1).

20 ~~(23)~~~~(21)~~ "Memorandum of agreement" means a written
21 document, in a ~~recordable~~ form sufficient to permit the
22 document to be recorded or otherwise filed in the appropriate
23 public records and to provide constructive notice of its
24 contents under applicable law, which includes the names of the
25 seller and the purchasers, a legal description of the
26 timeshare property or other sufficient description for a
27 personal property timeshare plan, and all timeshare interests
28 to be included in such document, and a description of the type
29 of timeshare interest ~~license~~ sold by the seller.

30 ~~(24)~~~~(22)~~ "Offer to sell," "offer for sale," "offered
31 for sale," or "offer" means the solicitation, advertisement,

1 or inducement, or any other method or attempt, to encourage
 2 any person to acquire the opportunity to participate in a
 3 timeshare plan.

4 ~~(25)(23)~~ "One-to-one purchaser to accommodation ratio"
 5 means the ratio of the number of purchasers eligible to use
 6 the accommodations of a timeshare plan on a given day to the
 7 number of accommodations available for use within the plan on
 8 that day, such that the total number of purchasers eligible to
 9 use the accommodations of the timeshare plan during a given
 10 calendar year never exceeds the total number of accommodations
 11 available for use in the timeshare plan during that year. For
 12 purposes of calculation under this subsection, each purchaser
 13 must be counted at least once, and no individual timeshare
 14 unit may be counted more than 365 times per calendar year (or
 15 more than 366 times per leap year). A purchaser who is
 16 delinquent in the payment of timeshare plan assessments shall
 17 continue to be considered eligible to use the accommodations
 18 of the timeshare plan for purposes of this subsection
 19 notwithstanding any application of s. 721.13(6).

20 ~~(26)(24)~~ "Owner of the underlying fee" or "owner of
 21 the underlying personal property" means any person having an
 22 interest in the real property or personal property comprising
 23 or underlying the accommodations or facilities of a the
 24 timeshare plan at or subsequent to the time of creation of the
 25 timeshare plan.

26 ~~(27)(25)~~ "Owners' association" means an the
 27 association made up of all owners of timeshare interests in a
 28 timeshare plan, including developers and purchasers of such a
 29 timeshare plan ~~who have purchased timeshare estates.~~

30 ~~(28)~~ "Personal property timeshare interest" means a
 31 right to occupy an accommodation located on or in or comprised

1 of personal property that is not permanently affixed to real
 2 property, whether or not coupled with a beneficial or
 3 ownership interest in the accommodations or personal property.

4 ~~(29)(26)~~ "Public offering statement" means the written
 5 materials describing a single-site timeshare plan or a
 6 multisite timeshare plan, including a text and any exhibits
 7 attached thereto as required by ss. 721.07, 721.55, and
 8 721.551. The term "public offering statement" shall refer to
 9 both a filed ~~registered~~ public offering statement and a
 10 purchaser public offering statement.

11 ~~(30)(27)~~ "Purchaser" means any person, other than a
 12 developer, who by means of a voluntary transfer acquires a
 13 legal or equitable interest in a timeshare plan other than as
 14 security for an obligation.

15 ~~(31)(28)~~ "Purchaser public offering statement" means
 16 that portion of the filed ~~registered~~ public offering statement
 17 which must be delivered to purchasers pursuant to s. 721.07(6)
 18 or s. 721.551.

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

22 ~~(32)(30)~~ "Regulated short-term product" means a
 23 contractual right, offered by the seller, to use
 24 accommodations of a timeshare plan or other accommodations,
 25 provided that:

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

31

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

8 ~~(33)~~~~(31)~~ "Seller" means any developer or any other
9 person, or any agent or employee thereof, who offers timeshare
10 interests in the ordinary course of business. The term
11 "seller" does not include:

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

18 (b) A managing entity, not otherwise a seller, that
19 offers, or engages a third party to offer on its behalf,
20 timeshare interests in a timeshare plan which it manages,
21 provided that such offer complies with the provisions of s.
22 721.065;

23 (c) A person who owns or is conveyed, assigned, or
24 transferred more than seven timeshare interests and who
25 subsequently conveys, assigns, or transfers all acquired
26 timeshare interests to a single purchaser in a single
27 transaction, which transaction may occur in stages; or

28 (d) A person who has acquired or has the right to
29 acquire more than seven timeshare interests from a developer
30 or other interestholder in connection with a loan,
31 securitization, conduit, or similar financing arrangement and

1 who subsequently arranges for all or a portion of the
 2 timeshare interests to be offered by one or more developers in
 3 the ordinary course of business on their own behalves or on
 4 behalf of such person.

5 ~~(34)(32)~~ "Timeshare estate" means a right to occupy a
 6 timeshare unit, coupled with a freehold estate or an estate
 7 for years with a future interest in a timeshare property or a
 8 specified portion thereof. The term shall also mean an
 9 interest in a condominium unit pursuant to s. 718.103, an
 10 interest in a cooperative unit pursuant to s. 719.103, or an
 11 interest in a trust that complies in all respects with the
 12 provisions of s. 721.08(2)(c)4.3, provided that the trust
 13 does not contain any personal property timeshare interests. A
 14 timeshare estate is a parcel of real property under the laws
 15 of this state.

16 ~~(35)(33)~~ "Timeshare instrument" means one or more
 17 documents, by whatever name denominated, creating or governing
 18 the operation of a timeshare plan.

19 ~~(36)(34)~~ "Timeshare interest" means a timeshare
 20 estate, a personal property timeshare interest, or a timeshare
 21 license.

22 ~~(37)(35)~~ "Timeshare license" means a right to occupy a
 23 timeshare unit, which right is not a personal property
 24 timeshare ~~neither coupled with a freehold interest or a~~
 25 ~~timeshare, nor coupled with an estate for years with a future~~
 26 ~~interest, in a timeshare property.~~

27 ~~(38)(36)~~ "Timeshare period" means the period or
 28 periods of time when a purchaser of a timeshare interest is
 29 afforded the opportunity to use the accommodations ~~or~~
 30 ~~facilities, or both,~~ of a timeshare plan.

31

1 ~~(39)~~~~(37)~~ "Timeshare plan" means any arrangement, plan,
2 scheme, or similar device, other than an exchange program,
3 whether by membership, agreement, tenancy in common, sale,
4 lease, deed, rental agreement, license, or right-to-use
5 agreement or by any other means, whereby a purchaser, for
6 consideration, receives ownership rights in or a right to use
7 accommodations, and facilities, if any, for a period of time
8 less than a full year during any given year, but not
9 necessarily for consecutive years. The term "timeshare plan"
10 includes:

11 (a) A "personal property timeshare plan," which means
12 a timeshare plan in which the accommodations are comprised of
13 personal property that is not permanently affixed to real
14 property; and

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

18 ~~(40)~~~~(38)~~ "Timeshare property" means one or more
19 timeshare units subject to the same timeshare instrument,
20 together with any other property or rights to property
21 appurtenant to those timeshare units. Notwithstanding anything
22 to the contrary contained in chapter 718 or chapter 719, the
23 timeshare instrument for a timeshare condominium or
24 cooperative may designate personal property, contractual
25 rights, affiliation agreements of component sites of vacation
26 clubs, exchange companies, or reservation systems, or any
27 other agreements or personal property, as common elements or
28 limited common elements of the timeshare condominium or
29 cooperative.

30 ~~(41)~~~~(39)~~ "Timeshare unit" means an accommodation of a
31 timeshare plan which is divided into timeshare periods. Any

1 | timeshare unit in which a door or doors connecting two or more
2 | separate rooms are capable of being locked to create two or
3 | more private dwellings shall only constitute one timeshare
4 | unit for purposes of this chapter, unless the timeshare
5 | instrument provides that timeshare interests may be separately
6 | conveyed in such locked-off portions.

7 | ~~(40) "Vacation ownership plan" means any timeshare~~
8 | ~~plan consisting exclusively of timeshare estates.~~

9 | ~~(41) "Vacation plan" or "vacation membership plan"~~
10 | ~~means any timeshare plan consisting exclusively of timeshare~~
11 | ~~licenses or consisting of a combination of timeshare licenses~~
12 | ~~and timeshare estates.~~

13 | Section 4. Section 721.06, Florida Statutes, is
14 | amended to read:

15 | 721.06 Contracts for purchase of timeshare
16 | interests.--

17 | (1) Each seller shall utilize and furnish each
18 | purchaser a fully completed and executed copy of a contract
19 | pertaining to the sale, which contract shall include the
20 | following information:

21 | (a) The actual date the contract is executed by each
22 | party.

23 | (b) The names and addresses of the developer and the
24 | timeshare plan.

25 | (c) The initial purchase price and any additional
26 | charges to which the purchaser may be subject in connection
27 | with the purchase of the timeshare interest, such as
28 | financing, or which will be collected from the purchaser on or
29 | before closing, such as the current year's annual assessment
30 | for common expenses.

31 |

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

9 2. For personal property timeshare plans, an estimate
10 of any anticipated annual assessment stated on an annually
11 recurring basis for any use charges, fees, common expenses, or
12 taxes or, if an estimate is unavailable, the current year's
13 actual annual assessment for any use charges, fees, common
14 expenses, or taxes.

15 (e) The estimated date of completion of construction
16 of each accommodation or facility promised to be completed
17 which is not completed at the time the contract is executed
18 and the estimated date of closing.

19 (f) A brief description of the nature and duration of
20 the timeshare interest being sold, including whether any
21 interest in real property or personal property is being
22 conveyed and the specific number of years constituting the
23 term of the timeshare plan.

24 (g) Immediately prior to the space reserved in the
25 contract for the signature of the purchaser, in conspicuous
26 type, substantially the following statements:

27
28 1. If the purchaser will receive a personal property
29 timeshare interest: This personal property timeshare plan is
30 governed only by limited sections of the timeshare management
31 provisions of Florida law.

1 2. If the accommodations or facilities are located on
2 or in a documented vessel or foreign vessel as provided in s.
3 721.08(2)(c)3.e., the disclosure required by s.
4 721.08(2)(c)3.e.(IV).

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

19
20 (h) If a timeshare estate is being conveyed, the
21 following statement in conspicuous type:

22
23 For the purpose of ad valorem assessment, taxation and
24 special assessments, the managing entity will be considered
25 the taxpayer as your agent pursuant to section 192.037,
26 Florida Statutes.

27
28 (i) A statement that, in the event the purchaser
29 cancels the contract during a 10-day cancellation period, the
30 developer will refund to the purchaser the total amount of all
31 payments made by the purchaser under the contract, reduced by

1 the proportion of any contract benefits the purchaser has
 2 actually received under the contract prior to the effective
 3 date of the cancellation. The statement shall further provide
 4 that the refund will be made within 20 days after receipt of
 5 notice of cancellation or within 5 days after receipt of funds
 6 from the purchaser's cleared check, whichever is later. A
 7 seller and a purchaser shall agree in writing on a specific
 8 value for each contract benefit received by the purchaser for
 9 purposes of this paragraph. The term "contract benefit" shall
 10 not include purchaser public offering statements or other
 11 documentation or materials that must be furnished to a
 12 purchaser pursuant to statute or rule.

13 (j) If the timeshare interest is being sold pursuant
 14 to an agreement for deed or an agreement for transfer, a
 15 statement that the signing of the agreement for deed or
 16 agreement for transfer does not entitle the purchaser to
 17 receive the conveyance or transfer of his or her timeshare
 18 estate or personal property timeshare interest ~~a deed~~ until
 19 all payments under the agreement have been made.

20 (k) Unless the developer is at the time of offering
 21 the plan, the owner in fee simple absolute of the
 22 accommodations and facilities of the timeshare plan, free and
 23 clear of all liens, ~~and~~ encumbrances, and claims of other
 24 interestholders, a statement that the developer is not the
 25 sole owner of the underlying fee or owner of the underlying
 26 personal property or that the such accommodations or
 27 facilities are subject to ~~without~~ liens or encumbrances, which
 28 statement shall include:

29 1. The names and addresses of all other
 30 interestholders ~~persons or entities having an ownership~~

31

1 ~~interest or other interest in the accommodations or~~
2 ~~facilities;~~ and

3 2. The actual interest of the developer in the
4 accommodations or facilities. As an alternative to including
5 the statement in the purchase contract, a seller may include a
6 reference in the purchase contract to the location in the
7 purchaser public offering statement text of such information.

8 (1) If the purchaser will receive an interest in a
9 multisite timeshare plan pursuant to part II, a statement
10 shall be provided in conspicuous type in substantially the
11 following form:

12
13 The developer is required to provide the managing
14 entity of the multisite timeshare plan with a copy of the
15 approved public offering statement text and exhibits filed
16 with the division and any approved amendments thereto, and any
17 other component site documents as described in section 721.07
18 or section 721.55, Florida Statutes, that are not required to
19 be filed with the division, to be maintained by the managing
20 entity for inspection as part of the books and records of the
21 plan.

22
23 (m) The following statement in conspicuous type:

24
25 Any resale of this timeshare interest must be
26 accompanied by certain disclosures in accordance with section
27 721.065, Florida Statutes.

28
29 (n) A description of any rights reserved by the
30 developer to alter or modify the offering prior to closing.

31

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

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

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

16 Section 5. Paragraph (b) of subsection (2) of section
17 721.065, Florida Statutes, is amended to read:

18 721.065 Resale purchase agreements.--

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

21 (b) One of the following statements in conspicuous
22 type located immediately prior to the disclosure required by
23 paragraph (c):

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

26
27 The current year's assessment for common expenses allocable to
28 the timeshare interest you are purchasing is \$____. This
29 assessment, which may be increased from time to time by the
30 managing entity of the timeshare plan, is payable in full each
31 year on or before _____. This assessment (includes/does

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

22
23 There are many important documents relating to the timeshare
24 plan which you should review prior to purchasing a timeshare
25 interest, including the declaration of condominium or
26 covenants and restrictions; the owners' association articles
27 and bylaws; the current year's operating and reserve budgets;
28 and any rules and regulations affecting the use of timeshare
29 plan accommodations and facilities.

30
31

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

3
 4 The current year's assessment for any common expenses, use
 5 charges, fees, or taxes allocable to the timeshare interest
 6 you are purchasing is \$. This assessment, which may be
 7 increased from time to time by the managing entity of the
 8 timeshare plan, is payable in full each year on or before
 9 . (If there are any delinquent assessments for
 10 common expenses, use charges, fees, or taxes outstanding with
 11 respect to the timeshare interest in question, the following
 12 statement must be included: A delinquency in the amount of
 13 \$ for unpaid common expenses, use charges, fees, or taxes
 14 currently exists with respect to the timeshare interest you
 15 are purchasing, together with a per diem charge of \$ for
 16 interest and late charges.) Each owner is personally liable
 17 for the payment of her or his assessments for common expenses,
 18 and failure to timely pay these assessments may result in
 19 restriction or loss of your use and/or ownership rights.

20
 21 There are many important documents relating to the timeshare
 22 plan which you should review prior to purchasing a timeshare
 23 interest, including any owners' association articles and
 24 bylaws; the current year's operating and reserve budgets; and
 25 any rules and regulations affecting the use of timeshare plan
 26 accommodations and facilities.

27 Section 6. Section 721.07, Florida Statutes, is
 28 amended to read:

29 721.07 Public offering statement.--Prior to offering
 30 any timeshare plan, the developer must submit a filed
 31 ~~registered~~ public offering statement to the division for

1 approval as prescribed by s. 721.03, s. 721.55, or this
2 section. Until the division approves such filing, any contract
3 regarding the sale of that timeshare plan is subject to
4 cancellation ~~voidable~~ by the purchaser pursuant to s. 721.10.

5 (1) The division shall, upon receiving a filed
6 ~~registered~~ public offering statement from a developer, mail to
7 the developer an acknowledgment of receipt. The failure of the
8 division to send such acknowledgment will not, however,
9 relieve the developer from the duty of complying with this
10 section.

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

25 (b) If the developer fails to respond to any cited
26 deficiencies within 20 days after receipt of the division's
27 deficiency notice, the division may reject the filing.
28 Subsequent to such rejection, a new filing fee pursuant to
29 subsection (4) and a new division initial review period
30 pursuant to paragraph (a) shall apply to any refiling or
31 further review of the rejected filing.

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

10 (d) A developer shall have the authority to deliver to
11 purchasers any purchaser public offering statement that is not
12 yet approved by the division, provided that the following
13 shall apply:

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

21
22 The developer is delivering to you a public offering statement
23 that has been filed with but not yet approved by the Division
24 of Florida Land Sales, Condominiums, and Mobile Homes. Any
25 revisions to the unapproved public offering statement you have
26 received must be delivered to you, but only if the revisions
27 materially alter or modify the offering in a manner adverse to
28 you. After the division approves the public offering
29 statement, you will receive notice of the approval from the
30 developer and the required revisions, if any.
31

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

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

24
25 The unapproved public offering statement previously delivered
26 to you, together with the enclosed revisions, has been
27 approved by the Division of Florida Land Sales, Condominiums,
28 and Mobile Homes. Accordingly, your cancellation right expires
29 10 calendar days after you sign your purchase contract or 10
30 calendar days after you receive these revisions, whichever is
31 later. If you have any questions regarding your cancellation

1 | rights, you may contact the division at [insert division's
2 | current address].
3 |

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

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

28 | (3)(a)1. Any change to an approved public offering
29 | statement filing shall be filed with the division for approval
30 | as an amendment prior to becoming effective. The division
31 | shall have 20 days after receipt of a proposed amendment to

1 | approve or cite deficiencies in the proposed amendment. If the
2 | division fails to act within 20 days, the amendment will be
3 | deemed approved. If the proposed amendment adds a new
4 | component site to an approved multisite timeshare plan, the
5 | division's initial period in which to approve or cite
6 | deficiencies is 45 days. If the developer fails to adequately
7 | respond to any deficiency notice within 30 days, the division
8 | may reject the amendment. Subsequent to such rejection, a new
9 | filing fee pursuant to subsection (4) and a new division
10 | initial review period pursuant to this paragraph shall apply
11 | to any refiling or further review of the rejected amendment.

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

31 |

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

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

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

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

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

27 (a) A cover page stating only:

- 28 1. The name of the timeshare plan; and
29 2. The following statement, in conspicuous type: This
30 public offering statement contains important matters to be
31 considered in acquiring a timeshare interest. The statements

1 contained in this public offering statement are only summary
2 in nature. A prospective purchaser should refer to all
3 references, accompanying exhibits, contract documents, and
4 sales materials. You should not rely upon oral representations
5 as being correct. Refer to this document and accompanying
6 exhibits for correct representations. The seller is prohibited
7 from making any representations other than those contained in
8 the contract and this public offering statement.

9 (b) A listing of all statements required to be in
10 conspicuous type in the public offering statement and in all
11 exhibits thereto.

12 (c) A separate index of the contents and exhibits of
13 the public offering statement.

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

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

18 1. Its name and location.

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

1 3. An explanation of the manner in which the
2 apportionment of common expenses and ownership of the common
3 elements has been determined.

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

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

13 (f) A description of the accommodations, including,
14 but not limited to:

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

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

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

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

28 5. If any of the accommodations are part of a personal
29 property timeshare plan, the name, vehicle registration
30 number, title certificate number, or any other identifying
31 registration number assigned to the accommodation of a

1 personal property timeshare plan by a state, federal, or
2 international governmental agency.

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

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

9 1. The intended purpose, if not apparent from the
10 description.

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

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

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

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

30 a. Membership in a facilities club is mandatory for
31 purchasers;

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

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

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

12
13 Immediately following the applicable statement, a description
14 of the lease or other instrument shall be stated, including a
15 description of terms of the payment of rent or costs and
16 expenses of maintenance, management, upkeep, and replacement
17 of the facilities.

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

25 4. If any person other than the owners' association
26 has the right to a lien on the timeshare interests to secure
27 the payment of assessments, rent, or other exactions, a
28 statement in conspicuous type in substantially the following
29 form:

30 a. There is a lien or lien right against each
31 timeshare interest to secure the payment of rent and other

1 exactions under the facilities lease. A purchaser's failure to
2 make these payments may result in foreclosure of the lien; or

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

8
9 Immediately following the applicable statement, a description
10 of the lien right shall be included.

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

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

27 2. For a personal property timeshare plan, an
28 explanation of the status of title to the personal property
29 underlying the timeshare plan, including a statement of the
30 existence of any lien, defect, judgment, or other encumbrance
31 affecting the title to the personal property, and how such

1 lien, defect, judgment, or other encumbrance will be removed
2 or satisfied prior to closing.

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

16 (l) A description of all unusual and material
17 circumstances, features, and characteristics of the real
18 property or personal property underlying or comprising the
19 timeshare plan.

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

27 (n) A detailed explanation of any financial
28 arrangements which have been provided for completion of all
29 promised improvements.

30 (o) The name and address of the managing entity; a
31 statement whether the seller may change the managing entity or

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

18 (p) If any person other than the purchasers has the
19 right to retain control of the board of administration of the
20 owners' association, if any, for a period of time which may
21 exceed 1 year after the closing of the sale of a majority of
22 the timeshare interests in that timeshare plan to persons
23 other than successors or concurrent developers and the plan is
24 one in which all purchasers automatically become members of
25 the owners' association, a statement in conspicuous type in
26 substantially the following form: The developer (or other
27 person) has the right to retain control of the owners'
28 association after a majority of the timeshare interests have
29 been sold. Immediately following this statement, a description
30 of the applicable transfer of control provisions of the
31 timeshare plan shall be included.

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

9 2. The following statement in conspicuous type in
10 substantially the following form: The purchase of a timeshare
11 interest should be based upon its value as a vacation
12 experience or for spending leisure time, and not considered
13 for purposes of acquiring an appreciating investment or with
14 an expectation that the timeshare interest may be resold.

15 (r) If the timeshare plan is part of a phase project,
16 a statement to that effect and a complete description of the
17 phasing. Notwithstanding any provisions of s. 718.110 or s.
18 719.1055, a developer may develop a timeshare condominium or a
19 timeshare cooperative in phases if the original declaration of
20 condominium or cooperative documents submitting the initial
21 phase to condominium ownership or cooperative ownership or an
22 amendment to the declaration of condominium or cooperative
23 documents which has been approved by all of the unit owners
24 and unit mortgagees provides for phasing. Notwithstanding any
25 provisions of s. 718.403 or s. 719.403 to the contrary, the
26 original declaration of condominium or cooperative documents,
27 or an amendment to the declaration of condominium or
28 cooperative documents adopted pursuant to this subsection,
29 need only generally describe the developer's phasing plan and
30 the land which may become part of the condominium or
31 cooperative, and, in conjunction therewith, the developer may

1 also reserve all rights to vary his or her phasing plan as to
2 phase boundaries, plot plans and floor plans, timeshare unit
3 types, timeshare unit sizes and timeshare unit type mixes,
4 numbers of timeshare units, and facilities with respect to
5 each subsequent phase. There shall be no time limit during
6 which a developer of a timeshare condominium or timeshare
7 cooperative must complete his or her phasing plan, and the
8 developer shall not be required to notify owners of existing
9 timeshare estates of his or her decision not to add one or
10 more proposed phases.

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

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

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

30 1. The estimated annual expenses of the timeshare plan
31 collectible from purchasers by assessments. The estimated

1 | payments by the purchaser for assessments shall also be stated
2 | in the estimated amounts for the times when they will be due.
3 | Expenses shall also be shown for the shortest timeshare period
4 | offered for sale by the developer. If the timeshare plan
5 | provides for the offer and sale of units to be used on a
6 | nontimeshare basis, the estimated monthly and annual expenses
7 | of such units shall be set forth in a separate schedule.

8 | 2. The estimated weekly, monthly, and annual expenses
9 | of the purchaser of each timeshare interest, other than
10 | assessments payable to the managing entity. Expenses which are
11 | personal to purchasers that are not uniformly incurred by all
12 | purchasers or that are not provided for or contemplated by the
13 | timeshare plan documents may be excluded from this estimate.

14 | 3. The estimated items of expenses of the timeshare
15 | plan and the managing entity, except as excluded under
16 | subparagraph 2., including, but not limited to, if applicable,
17 | the following items, which shall be stated either as
18 | management expenses collectible by assessments or as expenses
19 | of the purchaser payable to persons other than the managing
20 | entity:

21 | a. Expenses for the managing entity:

22 | (I) Administration of the managing entity.

23 | (II) Management fees.

24 | (III) Maintenance.

25 | (IV) Rent for facilities.

26 | (V) Taxes upon timeshare property.

27 | (VI) Taxes upon leased areas.

28 | (VII) Insurance.

29 | (VIII) Security provisions.

30 | (IX) Other expenses.

31 | (X) Operating capital.

1 (XI) Reserves for deferred maintenance and reserves
2 for capital expenditures, including:-

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

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

28
29 The estimated operating budget for this personal property
30 timeshare plan does not include reserves for deferred
31 maintenance or capital expenditures; each timeshare interest

1 may be subject to substantial special assessments from time to
2 time because no such reserves exist.

3
4 (XII) Fees payable to the division.

5 b. Expenses for a purchaser:

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

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

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

18 5. If the developer intends to guarantee the level of
19 assessments, such guarantee must be based upon a good faith
20 estimate of the revenues and expenses of the timeshare plan.
21 The guarantee must include a description of the following:

22 a. The specific time period measured in one or more
23 calendar or fiscal years during which the guarantee will be in
24 effect.

25 b. A statement that the developer will pay all common
26 expenses incurred in excess of the total revenues of the
27 timeshare plan pursuant to s. 721.15(2) if the developer has
28 excused himself or herself from the payment of assessments
29 during the guarantee period.

30 c. The level, expressed in total dollars, at which the
31 developer guarantees the budget. If the developer has reserved

1 the right to extend or increase the guarantee level pursuant
2 to s. 721.15(2), a disclosure must be included to that effect.

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

8 a. The specific amount of such trust funds and the
9 source of the funds.

10 b. The name and address of the trustee.

11 c. The investment methods permitted by the trust
12 agreement.

13 d. A statement in conspicuous type that the funds from
14 the trust account may not cover all assessments and that there
15 is no guarantee that purchasers will not have to pay
16 assessments in the future.

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

25 (v) A schedule of estimated closing expenses to be
26 paid by a purchaser or lessee of a timeshare interest and a
27 statement as to whether a title opinion or title insurance
28 policy is available to the purchaser and, if so, at whose
29 expense.

30 (w) The identity of the developer and the chief
31 operating officer or principal directing the creation and sale

1 of the timeshare plan and a statement of the experience of
2 each in this field or, if no experience, a statement of that
3 fact.

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

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

12 (z) A statement of the purchaser's right of
13 cancellation of the purchase contract.

14 (aa) A description of the insurance coverage provided
15 for the timeshare plan.

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

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

24
25 The right to reserve a timeshare period is subject to rules
26 and regulations of the timeshare plan reservation system.

27
28 (dd) If a developer is filing a timeshare plan that
29 includes a timeshare instrument or component site document
30 that was in conformance with the laws and rules in existence
31 at the time the timeshare plan was created but does not

1 conform to existing laws and rules that govern the timeshare
2 plan and the developer does not have the authority or power to
3 amend or change the timeshare instrument or component site
4 document to conform to such existing laws or rules as directed
5 by the division, a brief explanation of current law and the
6 conflict with the timeshare instrument or component site
7 document, preceded by disclaimer in conspicuous type in
8 substantially the following form:

9
10 Florida law has been amended and certain provisions in [insert
11 appropriate reference to timeshare instrument or component
12 site document] that were in conformance with Florida law as it
13 existed at the time the timeshare plan was created are not in
14 conformance with current Florida law. These documents may only
15 be amended by [insert appropriate reference to person or
16 entity that has the right to amend or change the timeshare
17 instrument or component site document]. The developer does not
18 warrant that such documents are in technical compliance with
19 all applicable Florida laws and regulations. All questions
20 regarding amendment of these documents should be directed to
21 [insert appropriate reference to person or entity that has the
22 right to amend or change the timeshare instrument or component
23 site document].

24
25 (ee) Any other information that a seller, with the
26 approval of the division, desires to include in the public
27 offering statement.

28 (ff) Copies of the following documents and plans, to
29 the extent they are applicable, shall be included as exhibits
30 to the filed ~~registered~~ public offering statement provided, if
31 the timeshare plan has not been declared or created at the

1 | time of the filing, the developer shall provide proposed
2 | documents:

- 3 | 1. The declaration of condominium.
- 4 | 2. The cooperative documents.
- 5 | 3. The declaration of covenants and restrictions.
- 6 | 4. The articles of incorporation creating the owners'
7 | association.
- 8 | 5. The bylaws of the owners' association.
- 9 | 6. Any ~~The~~ ground lease or other underlying lease of
10 | the real property associated with ~~on which~~ the timeshare plan
11 | ~~is situated. In the case of a personal property timeshare~~
12 | plan, any lease of the personal property associated with the
13 | personal property timeshare plan.
- 14 | 7. The management agreement and all maintenance and
15 | other contracts regarding the management and operation of the
16 | timeshare property which have terms in excess of 1 year.
- 17 | 8. The estimated operating budget for the timeshare
18 | plan and the required schedule of purchasers' expenses.
- 19 | 9. The floor plan of each type of accommodation and
20 | the plot plan showing the location of all accommodations and
21 | facilities declared as part of the timeshare plan and filed
22 | with the division.
- 23 | 10. The lease for any facilities.
- 24 | 11. A declaration of servitude of properties serving
25 | the accommodations and facilities, but not owned by purchasers
26 | or leased to them or the owners' association.
- 27 | 12. Any documents required by s. 721.03(3)(e) as the
28 | result of the inclusion of a timeshare plan in the conversion
29 | of the building to condominium or cooperative ownership.
- 30 | 13. The form of agreement for sale or lease of
31 | timeshare interests.

1 14. The executed agreement for escrow of payments made
2 to the developer prior to closing and the form of any
3 agreement for escrow of ad valorem tax escrow payments, if
4 any, to be made into an ad valorem tax escrow account pursuant
5 to s. 192.037(6).

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

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

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

14 18. In the case of any personal property timeshare
15 plan in which the accommodations and facilities are located on
16 or in a documented vessel or foreign vessel as provided in s.
17 721.08(2)(c)3.e., a copy of the certificate of ownership of
18 such vessel and either a copy of the certificate of
19 documentation or certificate of registry of such vessel.

20 19. An executed affidavit given under oath by an
21 attorney licensed to practice law in any jurisdiction in the
22 United States stating that the attorney has researched the
23 applicable laws of the jurisdiction in which governing law has
24 been established and the laws of the jurisdiction in which the
25 vessel is registered, and has found that the timeshare
26 instrument complies with the provisions of s.
27 721.08(2)(c)3.e.(II)(C) and (III).

28 ~~20.16.~~ Any other documents or instruments creating the
29 timeshare plan.

30 (gg) Such other information as is necessary to fairly,
31 meaningfully, and effectively disclose all aspects of the

1 | timeshare plan, including, but not limited to, any disclosures
2 | made necessary by the operation of s. 721.03(8). However, if a
3 | developer has, in good faith, attempted to comply with the
4 | requirements of this section, and if, in fact, he or she has
5 | substantially complied with the disclosure requirements of
6 | this chapter, nonmaterial errors or omissions shall not be
7 | actionable.

8 | (hh) Notwithstanding the provisions of this
9 | subsection, the filed ~~registered~~ public offering statement for
10 | a component site of a multisite timeshare plan filed pursuant
11 | to this subsection may contain cross-references to information
12 | contained in the related multisite timeshare plan filed
13 | ~~registered~~ public offering statement filed pursuant to s.
14 | 721.55 in lieu of repeating such information.

15 | (6) The division is authorized to prescribe by rule
16 | the form of the approved purchaser public offering statement
17 | that must be furnished by the developer to each purchaser. The
18 | form of the purchaser public offering statement must provide
19 | fair, meaningful, and effective disclosure of all aspects of
20 | the timeshare plan. For timeshare plans filed pursuant to this
21 | part, the developer shall furnish each purchaser with the
22 | following:

23 | (a) A copy of the purchaser public offering statement
24 | text in the form approved by the division for delivery to
25 | purchasers.

26 | (b) Copies of the exhibits required to be filed with
27 | the division pursuant to subparagraphs (5)(ff)1., 2., 4., 5.,
28 | 8., and 20. ~~16.~~

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

1 the purchaser. The division is authorized to prescribe by rule
2 the form of the receipt for timeshare plan documents and the
3 description of exhibits list that must be furnished to the
4 purchaser. The description of documents list utilized by a
5 developer shall be filed with the division for review as part
6 of the filed ~~registered~~ public offering statement pursuant to
7 this section. The developer shall be required to provide the
8 managing entity with a copy of the approved filed ~~registered~~
9 public offering statement and any approved amendments thereto
10 to be maintained by the managing entity as part of the books
11 and records of the timeshare plan pursuant to s. 721.13(3)(d).

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

15 (e) An executed copy of any document which the
16 purchaser signs.

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

19 Section 7. Paragraph (g) of subsection (1) of section
20 721.075, Florida Statutes, is amended and paragraph (e) is
21 added to subsection (2) of that section, to read:

22 721.075 Incidental benefits.--Incidental benefits
23 shall be offered only as provided in this section.

24 (1) Accommodations, facilities, products, services,
25 discounts, or other benefits which satisfy the requirements of
26 this subsection shall be subject to the provisions of this
27 section and exempt from the other provisions of this chapter
28 which would otherwise apply to such accommodations or
29 facilities if and only if:

30
31

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

4 (2) Each purchaser shall execute a separate
5 acknowledgment and disclosure statement with respect to all
6 incidental benefits, which statement shall include the
7 following information:

8 (e) A statement indicating the source of the services,
9 points, or other products that constitute the incidental
10 benefit.

11 Section 8. Section 721.08, Florida Statutes, is
12 amended to read:

13 721.08 Escrow accounts; nondisturbance instruments;
14 alternate security arrangements; transfer of legal title.--

15 (1) Prior to the filing of a ~~registered~~ public
16 offering statement with the division, all developers shall
17 establish an escrow account with an escrow agent for the
18 purpose of protecting the funds or other property of
19 purchasers required to be escrowed by this section. An escrow
20 agent shall maintain the accounts called for in this section
21 only in such a manner as to be under the direct supervision
22 and control of the escrow agent. The escrow agent shall have a
23 fiduciary duty to each purchaser to maintain the escrow
24 accounts in accordance with good accounting practices and to
25 release the purchaser's funds or other property from escrow
26 only in accordance with this chapter. The escrow agent shall
27 retain all affidavits received pursuant to this section for a
28 period of 5 years. Should the escrow agent receive conflicting
29 demands for funds or other property held in escrow, the escrow
30 agent shall immediately notify the division of the dispute and
31 either promptly submit the matter to arbitration or, by

1 interpleader or otherwise, seek an adjudication of the matter
2 by court.

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

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

22 (b) Purchaser's default.--Following expiration of the
23 10-day cancellation period, if the purchaser defaults in the
24 performance of her or his obligations under the terms of the
25 contract to purchase or such other agreement by which a seller
26 sells the timeshare interest, the developer shall provide an
27 affidavit to the escrow agent requesting release of the
28 escrowed funds or other property and shall provide a copy of
29 such affidavit to the purchaser who has defaulted. The
30 developer's affidavit, as required herein, shall include:

31

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

3 2. A brief explanation of the nature of the default
4 and the date of its occurrence;

5 3. A statement that pursuant to the terms of the
6 contract the developer is entitled to the funds held by the
7 escrow agent; and

8 4. A statement that the developer has not received
9 from the purchaser any written notice of a dispute between the
10 purchaser and developer or a claim by the purchaser to the
11 escrow.

12 (c) Compliance with conditions.--

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

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

20 (I) Expiration of the cancellation period.

21 (II) Completion of construction.

22 (III) Closing.

23 (IV) Either:

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

27 (B) Transfer by the developer of legal title to the
28 subject accommodations and facilities, or all use rights
29 therein, ~~into~~ ~~to~~ a trust satisfying the requirements of
30 subparagraph 4. ~~sub-subparagraph 3.b.~~ and the execution,
31 ~~delivery,~~ and recordation by each other interestholder of the

1 nondisturbance and notice to creditors instrument, as
2 described in this section.

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

6 c. One of the following:

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

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

28 2. Timeshare estates.--If the timeshare plan is one in
29 which timeshare estates are to be sold, ~~other than interests~~
30 ~~in a trust pursuant to subparagraph 3.,~~ and no cancellation or
31 default has occurred, the escrow agent may release the

1 escrowed funds or other property to or on the order of the
2 developer upon presentation of:

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

5 (I) Expiration of the cancellation period.
6 (II) Completion of construction.
7 (III) Closing.

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

11 c. Evidence that each accommodation and facility:

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 (II) Is the subject of a recorded nondisturbance and
18 notice to creditors instrument that complies with subsection
19 (3) and s. 721.17; or
20 (III) Has been transferred into a trust satisfying the
21 requirements of subparagraph 4.

22 d. Evidence that the timeshare estate:

23 (I) Is free and clear of the claims of any
24 interestholders, other than the claims of interestholders
25 that, through a recorded instrument, are irrevocably made
26 subject to the timeshare instrument and the use rights of
27 purchasers made available through the timeshare instrument;
28 or

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

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

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

11 (I) Expiration of the cancellation period.

12 (II) Completion of construction.

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

15 ~~(IV)~~ Closing.

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

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

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

24 (II) Transfer by the owner of the underlying personal
25 property of legal title to the subject accommodations and
26 facilities or all use rights therein into an owners'
27 association satisfying the requirements of subparagraph 5.

28 d. Evidence of compliance with the provisions of
29 subparagraph 6., if required.

30 e. If a personal property timeshare plan is created
31 with respect to accommodations and facilities that are located

1 on or in an oceangoing vessel, including a "documented vessel"
2 or a "foreign vessel," as defined and governed by 46 U.S.C.,
3 chapter 301:

4 (I) In making the transfer required in
5 sub-subparagraph c., the developer shall use as its transfer
6 instrument a document that establishes and protects the
7 continuance of the use rights in the subject accommodations
8 and facilities in a manner that is enforceable by the trust or
9 owners' association.

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

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

26 (B) Grant a lien against the vessel in favor of the
27 owners' association or trustee to secure the full and faithful
28 performance of the vessel owner and developer of all of their
29 obligations to the purchasers.

30
31

1 (C) Establish governing law in a jurisdiction that
2 recognizes and will enforce the timeshare instrument and the
3 laws of the jurisdiction of registry of the vessel.

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

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

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

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

24 (IV) In addition to the disclosures required by s.
25 721.07(5), the public offering statement and purchase contract
26 must contain a disclosure in conspicuous type in substantially
27 the following form:

28
29 The laws of the State of Florida govern the offering of this
30 timeshare plan in this state. There are inherent risks in
31 purchasing a timeshare interest in this timeshare plan because

1 the accommodations and facilities of the timeshare plan are
 2 located on a vessel that will sail into international waters
 3 and into waters governed by many different jurisdictions.
 4 Therefore, the laws of the State of Florida cannot fully
 5 protect your purchase of an interest in this timeshare plan.
 6 Specifically, management and operational issues may need to be
 7 addressed in the jurisdiction in which the vessel is
 8 registered, which is _____ (insert jurisdiction in which
 9 vessel is registered). Concerns of purchasers may be sent to
 10 _____ (insert name of applicable regulatory agency and
 11 address).

12
 13 4. Trust.--

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

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

29 (I) The trustee shall be an individual or a business
 30 entity authorized and qualified to conduct trust business in
 31 this state. Any corporation authorized to do business in this

1 state may act as trustee in connection with a timeshare plan
2 pursuant to this chapter. The trustee must be independent from
3 any developer or managing entity of the timeshare plan or any
4 interestholder of any accommodation or facility of such plan.

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

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

24 (IV) All purchasers of the timeshare plan or the
25 owners' association of the timeshare plan shall be the express
26 beneficiaries of the trust. The trustee shall act as a
27 fiduciary to the beneficiaries of the trust. The personal
28 liability of the trustee shall be governed by s. 737.306. The
29 agreement establishing the trust shall set forth the duties of
30 the trustee. The trustee shall be required to furnish promptly
31 to the division upon request a copy of the complete list of

1 the names and addresses of the owners in the timeshare plan
2 and a copy of any other books and records of the timeshare
3 plan required to be maintained pursuant to s. 721.13 that are
4 in the possession, custody, or control of the trustee. All
5 expenses reasonably incurred by the trustee in the performance
6 of its duties, together with any reasonable compensation of
7 the trustee, shall be common expenses of the timeshare plan.

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

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

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

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

29 5. Owners' association.--

30 a. If the subject accommodations or facilities, or all
31 use rights therein, are to be transferred into an owners'

1 association in order to comply with this paragraph, such
2 transfer shall take place pursuant to this subparagraph.

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

14 (I) The owners' association shall be a business entity
15 authorized and qualified to conduct business in this state.
16 Control of the board of directors of the owners' association
17 must be independent from any developer or managing entity of
18 the timeshare plan or any interestholder.

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

25 (III) The owners' association shall not convey,
26 hypothecate, mortgage, assign, lease, or otherwise transfer or
27 encumber in any fashion any interest in or portion of the
28 timeshare property with respect to which any purchaser has a
29 right of use or occupancy, unless the timeshare plan is
30 terminated pursuant to the timeshare instrument, or unless
31 such conveyance, hypothecation, mortgage, assignment, lease,

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

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

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

25 (VI) For owners' associations holding property in a
26 timeshare plan located outside this state, the owners'
27 association holding such property shall be deemed in
28 compliance with the requirements of this subparagraph if such
29 owners' association is authorized and qualified to conduct
30 owners' association business under the laws of such
31 jurisdiction and the agreement or law governing such

1 arrangement provides substantially similar protections for the
2 purchaser as are required in this subparagraph for owners'
3 associations holding property in a timeshare plan in this
4 state.

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

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

15
16 The further transfer or encumbrance of the property subject to
17 this certificate of title, or any lien or encumbrance thereon,
18 is subject to the requirements of section 721.17, Florida
19 Statutes, and the transferee or lienor agrees to be bound by
20 all of the obligations set forth therein.

21
22 7.4. If the developer has previously provided a
23 certified copy of any document required by this paragraph, she
24 or he may for all subsequent disbursements substitute a true
25 and correct copy of the certified copy, provided no changes to
26 the document have been made or are required to be made.

27 8. In the event that use rights relating to an
28 accommodation or facility are transferred into a trust
29 pursuant to subparagraph 4. or into an owners' association
30 pursuant to subparagraph 5., all other interestholders,
31 including the owner of the underlying fee or underlying

1 personal property, must execute a nondisturbance and notice to
 2 creditors instrument pursuant to subsection (3).

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

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

17 (a) The instrument shall state that:

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

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

26 3.(c) So long as a purchaser remains in good standing
 27 with respect to her or his obligations under the timeshare
 28 instrument, including making all payments to the managing
 29 entity required by the timeshare instrument with respect to
 30 the annual common expenses of the timeshare the interestholder
 31 has any interest in the accommodations, facilities, or plan,

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

8
9 The instrument shall contain language sufficient to provide
10 subsequent creditors of the developer and interestholders with
11 notice of the existence of the timeshare plan and of the
12 rights of purchasers and shall serve to protect the interest
13 of the timeshare purchasers from any claims of subsequent
14 creditors.

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

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

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

30 (4) In lieu of any escrow provisions required by this
31 act, the director of the division shall have the discretion to

1 permit deposit of the funds or other property in an escrow
2 account as required by the jurisdiction in which the sale took
3 place.

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

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

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

28 (d) In lieu of the requirements in s.
29 721.08(2)(c)3.e.(III), the director of the division shall have
30 the discretion to accept alternate means of protecting the use
31 rights of purchasers in the subject accommodations and

1 facilities of the timeshare plan against unfiled and inferior
2 claims.

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

11 (7) Each escrow agent shall maintain separate books
12 and records for each timeshare plan and shall maintain such
13 books and records in accordance with good accounting
14 practices.

15 (8) An escrow agent holding escrowed funds pursuant to
16 this chapter that have not been claimed for a period of 5
17 years after the date of deposit shall make at least one
18 reasonable attempt to deliver such unclaimed funds to the
19 purchaser who submitted such funds to escrow. In making such
20 attempt, an escrow agent is entitled to rely on a purchaser's
21 last known address as set forth in the books and records of
22 the escrow agent and is not required to conduct any further
23 search for the purchaser. If an escrow agent's attempt to
24 deliver unclaimed funds to any purchaser is unsuccessful, the
25 escrow agent may deliver such unclaimed funds to the division
26 and the division shall deposit such unclaimed funds in the
27 Division of Florida Land Sales, Condominiums, and Mobile Homes
28 Trust Fund, 30 days after giving notice in a publication of
29 general circulation in the county in which the timeshare
30 property containing the purchaser's timeshare interest is
31 located. The purchaser may claim the same at any time prior to

1 the delivery of such funds to the division. After delivery of
2 such funds to the division, the purchaser shall have no more
3 rights to the unclaimed funds. The escrow agent shall not be
4 liable for any claims from any party arising out of the escrow
5 agent's delivery of the unclaimed funds to the division
6 pursuant to this section.

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

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

25 (b) Any developer, interestholder, trustee, or officer
26 or director of an owners' association who intentionally fails
27 to comply with the provisions of this section concerning the
28 establishment of a trust or owners' association, conveyances
29 of property into the trust or owners' association, and
30 conveyances or encumbrances of trust or owners' association
31 property is guilty of a felony of the third degree, punishable

1 as provided in s. 775.082, s. 775.083, or s. 775.084, or the
2 successor thereof. The failure to establish a trust or owners'
3 association, or to transfer property into the trust or owners'
4 association, or the failure of a trustee or officer or
5 director of an owners' association to comply with the trust
6 agreement, articles of incorporation, or bylaws with respect
7 to conveyances or encumbrances of trust or owners' association
8 property, as required by this section, is prima facie evidence
9 of an intentional and purposeful violation of this section.

10 Section 9. Paragraphs (a) and (d) of subsection (1),
11 paragraph (c) of subsection (2), and paragraph (c) of
12 subsection (3) of section 721.09, Florida Statutes, are
13 amended to read:

14 721.09 Reservation agreements; escrows.--

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

21 (d) A seller who has filed a reservation agreement and
22 an escrow agreement under this section may advertise the
23 reservation agreement program if the advertising material
24 meets the following requirements:

25 1. The seller complies with the provisions of s.
26 721.11 with respect to such advertising material.

27 2. The advertising material is limited to a general
28 description of the proposed timeshare plan, including, but not
29 limited to, a general description of the type, number, and
30 size of accommodations and facilities and the name of the
31 proposed timeshare plan.

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

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

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

12 (3)

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

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

24 721.11 Advertising materials; oral statements.--

25 (1)(a) A developer may file ~~All~~ advertising material
 26 ~~must be filed~~ with the division for review by the developer
 27 ~~prior to use. At the request of the developer,~~ The division
 28 shall review any the advertising material filed for review by
 29 the developer and notify the developer of any deficiencies
 30 within 10 days after the filing. If the developer corrects the
 31 deficiencies or if there are no deficiencies, the division

1 shall notify the developer of its approval of the advertising
2 materials. Notwithstanding anything to the contrary contained
3 in this subsection, so long as the developer uses advertising
4 materials approved by the division, following the developer's
5 request for a review, the developer shall not be liable for
6 any violation of this section or s. 721.111 with respect to
7 such advertising materials.

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

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

29 (e) If the seller provides the purchaser with the
30 right to cancel the purchase of a regulated short-term product
31 at any time up to 7 days prior to the purchaser's reserved use

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

30 (7) Notwithstanding the provisions of s.
31 721.05~~(7)(6)~~(b), a seller may portray possible accommodations

1 or facilities to prospective purchasers in advertising
2 material, or a purchaser public offering statement, without
3 such accommodations or facilities being available for use by
4 purchasers so long as the advertising material or purchaser
5 public offering statement complies with the provisions of
6 subsection (4).

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

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

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

31

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

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

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

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

31

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

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

9 721.12 Recordkeeping by seller.--Each seller of a
10 timeshare plan shall maintain among its business records the
11 following:

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

23 Section 12. Paragraphs (a) and (b) of subsection (1),
24 paragraph (b) of subsection (2), paragraphs (c), (d), and (e)
25 of subsection (3), paragraph (g) of subsection (6), and
26 subsections (4) and (8) of section 721.13, Florida Statutes,
27 are amended, subsection (9) is renumbered as subsection (10),
28 and new subsections (9) and (11) are added to that section, to
29 read:

30 721.13 Management.--
31

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

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

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

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

28 (2)

29 (b) The managing entity shall invest the operating and
30 reserve funds of the timeshare plan in accordance with s.
31 518.11(1); however, the managing entity shall give safety of

1 capital greater weight than production of income. In no event
2 shall the managing entity invest timeshare plan funds with a
3 developer or with any entity that is not independent of any
4 developer or any managing entity within the meaning of s.
5 721.05(20)(18), and in no event shall the managing entity
6 invest timeshare plan funds in notes and mortgages related in
7 any way to the timeshare plan.

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

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

1 | which annual fees are required to be paid to the division
2 | under s. 721.27.

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

24 | (d)1. Maintenance of all books and records concerning
25 | the timeshare plan so that all such books and records are
26 | reasonably available for inspection by any purchaser or the
27 | authorized agent of such purchaser. For purposes of this
28 | subparagraph, the books and records of the timeshare plan
29 | shall be considered "reasonably available" if copies of the
30 | requested portions are delivered to the purchaser or the
31 | purchaser's agent within 7 days after ~~of~~ the date the managing

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

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

29 3. The division is authorized to adopt rules which
30 specify those items and matters that shall be included in the
31 books and records of the timeshare plan and which specify

1 | procedures to be followed in requesting and delivering copies
2 | of the books and records.

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

10 | (e) Arranging for an annual audit of the financial
11 | statements of the timeshare plan by a certified public
12 | accountant licensed by the Board of Accountancy of the
13 | Department of Business and Professional Regulation, in
14 | accordance with generally accepted auditing standards as
15 | defined by the rules of the Board of Accountancy of the
16 | Department of Business and Professional Regulation. The
17 | financial statements required by this section must be prepared
18 | on an accrual basis using fund accounting, and must be
19 | presented in accordance with generally accepted accounting
20 | principles. A copy of the audited financial statements must be
21 | filed with the division for review and forwarded to the board
22 | of directors and officers of the owners' association, if one
23 | exists, no later than 5 calendar months after the end of the
24 | timeshare plan's fiscal year. If no owners' association
25 | exists, each purchaser must be notified, no later than 5
26 | months after the end of the timeshare plan's fiscal year, that
27 | a copy of the audited financial statements is available upon
28 | request to the managing entity. Notwithstanding any
29 | requirement of s. 718.111(13) or s. 719.104(4), the audited
30 | financial statements required by this section are the only
31 |

1 annual financial reporting requirements for timeshare
2 condominiums or timeshare cooperatives.

3 (4) The managing entity shall maintain among its
4 records and provide to the division upon request a complete
5 list of the names and addresses of all purchasers and owners
6 of timeshare units in the timeshare plan. The managing entity
7 shall update this list no less frequently than quarterly.
8 Pursuant to paragraph (3)(d), the managing entity may not
9 publish this owner's list or provide a copy of it to any
10 purchaser or to any third party other than the division.

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

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

19 (6)

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

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

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

1 expenses, unless the record owners of the affected units or
2 timeshare interests and all record owners of liens on the
3 affected units or timeshare interests join in the execution of
4 the amendment.

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

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

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

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

31 721.14 Discharge of managing entity.--

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

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

6 721.15 Assessments for common expenses.--

7 (2)

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

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

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

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

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

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

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

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

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

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

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

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

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

30
31

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

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

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

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

1 shall include, but is not limited to, the following
2 information, the form and substance of which shall first be
3 approved by the division in accordance with subsection (2):

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

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

7 (c) Whether the exchange company or any of its
8 officers or directors has any legal or beneficial interest in
9 any developer, seller, or managing entity for any timeshare
10 plan participating in the exchange program and, if so, the
11 name and location of the timeshare plan and the nature of the
12 interest.

13 (d) Unless otherwise stated, a statement that the
14 purchaser's contract with the exchange company is a contract
15 separate and distinct from the purchaser's contract with the
16 seller of the timeshare plan.

17 (e) Whether the purchaser's participation in the
18 exchange program is dependent upon the continued affiliation
19 of the timeshare plan with the exchange program.

20 (f) A statement that ~~whether~~ the purchaser's
21 participation in the exchange program is voluntary. This
22 statement is not required to be given by the seller or
23 managing entity of a multisite timeshare plan to purchasers in
24 the multisite timeshare plan.

25 (g) A complete and accurate description of the terms
26 and conditions of the purchaser's contractual relationship
27 with the exchange program and the procedure by which changes
28 thereto may be made.

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 721.24 Firesafety.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) A cover page containing:

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

6 (b) The following statement in conspicuous type:

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

19
20 (2) A summary containing all statements required to be
21 in conspicuous type in the public offering statement and in
22 all exhibits thereto.

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

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

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

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

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

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

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

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

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

4
5 Component sites contained in the multisite timeshare
6 plan (or multisite vacation ownership plan or multisite
7 vacation plan or vacation club) are subject to priority
8 reservation features which may affect your ability to obtain a
9 reservation.

10
11 (e) A summary of the material rules and regulations,
12 if any, other than the reservation system rules and
13 regulations, affecting the purchaser's use of each
14 accommodation and facility at each component site.

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

19 1. Additions.--

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

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

31

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

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

18 2. Substitutions.--

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (a) The timeshare instrument.

21 (b) The reservation system rules and regulations.

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

23 (2) SUBSTITUTIONS.--

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

30 (3) DELETIONS.--

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

11 | 721.97 Timeshare commissioner of deeds.--

12 | (1) The Governor may appoint commissioners of deeds to
13 | take acknowledgments, proofs of execution, or oaths in any
14 | foreign country or any possession, territory, or commonwealth
15 | of the United States outside the 50 states. The term of office
16 | is 4 years. Commissioners of deeds shall have authority to
17 | take acknowledgments, proofs of execution, and oaths in
18 | connection with the execution of any deed, mortgage, deed of
19 | trust, contract, power of attorney, or any other writing to be
20 | used or recorded in connection with a timeshare estate,
21 | personal property timeshare interest, timeshare license, any
22 | property subject to a timeshare plan, or the operation of a
23 | timeshare plan located within this state; provided such
24 | instrument or writing is executed outside the United States.
25 | Such acknowledgments, proofs of execution, and oaths must be
26 | taken or made in the manner directed by the laws of this
27 | state, including but not limited to s. 117.05(4), (5)(a), and
28 | (6), Florida Statutes 1997, and certified by a commissioner of
29 | deeds. The certification must be endorsed on or annexed to the
30 | instrument or writing aforesaid and has the same effect as if
31 | made or taken by a notary public licensed in this state.

1 Section 33. Paragraph (b) of subsection (8) of section
2 475.011, Florida Statutes, is amended to read:

3 475.011 Exemptions.--This part does not apply to:

4 (8)

5 (b) An exchange company, as that term is defined by s.
6 721.05(15)(~~14~~), but only to the extent that the exchange
7 company is engaged in exchange program activities as described
8 in and is in compliance with s. 721.18.

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

11 718.103 Definitions.--As used in this chapter, the
12 term:

13 (23) "Residential condominium" means a condominium
14 consisting of two or more units, any of which are intended for
15 use as a private temporary or permanent residence, except that
16 a condominium is not a residential condominium if the use for
17 which the units are intended is primarily commercial or
18 industrial and not more than three units are intended to be
19 used for private residence, and are intended to be used as
20 housing for maintenance, managerial, janitorial, or other
21 operational staff of the condominium. With respect to a
22 condominium that is not a timeshare condominium, a residential
23 unit includes a unit intended as a private temporary or
24 permanent residence as well as a unit not intended for
25 commercial or industrial use. With respect to a timeshare
26 condominium, the timeshare instrument as defined in s.
27 721.05(35)(~~33~~) shall govern the intended use of each unit in
28 the condominium. If a condominium is a residential condominium
29 but contains units intended to be used for commercial or
30 industrial purposes, then, with respect to those units which
31 are not intended for or used as private residences, the

1 condominium is not a residential condominium. A condominium
2 which contains both commercial and residential units is a
3 mixed-use condominium and is subject to the requirements of s.
4 718.404.

5 Section 35. This act shall take effect upon becoming a
6 law; however, with respect to any timeshare plan or exchange
7 program filing approved by the division prior to the date this
8 act becomes a law, the amendments to section 721.06(1)(g)2.,
9 section 721.07(2)(d)1. and (5)(e)4., section 721.075(2)(e), or
10 section 721.18(1)(l) and (m), Florida Statutes, shall not
11 apply to such filing until the earlier of January 1, 2005, or
12 the date that any amendments to such filing are made
13 subsequent to the date this act becomes a law. With respect to
14 any timeshare plan filing approved by the division prior to
15 the date this act becomes a law, the amendment to section
16 721.08(3)(a), Florida Statutes, shall not apply to the
17 nondisturbance and notice to creditors instrument required by
18 section 721.08, Florida Statutes, unless and only to the
19 extent that the developer otherwise voluntarily complies with
20 all or a portion of such provisions.

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