

CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to timeshare plans; amending s. 721.02,
7 F.S.; revising language with respect to legislative
8 purpose under the Florida Vacation Plan and Timesharing
9 Act; amending s. 721.03, F.S.; revising language with
10 respect to the scope of the act to include reference to
11 personal property timeshare plans; amending s. 721.05,
12 F.S.; providing definitions; amending s. 721.06, F.S.;
13 revising language with respect to contracts for purchase
14 of timeshare interests to include provisions with respect
15 to personal property timeshare interests; amending s.
16 721.065, F.S.; revising language with respect to resale
17 purchase agreements to include reference to certain real
18 property and personal property timeshare plans; amending
19 s. 721.07, F.S.; revising language with respect to public
20 offering statements; amending s. 721.075, F.S.; revising
21 language with respect to incidental benefits; requiring
22 purchasers to execute a statement indicating the source of
23 the benefit; amending s. 721.08, F.S.; revising language

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

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

76
 77 Be It Enacted by the Legislature of the State of Florida:
 78

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

81 721.02 Purposes.--The purposes of this chapter are to:

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

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

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

108 721.03 Scope of chapter.--

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

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

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

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

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

131 (c) Any developer and any managing entity of a personal
 132 property timeshare plan must submit to personal jurisdiction in

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133 | this state in a form satisfactory to the division at the time of
 134 | filing a public offering statement.

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

137 | 721.05 Definitions.--As used in this chapter, the term:

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

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

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

160 ~~(4)(3)~~ "Assessment" means the share of funds required for
 161 the payment of common expenses which is assessed from time to
 162 time against each purchaser by the managing entity.

163 ~~(5)(4)~~ "Closing" means:

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

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

176 ~~(6)(5)~~ "Common expenses" means:

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

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

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

184 ~~(7)(6)~~ "Completion of construction" means:

185 (a)1. That a certificate of occupancy has been issued for
 186 the entire building in which the timeshare unit being sold is
 187 located, or for the improvement, or that the equivalent

188 authorization has been issued, by the governmental body having
189 jurisdiction; ~~or~~

190 2. In a jurisdiction in which no certificate of occupancy
191 or equivalent authorization is issued, that the construction,
192 finishing, and equipping of the building or improvements
193 according to the plans and specifications have been
194 substantially completed; or

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

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

205 (8)(7) "Conspicuous type" means:

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

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

215

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

220 | (9)~~(8)~~ "Contract" means any agreement conferring the
 221 | rights and obligations of a timeshare plan on the purchaser.

222 | (10)~~(9)~~ "Developer" includes:

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

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

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

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

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

241 | 2. A managing entity, not otherwise a developer, that
 242 | offers, or engages a third party to offer on its behalf,
 243 | timeshare interests in a timeshare plan which it manages,

244 provided that such offer complies with the provisions of s.
245 721.065;

246 3. A person who owns or is conveyed, assigned, or
247 transferred more than seven timeshare interests and who
248 subsequently conveys, assigns, or transfers all acquired
249 timeshare interests to a single purchaser in a single
250 transaction, which transaction may occur in stages; or

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

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

- 271 1. With actual intent to hinder, delay, or defraud any
 272 purchaser or the division; or
 273 2. To a person that would constitute an insider under s.
 274 726.102(7).

275
 276 The provisions of this paragraph shall not be construed to
 277 relieve any successor or concurrent developer from the
 278 obligation to comply with the provisions of any applicable
 279 timeshare instrument.

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

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

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

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

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

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

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

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

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

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

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

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

324 ~~(19)~~~~(17)~~ "Incidental benefit" means an accommodation,
 325 product, service, discount, or other benefit which is offered to

326 a prospective purchaser of a timeshare plan or to a purchaser of
 327 a timeshare plan prior to the expiration of his or her initial
 328 10-day voidability period pursuant to s. 721.10; which is not an
 329 exchange program as defined in subsection (16) ~~(15)~~; and which
 330 complies with the provisions of s. 721.075. The term shall not
 331 include an offer of the use of the accommodations and facilities
 332 of the timeshare plan on a free or discounted one-time basis.

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

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

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

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

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

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

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

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

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

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

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

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

380 ~~(24)~~~~(22)~~ "Offer to sell," "offer for sale," "offered for
381 sale," or "offer" means the solicitation, advertisement, or

382 inducement, or any other method or attempt, to encourage any
383 person to acquire the opportunity to participate in a timeshare
384 plan.

385 (25)~~(23)~~ "One-to-one purchaser to accommodation ratio"
386 means the ratio of the number of purchasers eligible to use the
387 accommodations of a timeshare plan on a given day to the number
388 of accommodations available for use within the plan on that day,
389 such that the total number of purchasers eligible to use the
390 accommodations of the timeshare plan during a given calendar
391 year never exceeds the total number of accommodations available
392 for use in the timeshare plan during that year. For purposes of
393 calculation under this subsection, each purchaser must be
394 counted at least once, and no individual timeshare unit may be
395 counted more than 365 times per calendar year (or more than 366
396 times per leap year). A purchaser who is delinquent in the
397 payment of timeshare plan assessments shall continue to be
398 considered eligible to use the accommodations of the timeshare
399 plan for purposes of this subsection notwithstanding any
400 application of s. 721.13(6).

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

407 (27)~~(25)~~ "Owners' association" means an ~~the~~ association
408 made up of all owners of timeshare interests in a timeshare

409 plan, including developers and purchasers of such a timeshare
 410 plan who have purchased timeshare estates.

411 (28) "Personal property timeshare interest" means a right
 412 to occupy an accommodation located on or in or comprised of
 413 personal property that is not permanently affixed to real
 414 property, whether or not coupled with a beneficial or ownership
 415 interest in the accommodations or personal property.

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

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

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

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

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

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

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

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

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

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

463 (c) A person who owns or is conveyed, assigned, or
 464 transferred more than seven timeshare interests and who

465 subsequently conveys, assigns, or transfers all acquired
 466 timeshare interests to a single purchaser in a single
 467 transaction, which transaction may occur in stages; or

468 (d) A person who has acquired or has the right to acquire
 469 more than seven timeshare interests from a developer or other
 470 interestholder in connection with a loan, securitization,
 471 conduit, or similar financing arrangement and who subsequently
 472 arranges for all or a portion of the timeshare interests to be
 473 offered by one or more developers in the ordinary course of
 474 business on their own behalves or on behalf of such person.

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

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

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

490 (37)~~(35)~~ "Timeshare license" means a right to occupy a
 491 timeshare unit, which right is not a personal property timeshare
 492 neither coupled with a freehold interest or a timeshare, nor

493 ~~coupled with an estate for years with a future interest, in a~~
 494 ~~timeshare property.~~

495 (38)~~(36)~~ "Timeshare period" means the period or periods of
 496 time when a purchaser of a timeshare interest is afforded the
 497 opportunity to use the accommodations ~~or facilities, or both,~~ of
 498 a timeshare plan.

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

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

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

515 (40)~~(38)~~ "Timeshare property" means one or more timeshare
 516 units subject to the same timeshare instrument, together with
 517 any other property or rights to property appurtenant to those
 518 timeshare units. Notwithstanding anything to the contrary
 519 contained in chapter 718 or chapter 719, the timeshare
 520 instrument for a timeshare condominium or cooperative may

521 designate personal property, contractual rights, affiliation
 522 agreements of component sites of vacation clubs, exchange
 523 companies, or reservation systems, or any other agreements or
 524 personal property, as common elements or limited common elements
 525 of the timeshare condominium or cooperative.

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

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

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

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

542 721.06 Contracts for purchase of timeshare interests.--

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

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

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

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

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

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

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

574 (f) A brief description of the nature and duration of the
575 timeshare interest being sold, including whether any interest in
576 real property or personal property is being conveyed and the

577 specific number of years constituting the term of the timeshare
578 plan.

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

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

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

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

604

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

607
608 For the purpose of ad valorem assessment, taxation and
609 special assessments, the managing entity will be considered the
610 taxpayer as your agent pursuant to section 192.037, Florida
611 Statutes.

612
613 (i) A statement that, in the event the purchaser cancels
614 the contract during a 10-day cancellation period, the developer
615 will refund to the purchaser the total amount of all payments
616 made by the purchaser under the contract, reduced by the
617 proportion of any contract benefits the purchaser has actually
618 received under the contract prior to the effective date of the
619 cancellation. The statement shall further provide that the
620 refund will be made within 20 days after receipt of notice of
621 cancellation or within 5 days after receipt of funds from the
622 purchaser's cleared check, whichever is later. A seller and a
623 purchaser shall agree in writing on a specific value for each
624 contract benefit received by the purchaser for purposes of this
625 paragraph. The term "contract benefit" shall not include
626 purchaser public offering statements or other documentation or
627 materials that must be furnished to a purchaser pursuant to
628 statute or rule.

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

633 | conveyance or transfer of his or her timeshare estate or
 634 | personal property timeshare interest ~~a deed~~ until all payments
 635 | under the agreement have been made.

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

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

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

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

656 |
 657 | The developer is required to provide the managing entity of
 658 | the multisite timeshare plan with a copy of the approved public
 659 | offering statement text and exhibits filed with the division and
 660 | any approved amendments thereto, and any other component site

661 documents as described in section 721.07 or section 721.55,
 662 Florida Statutes, that are not required to be filed with the
 663 division, to be maintained by the managing entity for inspection
 664 as part of the books and records of the plan.

665
 666 (m) The following statement in conspicuous type:

667
 668 Any resale of this timeshare interest must be accompanied
 669 by certain disclosures in accordance with section 721.065,
 670 Florida Statutes.

671
 672 (n) A description of any rights reserved by the developer
 673 to alter or modify the offering prior to closing.

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

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

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

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

690 721.065 Resale purchase agreements.--

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

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

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

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

716 charge of \$_____ for interest and late charges.) For the purpose
 717 of ad valorem assessment, taxation, and special assessments, the
 718 managing entity will be considered the taxpayer as your agent
 719 pursuant to section 192.037, Florida Statutes. Each owner is
 720 personally liable for the payment of her or his assessments for
 721 common expenses, and failure to timely pay these assessments may
 722 result in restriction or loss of your use and/or ownership
 723 rights.

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

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

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

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

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

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

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

768 (1) The division shall, upon receiving a filed ~~registered~~
 769 public offering statement from a developer, mail to the
 770 developer an acknowledgment of receipt. The failure of the

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771 division to send such acknowledgment will not, however, relieve
772 the developer from the duty of complying with this section.

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

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

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

799 additional deficiencies within 20 days after receipt of the
800 developer's timely and complete response, the filing will be
801 deemed approved.

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

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

813
814 The developer is delivering to you a public offering statement
815 that has been filed with but not yet approved by the Division of
816 Florida Land Sales, Condominiums, and Mobile Homes. Any
817 revisions to the unapproved public offering statement you have
818 received must be delivered to you, but only if the revisions
819 materially alter or modify the offering in a manner adverse to
820 you. After the division approves the public offering statement,
821 you will receive notice of the approval from the developer and
822 the required revisions, if any.

823
824 Your statutory right to cancel this transaction without any
825 penalty or obligation expires 10 calendar days after the date
826 you signed your purchase contract or the date on which you

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

839
840 2. After receipt of approval from the division and prior
841 to closing, if any revisions made to the documents contained in
842 the purchaser public offering statement materially alter or
843 modify the offering in a manner adverse to a purchaser, the
844 developer shall send the purchaser such revisions together with
845 a notice containing a statement in conspicuous type in
846 substantially the following form:

847
848 The unapproved public offering statement previously delivered to
849 you, together with the enclosed revisions, has been approved by
850 the Division of Florida Land Sales, Condominiums, and Mobile
851 Homes. Accordingly, your cancellation right expires 10 calendar
852 days after you sign your purchase contract or 10 calendar days
853 after you receive these revisions, whichever is later. If you

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854 | have any questions regarding your cancellation rights, you may
855 | contact the division at [insert division's current address].
856 |

857 | 3. After receipt of approval from the division and prior
858 | to closing, if no revisions have been made to the documents
859 | contained in the unapproved purchaser public offering statement,
860 | or if such revisions do not materially alter or modify the
861 | offering in a manner adverse to a purchaser, the developer shall
862 | send the purchaser a notice containing a statement in
863 | conspicuous type in substantially the following form:
864 |

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

878 | (3)(a)1. Any change to an approved public offering
879 | statement filing shall be filed with the division for approval
880 | as an amendment prior to becoming effective. The division shall
881 | have 20 days after receipt of a proposed amendment to approve or

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882 cite deficiencies in the proposed amendment. If the division
883 fails to act within 20 days, the amendment will be deemed
884 approved. If the proposed amendment adds a new component site to
885 an approved multisite timeshare plan, the division's initial
886 period in which to approve or cite deficiencies is 45 days. If
887 the developer fails to adequately respond to any deficiency
888 notice within 30 days, the division may reject the amendment.
889 Subsequent to such rejection, a new filing fee pursuant to
890 subsection (4) and a new division initial review period pursuant
891 to this paragraph shall apply to any refiling or further review
892 of the rejected amendment.

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

909 purchaser, shall be delivered to a purchaser no later than 10
910 days prior to closing.

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

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

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

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

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

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

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

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

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

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

959 1. Its name and location.
 960 2. An explanation of the form of timeshare ownership that
 961 is being offered, including a statement as to whether any
 962 interest in the underlying real property will be conveyed to the
 963 purchaser. If the plan is being created or being sold on a
 964 leasehold, a description of the material terms of the lease

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

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

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

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

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

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

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

993 | declared as part of the timeshare plan and filed with the
994 | division.

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

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

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

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

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

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

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

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

1021 (h)1. If any facilities offered by the developer for use
 1022 by purchasers are to be leased or have club memberships
 1023 associated with them, other than participation in a vacation
 1024 club, one of the following statements in conspicuous type: There
 1025 is a lease associated with one or more facilities of the
 1026 timeshare plan; or, There is a club membership associated with
 1027 one or more facilities of the timeshare plan.

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

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

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

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

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

1046
 1047 Immediately following the applicable statement, a description of
 1048 the lease or other instrument shall be stated, including a

1049 description of terms of the payment of rent or costs and
 1050 expenses of maintenance, management, upkeep, and replacement of
 1051 the facilities.

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

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

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

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

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

1075 (i) If the developer or any other person has the right to
 1076 increase or add to the facilities at any time after the

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1077 establishment of the timeshare plan, without the consent of the
 1078 purchasers or owners' association being required, a statement in
 1079 conspicuous type in substantially the following form: Facilities
 1080 may be expanded or added without consent of the purchasers or
 1081 the owners' association(s). Immediately following this
 1082 statement, a description of such reserved rights shall be
 1083 included.

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

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

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

1105 and any other suit which is material to the timeshare plan of
 1106 which the developer, managing entity, the owner of the
 1107 underlying fee, or the owner of the underlying personal property
 1108 ~~fee~~ has actual knowledge. If no judgments or pending suits
 1109 exist, there shall be a statement of such fact.

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

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

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

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

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1133 contract, the nature of the services included, and the
1134 compensation, stated for a month and for a year, and provisions
1135 for increases in the compensation. In the case of a personal
1136 property timeshare plan in which the accommodations or
1137 facilities are located on or in a documented vessel or foreign
1138 vessel as provided in s. 721.08(2)(c)3.e., a statement shall be
1139 included that describes the trustee's or owners' association's
1140 access to the certificates of classification and that the
1141 certificate of classification will be made available to
1142 purchasers on request.

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

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

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1161 restricted or controlled. Immediately following this statement,
1162 a description of the nature of the restriction, limitation, or
1163 control on the sale, lease, or transfer of timeshare interests
1164 shall be included.

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

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

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1189 plans and floor plans, timeshare unit types, timeshare unit
1190 sizes and timeshare unit type mixes, numbers of timeshare units,
1191 and facilities with respect to each subsequent phase. There
1192 shall be no time limit during which a developer of a timeshare
1193 condominium or timeshare cooperative must complete his or her
1194 phasing plan, and the developer shall not be required to notify
1195 owners of existing timeshare estates of his or her decision not
1196 to add one or more proposed phases.

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

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

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

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

1217 Expenses shall also be shown for the shortest timeshare period
 1218 offered for sale by the developer. If the timeshare plan
 1219 provides for the offer and sale of units to be used on a
 1220 nontimeshare basis, the estimated monthly and annual expenses of
 1221 such units shall be set forth in a separate schedule.

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

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

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

1245 (XI) Reserves for deferred maintenance and reserves for
1246 capital expenditures, including:-

1247 (A) Reserves for deferred maintenance or capital
1248 expenditures of accommodations and facilities of a real property
1249 timeshare plan, if any. All reserves for any accommodations and
1250 facilities of real property timeshare plans located in this
1251 state shall be calculated by a formula which is based upon
1252 estimated life and replacement cost of each reserve item.
1253 Reserves for deferred maintenance for such accommodations and
1254 facilities shall include accounts for roof replacement, building
1255 painting, pavement resurfacing, replacement of timeshare unit
1256 furnishings and equipment, and any other component, the useful
1257 life of which is less than the useful life of the overall
1258 structure. For any accommodations and facilities of real
1259 property timeshare plans located outside of this state, the
1260 developer shall disclose the amount of reserves for deferred
1261 maintenance or capital expenditures required by the law of the
1262 situs state, if applicable, and maintained for such
1263 accommodations and facilities.

1264 (B) Reserves for deferred maintenance or capital
1265 expenditures of accommodations and facilities of a personal
1266 property timeshare plan, if any. If such reserves are
1267 maintained, the estimated operating budget shall disclose the
1268 methodology of how the reserves are calculated. If a personal
1269 property timeshare plan does not require reserves, the following
1270 statement, in conspicuous type, shall appear in both the budget
1271 and the public offering statement:

1272

1273 The estimated operating budget for this personal property
 1274 timeshare plan does not include reserves for deferred
 1275 maintenance or capital expenditures; each timeshare interest may
 1276 be subject to substantial special assessments from time to time
 1277 because no such reserves exist.

1278

1279 (XII) Fees payable to the division.

1280 b. Expenses for a purchaser:

1281 (I) Rent for the timeshare unit, if subject to a lease.

1282 (II) Rent payable by the purchaser directly to the lessor
 1283 or agent under any lease for the use of facilities, which use
 1284 and payment is a mandatory condition of ownership and is not
 1285 included in the common expenses or assessments for common
 1286 maintenance paid by the purchasers to the managing entity.

1287 4. The estimated amounts shall be stated for a period of
 1288 at least 12 months and may distinguish between the period prior
 1289 to the time that purchasers elect a majority of the board of
 1290 administration and the period after that date.

1291 5. If the developer intends to guarantee the level of
 1292 assessments, such guarantee must be based upon a good faith
 1293 estimate of the revenues and expenses of the timeshare plan. The
 1294 guarantee must include a description of the following:

1295 a. The specific time period measured in one or more
 1296 calendar or fiscal years during which the guarantee will be in
 1297 effect.

1298 b. A statement that the developer will pay all common
 1299 expenses incurred in excess of the total revenues of the
 1300 timeshare plan pursuant to s. 721.15(2) if the developer has

1301 | excused himself or herself from the payment of assessments
 1302 | during the guarantee period.

1303 | c. The level, expressed in total dollars, at which the
 1304 | developer guarantees the budget. If the developer has reserved
 1305 | the right to extend or increase the guarantee level pursuant to
 1306 | s. 721.15(2), a disclosure must be included to that effect.

1307 | 6. If the developer intends to provide a trust fund to
 1308 | defer or reduce the payment of annual assessments, a copy of the
 1309 | trust instrument shall be attached as an exhibit and shall
 1310 | include a description of such arrangement, including, but not
 1311 | limited to:

1312 | a. The specific amount of such trust funds and the source
 1313 | of the funds.

1314 | b. The name and address of the trustee.

1315 | c. The investment methods permitted by the trust
 1316 | agreement.

1317 | d. A statement in conspicuous type that the funds from the
 1318 | trust account may not cover all assessments and that there is no
 1319 | guarantee that purchasers will not have to pay assessments in
 1320 | the future.

1321 | 7. The budget of a phase timeshare plan may contain a note
 1322 | identifying the number of timeshare interests covered by the
 1323 | budget, indicating the number of timeshare interests, if any,
 1324 | estimated to be declared as part of the timeshare plan during
 1325 | that calendar year, and projecting the common expenses for the
 1326 | timeshare plan based upon the number of timeshare interests
 1327 | estimated to be declared as part of the timeshare plan during
 1328 | that calendar year.

1329 (v) A schedule of estimated closing expenses to be paid by
 1330 a purchaser or lessee of a timeshare interest and a statement as
 1331 to whether a title opinion or title insurance policy is
 1332 available to the purchaser and, if so, at whose expense.

1333 (w) The identity of the developer and the chief operating
 1334 officer or principal directing the creation and sale of the
 1335 timeshare plan and a statement of the experience of each in this
 1336 field or, if no experience, a statement of that fact.

1337 (x) A statement of the total financial obligation of the
 1338 purchaser, including the purchase price and any additional
 1339 charges to which the purchaser may be subject.

1340 (y) The name of any person who will or may have the right
 1341 to alter, amend, or add to the charges to which the purchaser
 1342 may be subject and the terms and conditions under which such
 1343 alterations, amendments, or additions may be imposed.

1344 (z) A statement of the purchaser's right of cancellation
 1345 of the purchase contract.

1346 (aa) A description of the insurance coverage provided for
 1347 the timeshare plan.

1348 (bb) A statement as to whether the timeshare plan is
 1349 participating in an exchange program and, if so, the name and
 1350 address of the exchange company offering the exchange program.

1351 (cc) The existence of rules and regulations regarding any
 1352 reservation features governing a purchaser's ability to make
 1353 reservations for a timeshare period, including, if applicable, a
 1354 conspicuous type disclaimer in substantially the following form:
 1355

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1356 The right to reserve a timeshare period is subject to rules and
1357 regulations of the timeshare plan reservation system.

1358
1359 (dd) If a developer is filing a timeshare plan that
1360 includes a timeshare instrument or component site document that
1361 was in conformance with the laws and rules in existence at the
1362 time the timeshare plan was created but does not conform to
1363 existing laws and rules that govern the timeshare plan and the
1364 developer does not have the authority or power to amend or
1365 change the timeshare instrument or component site document to
1366 conform to such existing laws or rules as directed by the
1367 division, a brief explanation of current law and the conflict
1368 with the timeshare instrument or component site document,
1369 preceded by disclaimer in conspicuous type in substantially the
1370 following form:

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

1383 reference to person or entity that has the right to amend or
1384 change the timeshare instrument or component site document].
1385

1386 (ee) Any other information that a seller, with the
1387 approval of the division, desires to include in the public
1388 offering statement.

1389 (ff) Copies of the following documents and plans, to the
1390 extent they are applicable, shall be included as exhibits to the
1391 filed ~~registered~~ public offering statement provided, if the
1392 timeshare plan has not been declared or created at the time of
1393 the filing, the developer shall provide proposed documents:

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

1410 9. The floor plan of each type of accommodation and the
1411 plot plan showing the location of all accommodations and
1412 facilities declared as part of the timeshare plan and filed with
1413 the division.

1414 10. The lease for any facilities.

1415 11. A declaration of servitude of properties serving the
1416 accommodations and facilities, but not owned by purchasers or
1417 leased to them or the owners' association.

1418 12. Any documents required by s. 721.03(3)(e) as the
1419 result of the inclusion of a timeshare plan in the conversion of
1420 the building to condominium or cooperative ownership.

1421 13. The form of agreement for sale or lease of timeshare
1422 interests.

1423 14. The executed agreement for escrow of payments made to
1424 the developer prior to closing and the form of any agreement for
1425 escrow of ad valorem tax escrow payments, if any, to be made
1426 into an ad valorem tax escrow account pursuant to s. 192.037(6).

1427 15. The documents containing any restrictions on use of
1428 the property required by paragraph (s).

1429 16. A letter from the escrow agent or filing attorney
1430 confirming that the escrow agent and its officers, directors, or
1431 other partners are independent pursuant to the requirements of
1432 this chapter.

1433 17. Any nondisturbance and notice to creditors instrument
1434 required by s. 721.08.

1435 18. In the case of any personal property timeshare plan in
1436 which the accommodations and facilities are located on or in a
1437 documented vessel or foreign vessel as provided in s.

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1438 721.08(2)(c)3.e., a copy of the certificate of ownership of such
 1439 vessel and either a copy of the certificate of documentation or
 1440 certificate of registry of such vessel.

1441 19. An executed affidavit given under oath by an attorney
 1442 licensed to practice law in any jurisdiction in the United
 1443 States stating that the attorney has researched the applicable
 1444 laws of the jurisdiction in which governing law has been
 1445 established and the laws of the jurisdiction in which the vessel
 1446 is registered, and has found that the timeshare instrument
 1447 complies with the provisions of s. 721.08(2)(c)3.e.(II)(C) and
 1448 (III).

1449 20.16- Any other documents or instruments creating the
 1450 timeshare plan.

1451 (gg) Such other information as is necessary to fairly,
 1452 meaningfully, and effectively disclose all aspects of the
 1453 timeshare plan, including, but not limited to, any disclosures
 1454 made necessary by the operation of s. 721.03(8). However, if a
 1455 developer has, in good faith, attempted to comply with the
 1456 requirements of this section, and if, in fact, he or she has
 1457 substantially complied with the disclosure requirements of this
 1458 chapter, nonmaterial errors or omissions shall not be
 1459 actionable.

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

1465 offering statement filed pursuant to s. 721.55 in lieu of
1466 repeating such information.

1467 (6) The division is authorized to prescribe by rule the
1468 form of the approved purchaser public offering statement that
1469 must be furnished by the developer to each purchaser. The form
1470 of the purchaser public offering statement must provide fair,
1471 meaningful, and effective disclosure of all aspects of the
1472 timeshare plan. For timeshare plans filed pursuant to this part,
1473 the developer shall furnish each purchaser with the following:

1474 (a) A copy of the purchaser public offering statement text
1475 in the form approved by the division for delivery to purchasers.

1476 (b) Copies of the exhibits required to be filed with the
1477 division pursuant to subparagraphs (5)(ff)1., 2., 4., 5., 8.,
1478 and 20. ~~16.~~

1479 (c) A receipt for timeshare plan documents and a list
1480 describing any exhibit to the filed ~~registered~~ public offering
1481 statement filed with the division which is not delivered to the
1482 purchaser. The division is authorized to prescribe by rule the
1483 form of the receipt for timeshare plan documents and the
1484 description of exhibits list that must be furnished to the
1485 purchaser. The description of documents list utilized by a
1486 developer shall be filed with the division for review as part of
1487 the filed ~~registered~~ public offering statement pursuant to this
1488 section. The developer shall be required to provide the managing
1489 entity with a copy of the approved filed ~~registered~~ public
1490 offering statement and any approved amendments thereto to be
1491 maintained by the managing entity as part of the books and
1492 records of the timeshare plan pursuant to s. 721.13(3)(d).

1493 (d) Any other exhibit which the developer includes as part
 1494 of the purchaser public offering statement, provided that the
 1495 developer first files the exhibit with the division.

1496 (e) An executed copy of any document which the purchaser
 1497 signs.

1498 (f) Each purchaser shall receive a fully executed paper
 1499 copy of the purchase contract.

1500 Section 7. Paragraph (g) of subsection (1) of section
 1501 721.075, Florida Statutes, is amended and paragraph (e) is added
 1502 to subsection (2) of said section, to read:

1503 721.075 Incidental benefits.--Incidental benefits shall be
 1504 offered only as provided in this section.

1505 (1) Accommodations, facilities, products, services,
 1506 discounts, or other benefits which satisfy the requirements of
 1507 this subsection shall be subject to the provisions of this
 1508 section and exempt from the other provisions of this chapter
 1509 which would otherwise apply to such accommodations or facilities
 1510 if and only if:

1511 (g) The incidental benefit is filed with the division for
 1512 review in conjunction with the filing of a timeshare plan or in
 1513 connection with a previously filed timeshare plan.

1514 (2) Each purchaser shall execute a separate acknowledgment
 1515 and disclosure statement with respect to all incidental
 1516 benefits, which statement shall include the following
 1517 information:

1518 (e) A statement indicating the source of the services,
 1519 points, or other products that constitute the incidental
 1520 benefit.

1521 Section 8. Section 721.08, Florida Statutes, is amended to
1522 read:

1523 721.08 Escrow accounts; nondisturbance instruments;
1524 alternate security arrangements; transfer of legal title.--

1525 (1) Prior to the filing of a ~~registered~~ public offering
1526 statement with the division, all developers shall establish an
1527 escrow account with an escrow agent for the purpose of
1528 protecting the funds or other property of purchasers required to
1529 be escrowed by this section. An escrow agent shall maintain the
1530 accounts called for in this section only in such a manner as to
1531 be under the direct supervision and control of the escrow agent.
1532 The escrow agent shall have a fiduciary duty to each purchaser
1533 to maintain the escrow accounts in accordance with good
1534 accounting practices and to release the purchaser's funds or
1535 other property from escrow only in accordance with this chapter.
1536 The escrow agent shall retain all affidavits received pursuant
1537 to this section for a period of 5 years. Should the escrow agent
1538 receive conflicting demands for funds or other property held in
1539 escrow, the escrow agent shall immediately notify the division
1540 of the dispute and either promptly submit the matter to
1541 arbitration or, by interpleader or otherwise, seek an
1542 adjudication of the matter by court.

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

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1548 ~~agreement shall provide that the~~ funds or other property may be
1549 released from escrow only as follows:

1550 (a) Cancellation.--In the event a purchaser gives a valid
1551 notice of cancellation pursuant to s. 721.10 or is otherwise
1552 entitled to cancel the sale, the funds or other property
1553 received from or on behalf of the purchaser, or the proceeds
1554 thereof, shall be returned to the purchaser. Such refund shall
1555 be made within 20 days after ~~of~~ demand therefor by the purchaser
1556 or within 5 days after receipt of funds from the purchaser's
1557 cleared check, whichever is later. If the purchaser has received
1558 benefits under the contract prior to the effective date of the
1559 cancellation, the funds or other property to be returned to the
1560 purchaser may be reduced by the proportion of contract benefits
1561 actually received.

1562 (b) Purchaser's default.--Following expiration of the 10-
1563 day cancellation period, if the purchaser defaults in the
1564 performance of her or his obligations under the terms of the
1565 contract to purchase or such other agreement by which a seller
1566 sells the timeshare interest, the developer shall provide an
1567 affidavit to the escrow agent requesting release of the escrowed
1568 funds or other property and shall provide a copy of such
1569 affidavit to the purchaser who has defaulted. The developer's
1570 affidavit, as required herein, shall include:

1571 1. A statement that the purchaser has defaulted and that
1572 the developer has not defaulted;

1573 2. A brief explanation of the nature of the default and
1574 the date of its occurrence;

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1575 3. A statement that pursuant to the terms of the contract
1576 the developer is entitled to the funds held by the escrow agent;
1577 and

1578 4. A statement that the developer has not received from
1579 the purchaser any written notice of a dispute between the
1580 purchaser and developer or a claim by the purchaser to the
1581 escrow.

1582 (c) Compliance with conditions.--

1583 1. Timeshare licenses.--If the timeshare plan is one in
1584 which timeshare licenses are to be sold and no cancellation or
1585 default has occurred, the escrow agent may release the escrowed
1586 funds or other property to or on the order of the developer upon
1587 presentation of:

1588 a. An affidavit by the developer that all of the following
1589 conditions have been met:

1590 (I) Expiration of the cancellation period.

1591 (II) Completion of construction.

1592 (III) Closing.

1593 (IV) Either:

1594 (A) Execution, delivery, and recordation by each
1595 interestholder of the nondisturbance and notice to creditors
1596 instrument, as described in this section; or, ~~alternatively,~~

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

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1602 nondisturbance and notice to creditors instrument, as described
1603 in this section.

1604 b. A certified copy of each ~~the~~ recorded nondisturbance
1605 and notice to creditors instrument ~~that complies with subsection~~
1606 ~~(3)~~.

1607 c. One of the following:

1608 (I) A copy of a memorandum of agreement, as defined in s.
1609 721.05~~(21)~~, together with satisfactory evidence that the
1610 original memorandum of agreement has been irretrievably
1611 delivered for recording to the appropriate official responsible
1612 for maintaining the public records in the county in which the
1613 subject accommodations and facilities are located. The original
1614 memorandum of agreement must be recorded within 180 days after
1615 the date on which the purchaser executed her or his purchase
1616 agreement.

1617 (II) A notice delivered for recording to the appropriate
1618 official responsible for maintaining the public records in each
1619 county in which the subject accommodations and facilities are
1620 located notifying all persons of the identity of an independent
1621 escrow agent or trustee satisfying the requirements of
1622 subparagraph 4. ~~sub-subparagraph 3.b.~~ that shall maintain
1623 separate books and records, in accordance with good accounting
1624 practices, for the timeshare plan in which timeshare licenses
1625 are to be sold. The books and records shall indicate each
1626 accommodation and facility that is subject to such a timeshare
1627 plan and each purchaser of a timeshare license in the timeshare
1628 plan.

1629 2. Timeshare estates.--If the timeshare plan is one in
1630 which timeshare estates are to be sold, ~~other than interests in~~
1631 ~~a trust pursuant to subparagraph 3.,~~ and no cancellation or
1632 default has occurred, the escrow agent may release the escrowed
1633 funds or other property to or on the order of the developer upon
1634 presentation of:

1635 a. An affidavit by the developer that all of the following
1636 conditions have been met:

1637 (I) Expiration of the cancellation period.

1638 (II) Completion of construction.

1639 (III) Closing.

1640 b. If the timeshare estate is sold by agreement for deed,
1641 a certified copy of the recorded nondisturbance and notice to
1642 creditors instrument, as described in this section.

1643 c. Evidence that each accommodation and facility:

1644 (I) Is free and clear of the claims of any
1645 interestholders, other than the claims of interestholders that,
1646 through a recorded instrument, are irrevocably made subject to
1647 the timeshare instrument and the use rights of purchasers made
1648 available through the timeshare instrument;

1649 (II) Is the subject of a recorded nondisturbance and
1650 notice to creditors instrument that complies with subsection (3)
1651 and s. 721.17; or

1652 (III) Has been transferred into a trust satisfying the
1653 requirements of subparagraph 4.

1654 d. Evidence that the timeshare estate:

1655 (I) Is free and clear of the claims of any
1656 interestholders, other than the claims of interestholders that,

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1657 through a recorded instrument, are irrevocably made subject to
 1658 the timeshare instrument and the use rights of purchasers made
 1659 available through the timeshare instrument; ~~or~~

1660 (II) Is that ~~are~~ the subject of a recorded nondisturbance
 1661 and notice to creditors instrument that complies with subsection
 1662 (3) and s. 721.17.

1663 3. Personal property timeshare interests. --If the
 1664 timeshare plan is one in which personal property timeshare
 1665 interests ~~estates~~ are to be sold as ~~interests in a trust that~~
 1666 ~~complies in all respects with the provisions of sub-subparagraph~~
 1667 ~~b.~~ and no cancellation or default has occurred, the escrow
 1668 agent may release the escrowed funds or other property to or on
 1669 the order of the developer upon presentation of:

1670 a. An affidavit by the developer that all of the following
 1671 conditions have been met:

1672 (I) Expiration of the cancellation period.

1673 (II) Completion of construction.

1674 (III) ~~Transfer of the subject accommodations and~~
 1675 ~~facilities, or all use rights therein, to the trust.~~

1676 ~~(IV)~~ Closing.

1677 b. If the personal property timeshare interest is sold by
 1678 agreement for transfer, evidence that the agreement for transfer
 1679 complies fully with s. 721.06 and this section.

1680 c. Evidence that one of the following has occurred:

1681 (I) Transfer by the owner of the underlying personal
 1682 property of legal title to the subject accommodations and
 1683 facilities or all use rights therein into a trust satisfying the
 1684 requirements of subparagraph 4.; or

1685 (II) Transfer by the owner of the underlying personal
 1686 property of legal title to the subject accommodations and
 1687 facilities or all use rights therein into an owners' association
 1688 satisfying the requirements of subparagraph 5.

1689 d. Evidence of compliance with the provisions of
 1690 subparagraph 6., if required.

1691 e. If a personal property timeshare plan is created with
 1692 respect to accommodations and facilities that are located on or
 1693 in an oceangoing vessel, including a "documented vessel" or a
 1694 "foreign vessel," as defined and governed by 46 U.S.C., chapter
 1695 301:

1696 (I) In making the transfer required in sub-subparagraph
 1697 c., the developer shall use as its transfer instrument a
 1698 document that establishes and protects the continuance of the
 1699 use rights in the subject accommodations and facilities in a
 1700 manner that is enforceable by the trust or owners' association.

1701 (II) The transfer instrument shall comply fully with the
 1702 provisions of this chapter, shall be part of the timeshare
 1703 instrument, and shall contain specific provisions that:

1704 (A) Prohibit the vessel owner, the developer, any manager
 1705 or operator of the vessel, the owners' association or the
 1706 trustee, the managing entity, or any other person from incurring
 1707 any liens against the vessel except for liens that are required
 1708 for the operation and upkeep of the vessel, including liens for
 1709 fuel expenditures, repairs, crews' wages, and salvage, and
 1710 except as provided in sub-sub-subparagraphs 4.b.(III) and
 1711 5.b.(III). All expenses, fees, and taxes properly incurred in
 1712 connection with the creation, satisfaction, and discharge of any

1713 such permitted lien, or a prorated portion thereof if less than
 1714 all of the accommodations on the vessel are subject to the
 1715 timeshare plan, shall be common expenses of the timeshare plan.

1716 (B) Grant a lien against the vessel in favor of the
 1717 owners' association or trustee to secure the full and faithful
 1718 performance of the vessel owner and developer of all of their
 1719 obligations to the purchasers.

1720 (C) Establish governing law in a jurisdiction that
 1721 recognizes and will enforce the timeshare instrument and the
 1722 laws of the jurisdiction of registry of the vessel.

1723 (D) Require that a description of the use rights of
 1724 purchasers be posted and displayed on the vessel in a manner
 1725 that will give notice of such rights to any party examining the
 1726 vessel. This notice must identify the owners' association or
 1727 trustee and include a statement disclosing the limitation on
 1728 incurring liens against the vessel described in sub-sub-sub-
 1729 subparagraph (A).

1730 (E) Include the nondisturbance and notice to creditors
 1731 instrument for the vessel owner and any other interestholders.

1732 (F) The owners' association created under subparagraph 5.
 1733 or trustee created under subparagraph 4. shall have access to
 1734 any certificates of classification in accordance with the
 1735 timeshare instrument.

1736 (III) If the vessel is a foreign vessel, the vessel must
 1737 be registered in a jurisdiction that permits a filing evidencing
 1738 the use rights of purchasers in the subject accommodations and
 1739 facilities, offers protection for such use rights against
 1740 unfiled and inferior claims, and recognizes the document or

1741 instrument creating such use rights as a lien against the
 1742 vessel.

1743 (IV) In addition to the disclosures required by s.
 1744 721.07(5), the public offering statement and purchase contract
 1745 must contain a disclosure in conspicuous type in substantially
 1746 the following form:

1747
 1748 The laws of the State of Florida govern the offering of this
 1749 timeshare plan in this state. There are inherent risks in
 1750 purchasing a timeshare interest in this timeshare plan because
 1751 the accommodations and facilities of the timeshare plan are
 1752 located on a vessel that will sail into international waters and
 1753 into waters governed by many different jurisdictions. Therefore,
 1754 the laws of the State of Florida cannot fully protect your
 1755 purchase of an interest in this timeshare plan. Specifically,
 1756 management and operational issues may need to be addressed in
 1757 the jurisdiction in which the vessel is registered, which is
 1758 _____ (insert jurisdiction in which vessel is registered).
 1759 Concerns of purchasers may be sent to _____ (insert name
 1760 of applicable regulatory agency and address).

1761 4. Trust.--

1762 a. If the subject accommodations or facilities, or all use
 1763 rights therein, are to be transferred into a trust in order to
 1764 comply with this paragraph, such transfer shall take place
 1765 pursuant to this subparagraph.

1766 b. Prior to the transfer by each interestholder of the
 1767 subject accommodations and facilities, or all use rights
 1768 therein, to a trust, any lien or other encumbrance against such

1769 accommodations and facilities, or use rights therein, shall be
 1770 made subject to a nondisturbance and notice to creditors
 1771 instrument pursuant to subsection (3) ~~as described in this~~
 1772 ~~section~~. No transfer pursuant to this subparagraph ~~sub-~~
 1773 ~~subparagraph~~ shall become effective until the trustee accepts
 1774 such transfer and the responsibilities set forth herein. A trust
 1775 established pursuant to this subparagraph ~~sub-subparagraph~~ shall
 1776 comply with the following provisions:

1777 (I) The trustee shall be an individual or a business
 1778 entity authorized and qualified to conduct trust business in
 1779 this state. Any corporation authorized to do business in this
 1780 state may act as trustee in connection with a timeshare plan
 1781 pursuant to this chapter. The trustee must be independent from
 1782 any developer or managing entity of the timeshare plan or any
 1783 interestholder of any accommodation or facility of such plan.

1784 (II) The trust shall be irrevocable so long as any
 1785 purchaser has a right to occupy any portion of the timeshare
 1786 property pursuant to the timeshare plan.

1787 (III) The trustee shall not convey, hypothecate, mortgage,
 1788 assign, lease, or otherwise transfer or encumber in any fashion
 1789 any interest in or portion of the timeshare property with
 1790 respect to which any purchaser has a right of use or occupancy
 1791 unless the timeshare plan is terminated pursuant to the
 1792 timeshare instrument, or such conveyance, hypothecation,
 1793 mortgage, assignment, lease, transfer, or encumbrance is
 1794 approved by a vote of two-thirds of all voting interests of the
 1795 timeshare plan and such decision is declared by a court of
 1796 competent jurisdiction to be in the best interests of the

1797 purchasers of the timeshare plan. The trustee shall notify the
 1798 division in writing within 10 days after ~~of~~ receiving notice of
 1799 the filing of any petition relating to obtaining such a court
 1800 order. The division shall have standing to advise the court of
 1801 the division's interpretation of the statute as it relates to
 1802 the petition.

1803 (IV) All purchasers of the timeshare plan or the owners'
 1804 association of the timeshare plan shall be the express
 1805 beneficiaries of the trust. The trustee shall act as a fiduciary
 1806 to the beneficiaries of the trust. The personal liability of the
 1807 trustee shall be governed by s. 737.306. The agreement
 1808 establishing the trust shall set forth the duties of the
 1809 trustee. The trustee shall be required to furnish promptly to
 1810 the division upon request a copy of the complete list of the
 1811 names and addresses of the owners in the timeshare plan and a
 1812 copy of any other books and records of the timeshare plan
 1813 required to be maintained pursuant to s. 721.13 that are in the
 1814 possession, custody, or control of the trustee. All expenses
 1815 reasonably incurred by the trustee in the performance of its
 1816 duties, together with any reasonable compensation of the
 1817 trustee, shall be common expenses of the timeshare plan.

1818 (V) The trustee shall not resign upon less than 90 days'
 1819 prior written notice to the managing entity and the division. No
 1820 resignation shall become effective until a substitute trustee,
 1821 approved by the division, is appointed by the managing entity
 1822 and accepts the appointment.

1823 (VI) The documents establishing the trust arrangement
 1824 shall constitute a part of the timeshare instrument.

1825 (VII) For trusts holding property in a timeshare plan
 1826 located outside this state, the trust and trustee holding such
 1827 property shall be deemed in compliance with the requirements of
 1828 this subparagraph if such trust and trustee are ~~is~~ authorized
 1829 and qualified to conduct trust business under the laws of such
 1830 jurisdiction and the agreement or law governing such trust
 1831 arrangement provides substantially similar protections for the
 1832 purchaser as are required in this subparagraph for trusts
 1833 holding property in a timeshare plan in this state.

1834 (VIII) The trustee shall have appointed a registered agent
 1835 in this state for service of process. In the event such a
 1836 registered agent is not appointed, service of process may be
 1837 served pursuant to s. 721.265.

1838 5. Owners' association.--

1839 a. If the subject accommodations or facilities, or all use
 1840 rights therein, are to be transferred into an owners'
 1841 association in order to comply with this paragraph, such
 1842 transfer shall take place pursuant to this subparagraph.

1843 b. Prior to the transfer by each interestholder of the
 1844 subject accommodations and facilities, or all use rights
 1845 therein, to an owners' association, any lien or other
 1846 encumbrance against such accommodations and facilities, or use
 1847 rights therein, shall be made subject to a nondisturbance and
 1848 notice to creditors instrument pursuant to subsection (3). No
 1849 transfer pursuant to this subparagraph shall become effective
 1850 until the owners' association accepts such transfer and the
 1851 responsibilities set forth herein. An owners' association

1852 established pursuant to this subparagraph shall comply with the
 1853 following provisions:

1854 (I) The owners' association shall be a business entity
 1855 authorized and qualified to conduct business in this state.
 1856 Control of the board of directors of the owners' association
 1857 must be independent from any developer or managing entity of the
 1858 timeshare plan or any interestholder.

1859 (II) The bylaws of the owners' association shall provide
 1860 that the corporation may not be voluntarily dissolved without
 1861 the unanimous vote of all owners of personal property timeshare
 1862 interests so long as any purchaser has a right to occupy any
 1863 portion of the timeshare property pursuant to the timeshare
 1864 plan.

1865 (III) The owners' association shall not convey,
 1866 hypothecate, mortgage, assign, lease, or otherwise transfer or
 1867 encumber in any fashion any interest in or portion of the
 1868 timeshare property with respect to which any purchaser has a
 1869 right of use or occupancy, unless the timeshare plan is
 1870 terminated pursuant to the timeshare instrument, or unless such
 1871 conveyance, hypothecation, mortgage, assignment, lease,
 1872 transfer, or encumbrance is approved by a vote of two-thirds of
 1873 all voting interests of the association and such decision is
 1874 declared by a court of competent jurisdiction to be in the best
 1875 interests of the purchasers of the timeshare plan. The owners'
 1876 association shall notify the division in writing within 10 days
 1877 after receiving notice of the filing of any petition relating to
 1878 obtaining such a court order. The division shall have standing

1879 to advise the court of the division's interpretation of the
 1880 statute as it relates to the petition.

1881 (IV) All purchasers of the timeshare plan shall be members
 1882 of the owners' association and shall be entitled to vote on
 1883 matters requiring a vote of the owners' association as provided
 1884 in this chapter or the timeshare instrument. The owners'
 1885 association shall act as a fiduciary to the purchasers of the
 1886 timeshare plan. The articles of incorporation establishing the
 1887 owners' association shall set forth the duties of the owners'
 1888 association. All expenses reasonably incurred by the owners'
 1889 association in the performance of its duties, together with any
 1890 reasonable compensation of the officers or directors of the
 1891 owners' association, shall be common expenses of the timeshare
 1892 plan.

1893 (V) The documents establishing the owners' association
 1894 shall constitute a part of the timeshare instrument.

1895 (VI) For owners' associations holding property in a
 1896 timeshare plan located outside this state, the owners'
 1897 association holding such property shall be deemed in compliance
 1898 with the requirements of this subparagraph if such owners'
 1899 association is authorized and qualified to conduct owners'
 1900 association business under the laws of such jurisdiction and the
 1901 agreement or law governing such arrangement provides
 1902 substantially similar protections for the purchaser as are
 1903 required in this subparagraph for owners' associations holding
 1904 property in a timeshare plan in this state.

1905 (VII) The owners' association shall have appointed a
 1906 registered agent in this state for service of process. In the

1907 event such a registered agent cannot be located, service of
 1908 process may be made pursuant to s. 721.265.

1909 6. Personal property subject to certificate of title.--If
 1910 any personal property that is an accommodation or facility of a
 1911 timeshare plan is subject to a certificate of title in this
 1912 state pursuant to chapter 319 or chapter 328, the following
 1913 notation must be made on such certificate of title pursuant to
 1914 s. 319.27(1) or s. 328.15(1):

1915
 1916 The further transfer or encumbrance of the property subject to
 1917 this certificate of title, or any lien or encumbrance thereon,
 1918 is subject to the requirements of section 721.17, Florida
 1919 Statutes, and the transferee or lienor agrees to be bound by all
 1920 of the obligations set forth therein.

1921
 1922 7.4. If the developer has previously provided a certified
 1923 copy of any document required by this paragraph, she or he may
 1924 for all subsequent disbursements substitute a true and correct
 1925 copy of the certified copy, provided no changes to the document
 1926 have been made or are required to be made.

1927 8. In the event that use rights relating to an
 1928 accommodation or facility are transferred into a trust pursuant
 1929 to subparagraph 4. or into an owners' association pursuant to
 1930 subparagraph 5., all other interestholders, including the owner
 1931 of the underlying fee or underlying personal property, must
 1932 execute a nondisturbance and notice to creditors instrument
 1933 pursuant to subsection (3).

1934 (d) Substitution of other assurances for escrowed funds or
 1935 other property.--Funds or other property escrowed as provided in
 1936 this section may be released from escrow to or on the order of
 1937 the developer upon acceptance by the director of the division of
 1938 other assurances pursuant to subsection (5) as a substitute for
 1939 such escrowed funds or other property. The amount of escrowed
 1940 funds or other property that may be released pursuant to this
 1941 paragraph shall be equal to or less than the face amount of the
 1942 assurances accepted by the director from time to time.

1943 (3) NONDISTURBANCE AND NOTICE TO CREDITORS
 1944 INSTRUMENT.--The nondisturbance and notice to creditors
 1945 instrument, when required, shall be executed by each
 1946 interestholder.

1947 (a) The instrument shall state that:

1948 1.(a) If the party seeking enforcement is not in default
 1949 of its obligations, the instrument may be enforced by both the
 1950 seller and any purchaser of the timeshare plan;

1951 2.(b) The instrument shall be effective as between the
 1952 timeshare purchaser and interestholder despite any rejection or
 1953 cancellation of the contract between the timeshare purchaser and
 1954 developer as a result of bankruptcy proceedings of the
 1955 developer; and

1956 3.(e) So long as a purchaser remains in good standing with
 1957 respect to her or his obligations under the timeshare
 1958 instrument, including making all payments to the managing entity
 1959 required by the timeshare instrument with respect to the annual
 1960 common expenses of the timeshare ~~the interestholder has any~~
 1961 ~~interest in the accommodations, facilities, or plan, then the~~

1962 interestholder will ~~fully~~ honor all ~~the~~ rights of such purchaser
 1963 relating to the subject accommodation or facility as reflected
 1964 ~~timeshare purchasers in and to the timeshare instrument plan,~~
 1965 ~~will honor the purchasers' right to cancel their contracts and~~
 1966 ~~receive appropriate refunds, and will comply with all other~~
 1967 ~~requirements of this chapter and rules promulgated hereunder.~~

1968
 1969 The instrument shall contain language sufficient to provide
 1970 subsequent creditors of the developer and interestholders with
 1971 notice of the existence of the timeshare plan and of the rights
 1972 of purchasers and shall serve to protect the interest of the
 1973 timeshare purchasers from any claims of subsequent creditors.

1974 (b) Real property timeshare plans.--For real property
 1975 timeshare plans, the instrument shall be recorded in the public
 1976 records of the county in which the subject accommodations or
 1977 facilities are located.

1978 (c) Personal property timeshare plans.--For personal
 1979 property timeshare plans, the instrument shall be included
 1980 within or attached as an exhibit to a security agreement or
 1981 other agreement executed by the interestholder. Constructive
 1982 notice of such security agreement or other agreement shall be
 1983 filed in the manner prescribed by chapter 679 or other
 1984 applicable law.

1985 (d) A copy of the recorded or filed nondisturbance and
 1986 notice to creditors instrument, when required, shall be provided
 1987 to each timeshare purchaser at the time the purchase contract is
 1988 executed.

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1989 (4) In lieu of any escrow provisions required by this act,
1990 the director of the division shall have the discretion to permit
1991 deposit of the funds or other property in an escrow account as
1992 required by the jurisdiction in which the sale took place.

1993 (5)(a) In lieu of any escrows required by this section,
1994 the director of the division shall have the discretion to accept
1995 other assurances, including, but not limited to, a surety bond
1996 issued by a company authorized and licensed to do business in
1997 this state as surety or an irrevocable letter of credit in an
1998 amount equal to the escrow requirements of this section.

1999 (b) Notwithstanding anything in chapter 718 or chapter 719
2000 to the contrary, the director of the division shall have the
2001 discretion to accept other assurances pursuant to paragraph (a)
2002 in lieu of any requirement that completion of construction of
2003 one or more accommodations or facilities of a timeshare plan be
2004 accomplished prior to closing.

2005 (c) In lieu of a nondisturbance and notice to creditors
2006 instrument, when such an instrument is otherwise required by
2007 this section, the director of the division shall have the
2008 discretion to accept alternate means of protecting the
2009 continuing rights of purchasers in and to the subject
2010 accommodations or facilities of the timeshare plan as and for
2011 the term described in the timeshare instrument, and of providing
2012 effective constructive notice of such continuing purchaser
2013 rights to subsequent owners of the accommodations or facilities
2014 and to subsequent creditors of the affected interestholder.

2015 (d) In lieu of the requirements in s.
2016 721.08(2)(c)3.e.(III), the director of the division shall have

2017 | the discretion to accept alternate means of protecting the use
 2018 | rights of purchasers in the subject accommodations and
 2019 | facilities of the timeshare plan against unfiled and inferior
 2020 | claims.

2021 | (6) An escrow agent holding funds escrowed pursuant to
 2022 | this section may invest such escrowed funds in securities of the
 2023 | United States Government, or any agency thereof, or in savings
 2024 | or time deposits in institutions insured by an agency of the
 2025 | United States Government. The right to receive the interest
 2026 | generated by any such investments shall be paid to the party to
 2027 | whom the escrowed funds or other property are paid unless
 2028 | otherwise specified by contract.

2029 | (7) Each escrow agent shall maintain separate books and
 2030 | records for each timeshare plan and shall maintain such books
 2031 | and records in accordance with good accounting practices.

2032 | (8) An escrow agent holding escrowed funds pursuant to
 2033 | this chapter that have not been claimed for a period of 5 years
 2034 | after the date of deposit shall make at least one reasonable
 2035 | attempt to deliver such unclaimed funds to the purchaser who
 2036 | submitted such funds to escrow. In making such attempt, an
 2037 | escrow agent is entitled to rely on a purchaser's last known
 2038 | address as set forth in the books and records of the escrow
 2039 | agent and is not required to conduct any further search for the
 2040 | purchaser. If an escrow agent's attempt to deliver unclaimed
 2041 | funds to any purchaser is unsuccessful, the escrow agent may
 2042 | deliver such unclaimed funds to the division and the division
 2043 | shall deposit such unclaimed funds in the Division of Florida
 2044 | Land Sales, Condominiums, and Mobile Homes Trust Fund, 30 days

2045 after giving notice in a publication of general circulation in
 2046 the county in which the timeshare property containing the
 2047 purchaser's timeshare interest is located. The purchaser may
 2048 claim the same at any time prior to the delivery of such funds
 2049 to the division. After delivery of such funds to the division,
 2050 the purchaser shall have no more rights to the unclaimed funds.
 2051 The escrow agent shall not be liable for any claims from any
 2052 party arising out of the escrow agent's delivery of the
 2053 unclaimed funds to the division pursuant to this section.

2054 (9) For each transfer of the legal title to a timeshare
 2055 estate by a developer, the developer shall deliver an instrument
 2056 evidencing such transfer to the purchaser or to a title
 2057 insurance agent or the clerk of the court for recording. For
 2058 each transfer of the legal title to a personal property
 2059 timeshare interest by a developer, the developer shall deliver
 2060 an instrument evidencing such transfer to the purchaser subject
 2061 to the provisions of this section.

2062 (10)(a) Any developer, seller, or escrow agent who
 2063 intentionally fails to comply with the provisions of this
 2064 section concerning the establishment of an escrow account,
 2065 deposits of funds into escrow, and withdrawal therefrom is
 2066 guilty of a felony of the third degree, punishable as provided
 2067 in s. 775.082, s. 775.083, or s. 775.084, or the successor
 2068 thereof. The failure to establish an escrow account or to place
 2069 funds therein as required in this section is prima facie
 2070 evidence of an intentional and purposeful violation of this
 2071 section.

2072 (b) Any developer, interestholder, trustee, or officer or
 2073 director of an owners' association who intentionally fails to
 2074 comply with the provisions of this section concerning the
 2075 establishment of a trust or owners' association, conveyances of
 2076 property into the trust or owners' association, and conveyances
 2077 or encumbrances of trust or owners' association property is
 2078 guilty of a felony of the third degree, punishable as provided
 2079 in s. 775.082, s. 775.083, or s. 775.084, or the successor
 2080 thereof. The failure to establish a trust or owners'
 2081 association, or to transfer property into the trust or owners'
 2082 association, or the failure of a trustee or officer or director
 2083 of an owners' association to comply with the trust agreement,
 2084 articles of incorporation, or bylaws with respect to conveyances
 2085 or encumbrances of trust or owners' association property, as
 2086 required by this section, is prima facie evidence of an
 2087 intentional and purposeful violation of this section.

2088 Section 9. Paragraphs (a) and (d) of subsection (1),
 2089 paragraph (c) of subsection (2), and paragraph (c) of subsection
 2090 (3) of section 721.09, Florida Statutes, are amended to read:

2091 721.09 Reservation agreements; escrows.--

2092 (1)(a) Prior to filing the filed ~~registered~~ public
 2093 offering statement with the division, a seller shall not offer a
 2094 timeshare plan for sale but may accept reservation deposits and
 2095 advertise the reservation deposit program upon approval by the
 2096 division of a fully executed escrow agreement and reservation
 2097 agreement properly filed with the division.

2098 (d) A seller who has filed a reservation agreement and an
 2099 escrow agreement under this section may advertise the

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2100 reservation agreement program if the advertising material meets
2101 the following requirements:

2102 1. The seller complies with the provisions of s. 721.11
2103 with respect to such advertising material.

2104 2. The advertising material is limited to a general
2105 description of the proposed timeshare plan, including, but not
2106 limited to, a general description of the type, number, and size
2107 of accommodations and facilities and the name of the proposed
2108 timeshare plan.

2109 3. The advertising material contains a statement that the
2110 advertising material is being distributed in connection with an
2111 approved reservation agreement filing only and that the seller
2112 cannot offer an interest in the timeshare plan for sale until a
2113 filed ~~registered~~ public offering statement has been filed with
2114 the division under this chapter.

2115 (2) Each executed reservation agreement shall be signed by
2116 the developer and shall contain the following:

2117 (c) A statement of the obligation of the developer to file
2118 a filed ~~registered~~ public offering statement with the division
2119 prior to entering into binding contracts.

2120 (3)

2121 (c) The escrow agent may invest the escrowed funds in
2122 securities of the United States Government, or any agency
2123 thereof, or in savings or time deposits in institutions insured
2124 by an agency of the United States Government. The interest
2125 generated by any such investments shall be payable to the party
2126 entitled to receive the escrowed funds or other property.

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2127 Section 10. Paragraph (a) of subsection (1), paragraphs
2128 (b) and (e) of subsection (6), and subsections (7), (8), and (9)
2129 of section 721.11, Florida Statutes, are amended to read:

2130 721.11 Advertising materials; oral statements.--

2131 (1)(a) A developer may file ~~All~~ advertising material ~~must~~
2132 ~~be filed~~ with the division for review ~~by the developer prior to~~
2133 ~~use. At the request of the developer,~~ The division shall review
2134 any the advertising material filed for review by the developer
2135 and notify the developer of any deficiencies within 10 days
2136 after the filing. If the developer corrects the deficiencies or
2137 if there are no deficiencies, the division shall notify the
2138 developer of its approval of the advertising materials.
2139 Notwithstanding anything to the contrary contained in this
2140 subsection, so long as the developer uses advertising materials
2141 approved by the division, following the developer's request for
2142 a review, the developer shall not be liable for any violation of
2143 this section or s. 721.111 with respect to such advertising
2144 materials.

2145 (6) Failure to provide cancellation rights or disclosures
2146 as required by this subsection in connection with the sale of a
2147 regulated short-term product constitutes misrepresentation in
2148 accordance with paragraph (4)(a). Any agreement relating to the
2149 sale of a regulated short-term product must be regulated as
2150 advertising material and is subject to the following:

2151 (b) A purchaser of a regulated short-term product has the
2152 right to cancel the agreement until midnight of the 10th calendar
2153 day following the execution date of the agreement. The right of
2154 cancellation may not be waived by the prospective purchaser or

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2155 | by any other person on behalf of the prospective purchaser.
 2156 | Notice of cancellation must be given in the same manner
 2157 | prescribed for giving notice of cancellation under s. 721.10(2).
 2158 | If the prospective purchaser gives a valid notice of
 2159 | cancellation or is otherwise entitled to cancel the sale, the
 2160 | funds or other property received from or on behalf of the
 2161 | prospective purchaser, or the proceeds thereof, must be returned
 2162 | to the prospective purchaser. Such refund must be made in the
 2163 | same manner prescribed for refunds under s. 721.10.

2164 | (e) If the seller provides the purchaser with the right to
 2165 | cancel the purchase of a regulated short-term product at any
 2166 | time up to 7 days prior to the purchaser's reserved use of the
 2167 | accommodations, but in no event less than 10 days, and if the
 2168 | seller refunds the total amount of all payments made by the
 2169 | purchaser reduced by the proportion of any benefits the
 2170 | purchaser has actually received prior to the effective date of
 2171 | the cancellation, the specific value of which has been agreed to
 2172 | between the purchaser and the seller, the short-term product
 2173 | offer shall be exempt from the requirements of paragraphs (b),
 2174 | (c), and (d). An agreement relating to the sale of the regulated
 2175 | short-term product made pursuant to this paragraph must contain
 2176 | a statement setting forth the cancellation and refund rights of
 2177 | the prospective purchaser in a manner that is consistent with
 2178 | this section and s. 721.10, including a description of the
 2179 | length of the cancellation right, a statement that the
 2180 | purchaser's intent to cancel must be in writing and sent to the
 2181 | seller at a specified address, a statement that the notice of
 2182 | cancellation is effective upon the date sent, and a statement

2183 that any attempt to waive the cancellation right is unlawful.
 2184 The right of cancellation provided to the purchaser pursuant to
 2185 this paragraph may not be waived by the prospective purchaser or
 2186 by any other person on behalf of the prospective purchaser.
 2187 Notice of cancellation must be given in the same manner
 2188 prescribed for giving notice of cancellation pursuant to s.
 2189 721.10(2). If the prospective purchaser gives a valid notice of
 2190 cancellation, or is otherwise entitled to cancel the sale, the
 2191 funds or other property received from or on behalf of the
 2192 prospective purchaser, or the proceeds thereof, shall be
 2193 returned to the prospective purchaser. Such refund shall be made
 2194 in the manner prescribed for refunds under s. 721.10.

2195 (7) Notwithstanding the provisions of s. 721.05(7)~~(6)~~(b),
 2196 a seller may portray possible accommodations or facilities to
 2197 prospective purchasers in advertising material, or a purchaser
 2198 public offering statement, without such accommodations or
 2199 facilities being available for use by purchasers so long as the
 2200 advertising material or purchaser public offering statement
 2201 complies with the provisions of subsection (4).

2202 (8) Notwithstanding the provisions of s. 721.05(7)~~(6)~~(b),
 2203 a developer may portray possible accommodations or facilities to
 2204 prospective purchasers by disseminating oral or written
 2205 statements regarding same to broadcast or print media with no
 2206 obligation on the developer's part to actually construct such
 2207 accommodations or facilities or to file such accommodations or
 2208 facilities with the division, but only so long as such oral or
 2209 written statements are not considered advertising material
 2210 pursuant to paragraph (3)(e).

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2211 (9) Notwithstanding the provisions of s. 721.05(7)~~(6)~~(b),
2212 a seller of a multisite timeshare plan may portray a possible
2213 component site to prospective purchasers with no accommodations
2214 or facilities located at such component site being available for
2215 use by purchasers so long as the seller satisfies the following
2216 requirements:

2217 (a) A developer of a multisite timeshare plan may
2218 disseminate oral or written statements to broadcast or print
2219 media describing a possible component site with no obligation on
2220 the developer's part to actually add such component site to the
2221 multisite timeshare plan or to amend the developer's filing with
2222 the division, but only so long as such oral or written
2223 statements are not considered advertising material pursuant to
2224 paragraph (3)(e).

2225 (b) A seller may make representations to purchasers in
2226 advertising material or in a purchaser public offering statement
2227 regarding the possible accommodations and facilities of a
2228 possible component site without such accommodations or
2229 facilities being available for use by purchasers so long as the
2230 advertising material or purchaser public offering statement
2231 complies with the provisions of subsection (4).

2232 (c) In the event a seller makes any of the representations
2233 permitted by paragraph (b), the purchase agreement must contain
2234 the following conspicuous disclosure unless and until such time
2235 as the developer has committed itself in the timeshare
2236 instrument to adding the possible component site to the
2237 multisite timeshare plan, at which time the seller may portray

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2238 the component site pursuant to the timeshare instrument without
2239 restriction:

2240
2241 [Description of possible component site] is only a possible
2242 component site which may never be added to the multisite
2243 timeshare plan (or multisite vacation ownership plan or
2244 multisite vacation plan or vacation club). Do not purchase an
2245 interest in the multisite timeshare plan (or multisite vacation
2246 ownership plan or multisite vacation plan or vacation club) in
2247 reliance upon the addition of this component site.

2248 (d) Notwithstanding anything contained in this chapter to
2249 the contrary, a developer or managing entity may communicate
2250 with existing purchasers regarding possible component sites
2251 without restriction, so long as all oral and written statements
2252 made to existing purchasers pursuant to this subsection comply
2253 with the provisions of subsection (4).

2254 (e) Any violation of this subsection by a developer,
2255 seller, or managing entity shall constitute a violation of this
2256 chapter. Any violation of this subsection with respect to a
2257 purchaser whose purchase has not yet closed shall be deemed to
2258 provide that purchaser with a new 10-day voidability period.

2259 Section 11. Subsection (1) of section 721.12, Florida
2260 Statutes, is amended to read:

2261 721.12 Recordkeeping by seller.--Each seller of a
2262 timeshare plan shall maintain among its business records the
2263 following:

2264 (1) A copy of each contract for the sale of a timeshare
2265 interest, which contract has not been canceled. If a timeshare

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2266 | estate is being sold, the seller is required to retain a copy of
 2267 | the contract only until a deed of conveyance, agreement for
 2268 | deed, or lease is recorded in the office of the clerk of the
 2269 | circuit court in the county wherein the plan is located. If a
 2270 | personal property timeshare plan is being sold, the seller is
 2271 | required to retain a copy of the contract only until a
 2272 | certificate of transfer, agreement for transfer, lease, or other
 2273 | instrument of transfer that fully complies with s. 721.08 is
 2274 | delivered to the purchaser.

2275 | Section 12. Paragraphs (a) and (b) of subsection (1),
 2276 | paragraph (b) of subsection (2), paragraphs (c), (d), and (e) of
 2277 | subsection (3), paragraph (g) of subsection (6), and subsections
 2278 | (4) and (8) of section 721.13, Florida Statutes, are amended,
 2279 | subsection (9) is renumbered as subsection (10), and new
 2280 | subsections (9) and (11) are added to said section, to read:

2281 | 721.13 Management.--

2282 | (1)(a) For each timeshare plan, the developer shall
 2283 | provide for a managing entity, which shall be either the
 2284 | developer, a separate manager or management firm, or an owners'
 2285 | association. Any owners' association shall be created prior to
 2286 | the first closing ~~recording~~ of the sale of a timeshare interest
 2287 | ~~instrument~~.

2288 | (b)1. With respect to a timeshare plan which is also
 2289 | regulated under chapter 718 or chapter 719, or which contains a
 2290 | mandatory owners' association, the board of administration of
 2291 | the owners' association shall be considered the managing entity
 2292 | of the timeshare plan.

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2293 2. During any period of time in which such owners'
 2294 association has entered into a contract with a manager or
 2295 management firm to provide some or all of the management
 2296 services to the timeshare plan, both the board of administration
 2297 and the manager or management firm shall be considered the
 2298 managing entity of the timeshare plan and shall be jointly and
 2299 severally responsible for the faithful discharge of the duties
 2300 of the managing entity.

2301 3. An owners' association which is the managing entity of
 2302 a timeshare plan that includes condominium units or cooperative
 2303 units shall not be considered a condominium association pursuant
 2304 to the provisions of chapter 718 or a cooperative association
 2305 pursuant to the provisions of chapter 719, unless such owners'
 2306 association also operates the entire condominium pursuant to s.
 2307 718.111 or the entire cooperative pursuant to s. 719.104.

2308 (2)

2309 (b) The managing entity shall invest the operating and
 2310 reserve funds of the timeshare plan in accordance with s.
 2311 518.11(1); however, the managing entity shall give safety of
 2312 capital greater weight than production of income. In no event
 2313 shall the managing entity invest timeshare plan funds with a
 2314 developer or with any entity that is not independent of any
 2315 developer or any managing entity within the meaning of s.
 2316 721.05(20)~~(18)~~, and in no event shall the managing entity invest
 2317 timeshare plan funds in notes and mortgages related in any way
 2318 to the timeshare plan.

2319 (3) The duties of the managing entity include, but are not
 2320 limited to:

2321 (c)1. Providing each year to all purchasers an itemized
 2322 annual budget which shall include all estimated revenues and
 2323 expenses. The budget shall be in the form required by s.
 2324 721.07(5)(u). The budget ~~and~~ shall be the final budget adopted
 2325 by the managing entity for the current fiscal year. The final
 2326 adopted budget is not required to be delivered if the managing
 2327 entity has previously delivered a proposed annual budget for the
 2328 current fiscal year to purchasers in accordance with chapter 718
 2329 or chapter 719 and the managing entity includes a description of
 2330 any changes in the adopted budget with the assessment notice and
 2331 a disclosure regarding the purchasers' right to receive a copy
 2332 of the adopted budget, if desired. The budget shall contain, as
 2333 a footnote or otherwise, any related party transaction
 2334 disclosures or notes which appear in the audited financial
 2335 statements of the managing entity for the previous budget year
 2336 as required by paragraph (e). A copy of the final budget shall
 2337 be filed with the division for review within 30 days after the
 2338 beginning of each fiscal year together with a statement of the
 2339 number of periods of 7-day annual use availability that exist
 2340 within the timeshare plan, including those periods filed for
 2341 sale by the developer but not yet committed to the timeshare
 2342 plan, for which annual fees are required to be paid to the
 2343 division under s. 721.27.

2344 2. Notwithstanding anything contained in chapter 718 or
 2345 chapter 719 to the contrary, the board of administration of an
 2346 owners' association which serves as the managing entity may from
 2347 time to time reallocate reserves for deferred maintenance and
 2348 capital expenditures required by s. 721.07(5)(u)3.a.(XI) from

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2349 any deferred maintenance or capital expenditure reserve account
 2350 to any other deferred maintenance or capital expenditure reserve
 2351 account or accounts in its discretion without the consent of
 2352 purchasers of the timeshare plan. Funds in any deferred
 2353 maintenance or capital expenditure reserve account may not be
 2354 transferred to any operating account without the consent of a
 2355 majority of the purchasers of the timeshare plan. The managing
 2356 entity may from time to time transfer excess funds in any
 2357 operating account to any deferred maintenance or capital
 2358 expenditure reserve account without the vote or approval of
 2359 purchasers of the timeshare plan. In the event any amount of
 2360 reserves for accommodations and facilities of a timeshare plan
 2361 containing timeshare licenses or personal property timeshare
 2362 interests exists at the end of the term of the timeshare plan,
 2363 such reserves shall be refunded to purchasers on a pro rata
 2364 basis.

2365 (d)1. Maintenance of all books and records concerning the
 2366 timeshare plan so that all such books and records are reasonably
 2367 available for inspection by any purchaser or the authorized
 2368 agent of such purchaser. For purposes of this subparagraph, the
 2369 books and records of the timeshare plan shall be considered
 2370 "reasonably available" if copies of the requested portions are
 2371 delivered to the purchaser or the purchaser's agent within 7
 2372 days after ~~of~~ the date the managing entity receives a written
 2373 request for the records signed by the purchaser. The managing
 2374 entity may charge the purchaser a reasonable fee for copying the
 2375 requested information not to exceed 25 cents per page. However,
 2376 any purchaser or agent of such purchaser shall be permitted to

2377 personally inspect and examine the books and records wherever
 2378 located at any reasonable time, under reasonable conditions, and
 2379 under the supervision of the custodian of those records. The
 2380 custodian shall supply copies of the records where requested and
 2381 upon payment of the copying fee. No fees other than those set
 2382 forth in this section may be charged for the providing of,
 2383 inspection, or examination of books and records. All books and
 2384 financial records of the timeshare plan must be maintained in
 2385 accordance with generally accepted accounting practices.

2386 2. If the books and records of the timeshare plan are not
 2387 maintained on the premises of the accommodations and facilities
 2388 of the timeshare plan, the managing entity shall inform the
 2389 division in writing of the location of the books and records and
 2390 the name and address of the person who acts as custodian of the
 2391 books and records at that location. In the event that the
 2392 location of the books and records changes, the managing entity
 2393 shall notify the division of the change in location and the name
 2394 and address of the new custodian within 30 days after ~~of~~ the
 2395 date the books and records are moved. The purchasers shall be
 2396 notified of the location of the books and records and the name
 2397 and address of the custodian in the copy of the annual budget
 2398 provided to them pursuant to paragraph (c).

2399 3. The division is authorized to adopt rules which specify
 2400 those items and matters that shall be included in the books and
 2401 records of the timeshare plan and which specify procedures to be
 2402 followed in requesting and delivering copies of the books and
 2403 records.

2404 4. Notwithstanding any provision of chapter 718 or chapter
 2405 719 to the contrary, the managing entity may not furnish the
 2406 name, address, or electronic mail address of any purchaser to
 2407 any other purchaser or authorized agent thereof unless the
 2408 purchaser whose name, ~~and~~ address, or electronic mail address is
 2409 ~~are~~ requested first approves the disclosure in writing.

2410 (e) Arranging for an annual audit of the financial
 2411 statements of the timeshare plan by a certified public
 2412 accountant licensed by the Board of Accountancy of the
 2413 Department of Business and Professional Regulation, in
 2414 accordance with generally accepted auditing standards as defined
 2415 by the rules of the Board of Accountancy of the Department of
 2416 Business and Professional Regulation. The financial statements
 2417 required by this section must be prepared on an accrual basis
 2418 using fund accounting, and must be presented in accordance with
 2419 generally accepted accounting principles. A copy of the audited
 2420 financial statements must be filed with the division for review
 2421 and forwarded to the board of directors and officers of the
 2422 owners' association, if one exists, no later than 5 calendar
 2423 months after the end of the timeshare plan's fiscal year. If no
 2424 owners' association exists, each purchaser must be notified, no
 2425 later than 5 months after the end of the timeshare plan's fiscal
 2426 year, that a copy of the audited financial statements is
 2427 available upon request to the managing entity. Notwithstanding
 2428 any requirement of s. 718.111(13) or s. 719.104(4), the audited
 2429 financial statements required by this section are the only
 2430 annual financial reporting requirements for timeshare
 2431 condominiums or timeshare cooperatives.

2432 (4) The managing entity shall maintain among its records
 2433 and provide to the division upon request a complete list of the
 2434 names and addresses of all purchasers and owners of timeshare
 2435 units in the timeshare plan. The managing entity shall update
 2436 this list no less frequently than quarterly. Pursuant to
 2437 paragraph (3)(d), the managing entity may not publish this
 2438 owner's list or provide a copy of it to any purchaser or to any
 2439 third party other than the division. However, the managing
 2440 entity shall to those persons listed on the owner's list
 2441 materials provided by any purchaser, upon the written request of
 2442 that purchaser, if the purpose of the mailing is to advance
 2443 legitimate owners' association business, such as a proxy
 2444 solicitation for any purpose, including the recall of one or
 2445 more board members elected by the owners or the discharge of the
 2446 manager or management firm. The use of any proxies solicited in
 2447 this manner must comply with the provisions of the timeshare
 2448 instrument and this chapter. A mailing requested for the purpose
 2449 of advancing legitimate owners' association business shall occur
 2450 within 30 days after receipt of a request from a purchaser. The
 2451 board of administration of the owners' association shall be
 2452 responsible for determining the appropriateness of any mailing
 2453 requested pursuant to this subsection. The purchaser who
 2454 requests the mailing must reimburse the owners' association in
 2455 advance for the owners' association's actual costs in performing
 2456 the mailing. It shall be a violation of this chapter and, if
 2457 applicable, of part VIII of chapter 468, for the board of
 2458 administration or the manager or management firm to refuse to
 2459 mail any material requested by the purchaser to be mailed,

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2460 provided the sole purpose of the materials is to advance
2461 legitimate owners' association business. If the purpose of the
2462 mailing is a proxy solicitation to recall one or more board
2463 members elected by the owners or to discharge the manager or
2464 management firm and the managing entity does not mail the
2465 materials within 30 days after receipt of a request from a
2466 purchaser, the circuit court in the county where the timeshare
2467 plan is located may, upon application from the requesting
2468 purchaser, summarily order the mailing of the materials solely
2469 related to the recall of one or more board members elected by
2470 the owners or the discharge of the manager or management firm.
2471 The court shall dispose of an application on an expedited basis.
2472 In the event of such an order, the court may order the managing
2473 entity to pay the purchaser's costs, including attorney's fees
2474 reasonably incurred to enforce the purchaser's rights, unless
2475 the managing entity can prove it refused the mailing in good
2476 faith because of a reasonable basis for doubt about the
2477 legitimacy of the mailing.

2478 (6)

2479 (g) A managing entity shall have breached its fiduciary
2480 duty described in subsection (2) in the event it enforces the
2481 denial of use pursuant to paragraph (b) against any one
2482 purchaser or group of purchasers without similarly enforcing it
2483 against all purchasers, including all developers and owners of
2484 the underlying fee or underlying personal property; however, a
2485 managing entity shall not be required to solicit rentals
2486 pursuant to paragraph (f) for every delinquent purchaser. A
2487 managing entity shall also have breached its fiduciary duty in

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2488 | the event an error in the books and records of the timeshare
 2489 | plan results in a denial of use pursuant to this subsection of
 2490 | any purchaser who is not, in fact, delinquent. In addition to
 2491 | any remedies otherwise available to purchasers of the timeshare
 2492 | plan arising from such breaches of fiduciary duty, such breach
 2493 | shall also constitute a violation of this chapter. In addition,
 2494 | any purchaser receiving a notice of delinquency pursuant to
 2495 | paragraph (b), or any third party claiming under such purchaser
 2496 | pursuant to paragraph (b), may immediately bring an action for
 2497 | injunctive or declaratory relief against the managing entity
 2498 | seeking to have the notice invalidated on the grounds that the
 2499 | purchaser is not, in fact, delinquent, that the managing entity
 2500 | failed to follow the procedures prescribed by this section, or
 2501 | on any other available grounds. The prevailing party in any such
 2502 | action shall be entitled to recover his or her reasonable
 2503 | attorney's fees from the losing party.

2504 | (8) Notwithstanding anything to the contrary in s.
 2505 | 718.110, s. 718.113, s. 718.114, or s. 719.1055, the board of
 2506 | administration of any owners' association that operates a
 2507 | timeshare condominium pursuant to s. 718.111, or a timeshare
 2508 | cooperative pursuant to s. 719.104, shall have the power to make
 2509 | material alterations or substantial additions to the
 2510 | accommodations or facilities of such timeshare condominium or
 2511 | timeshare cooperative without the approval of the owners'
 2512 | association. However, if the timeshare condominium or timeshare
 2513 | cooperative contains any residential units that are not subject
 2514 | to the timeshare plan, such action by the board of
 2515 | administration must be approved by a majority of the owners of

2516 such residential units. Unless otherwise provided in the
 2517 timeshare instrument as originally recorded, no such amendment
 2518 may change the configuration or size of any accommodation in any
 2519 material fashion, or change the proportion or percentage by
 2520 which a member of the owners' association shares the common
 2521 expenses, unless the record owners of the affected units or
 2522 timeshare interests and all record owners of liens on the
 2523 affected units or timeshare interests join in the execution of
 2524 the amendment.

2525 (9) All notices or other information sent by a board of
 2526 administration of an owners' association may be delivered to a
 2527 purchaser by electronic mail, provided that the purchaser first
 2528 consents electronically to the use of electronic mail for notice
 2529 purposes in a manner that reasonably demonstrates that the
 2530 purchaser has the ability to access the notice by electronic
 2531 mail. The consent to receive notice by electronic mail is
 2532 effective until revoked by the purchaser. Proxies or written
 2533 consents on votes of any owners' association may be received by
 2534 electronic mail, shall have legal effect, and may be utilized
 2535 for votes of an owners' association, provided that the
 2536 electronic signature is authenticated through use of a password,
 2537 cryptography software, or other reasonable means and that proof
 2538 of such authentication is made available to the board of
 2539 directors.

2540 (10)~~(9)~~ Any failure of the managing entity to faithfully
 2541 discharge the fiduciary duty to purchasers imposed by this
 2542 section or to otherwise comply with the provisions of this

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2543 | section shall be a violation of this chapter and of part VIII of
2544 | chapter 468.

2545 | (11) Notwithstanding the other provisions of this section,
2546 | personal property timeshare plans are only subject to the
2547 | provisions of subsections (1)(a)-(d), (2)(a), (3)(a)-(h), (5),
2548 | (6), (9), and (10).

2549 | Section 13. Subsection (4) is added to section 721.14,
2550 | Florida Statutes, to read:

2551 | 721.14 Discharge of managing entity.--

2552 | (4) This section shall not apply to personal property
2553 | timeshare plans.

2554 | Section 14. Paragraph (c) of subsection (2) of section
2555 | 721.15, Florida Statutes, is amended, and subsection (10) is
2556 | added to said section, to read:

2557 | 721.15 Assessments for common expenses.--

2558 | (2)

2559 | (c) For the purpose of calculating the obligation of a
2560 | developer under a guarantee pursuant to paragraph (b),
2561 | depreciation expenses related to real property shall be excluded
2562 | from common expenses incurred during the guarantee period,
2563 | except that for real property that is used for the production of
2564 | fees, revenues, or other income, depreciation expenses shall be
2565 | excluded only to the extent that they exceed the net income from
2566 | the production of such fees, revenues, or other income.

2567 | (10) This section shall not apply to personal property
2568 | timeshare plans.

2569 | Section 15. Subsection (6) is added to section 721.16,
2570 | Florida Statutes, to read:

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2571 721.16 Liens for overdue assessments; liens for labor
2572 performed on, or materials furnished to, a timeshare unit.--

2573 (6) This section shall not apply to personal property
2574 timeshare plans.

2575 Section 16. Section 721.17, Florida Statutes, is amended
2576 to read:

2577 721.17 Transfer of interest.--Except in the case of a
2578 timeshare plan subject to the provisions of chapter 718 or
2579 chapter 719, no developer, ~~or~~ owner of the underlying fee, or
2580 owner of the underlying personal property shall sell, lease,
2581 assign, mortgage, or otherwise transfer his or her interest in
2582 the accommodations and facilities of the timeshare plan except
2583 by an instrument evidencing the transfer recorded in the public
2584 records of the county in which such accommodations and
2585 facilities are located or, with respect to personal property
2586 timeshare plans, in full compliance with s. 721.08. The
2587 instrument shall be executed by both the transferor and
2588 transferee and shall state:

2589 (1) That its provisions are intended to protect the rights
2590 of all purchasers of the plan.

2591 (2) That its terms may be enforced by any prior or
2592 subsequent timeshare purchaser so long as that purchaser is not
2593 in default of his or her obligations.

2594 (3) That so long as a purchaser remains in good standing
2595 with respect to her or his obligations under the timeshare
2596 instrument, including making all payments to the managing entity
2597 required by the timeshare instrument with respect to the annual
2598 common expenses of the timeshare plan, the transferee shall will

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2599 ~~fully~~ honor all the rights of such purchaser relating to the
 2600 subject accommodation or facility as reflected ~~the purchasers to~~
 2601 ~~occupy and use the accommodations and facilities as provided in~~
 2602 ~~their original contracts and the timeshare instrument~~
 2603 ~~instruments.~~

2604 (4) That the transferee will fully honor all rights of
 2605 timeshare purchasers to cancel their contracts and receive
 2606 appropriate refunds.

2607 (5) That the obligations of the transferee under such
 2608 instrument will continue to exist despite any cancellation or
 2609 rejection of the contracts between the developer and purchaser
 2610 arising out of bankruptcy proceedings.

2611
 2612 Should any transfer of the interest of the developer, ~~the~~ or
 2613 owner of the underlying fee, or the owner of the underlying
 2614 property occur in a manner which is not in compliance with this
 2615 section, the terms set forth in this section shall be presumed
 2616 to be a part of the transfer and shall be deemed to be included
 2617 in the instrument of transfer. Notice shall be mailed to each
 2618 purchaser of record within 30 days after ~~of~~ the transfer unless
 2619 such transfer does not affect the purchaser's rights in or use
 2620 of the timeshare plan. Persons who hold mortgages or liens on
 2621 the property constituting a timeshare plan before the filed
 2622 ~~registered~~ public offering statement of such plan is approved by
 2623 the division shall not be considered transferees for the
 2624 purposes of this section.

2625 Section 17. Section 721.18, Florida Statutes, is amended
 2626 to read:

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2627 721.18 Exchange programs; filing of information and other
2628 materials; filing fees; unlawful acts in connection with an
2629 exchange program.--

2630 (1) If a purchaser is offered the opportunity to subscribe
2631 to an exchange program, the seller shall deliver to the
2632 purchaser, together with the purchaser public offering
2633 statement, and prior to the offering or execution of any
2634 contract between the purchaser and the company offering the
2635 exchange program, written information regarding such exchange
2636 program; or, if the exchange company is dealing directly with
2637 the purchaser, the exchange company shall deliver to the
2638 purchaser, prior to the initial offering or execution of any
2639 contract between the purchaser and the company offering the
2640 exchange program, written information regarding such exchange
2641 program. In either case, the purchaser shall certify in writing
2642 to the receipt of such information. Such information shall
2643 include, but is not limited to, the following information, the
2644 form and substance of which shall first be approved by the
2645 division in accordance with subsection (2):

2646 (a) The name and address of the exchange company.

2647 (b) The names of all officers, directors, and shareholders
2648 of the exchange company.

2649 (c) Whether the exchange company or any of its officers or
2650 directors has any legal or beneficial interest in any developer,
2651 seller, or managing entity for any timeshare plan participating
2652 in the exchange program and, if so, the name and location of the
2653 timeshare plan and the nature of the interest.

2654 (d) Unless otherwise stated, a statement that the
 2655 purchaser's contract with the exchange company is a contract
 2656 separate and distinct from the purchaser's contract with the
 2657 seller of the timeshare plan.

2658 (e) Whether the purchaser's participation in the exchange
 2659 program is dependent upon the continued affiliation of the
 2660 timeshare plan with the exchange program.

2661 (f) A statement that ~~Whether~~ the purchaser's participation
 2662 in the exchange program is voluntary. This statement is not
 2663 required to be given by the seller or managing entity of a
 2664 multisite timeshare plan to purchasers in the multisite
 2665 timeshare plan.

2666 (g) A complete and accurate description of the terms and
 2667 conditions of the purchaser's contractual relationship with the
 2668 exchange program and the procedure by which changes thereto may
 2669 be made.

2670 (h) A complete and accurate description of the procedure
 2671 to qualify for and effectuate exchanges.

2672 (i) A complete and accurate description of all
 2673 limitations, restrictions, or priorities employed in the
 2674 operation of the exchange program, including, but not limited
 2675 to, limitations on exchanges based on seasonality, timeshare
 2676 unit size, or levels of occupancy, expressed in boldfaced type,
 2677 and, in the event that such limitations, restrictions, or
 2678 priorities are not uniformly applied by the exchange program, a
 2679 clear description of the manner in which they are applied.

2680 (j) Whether exchanges are arranged on a space-available
 2681 basis and whether any guarantees of fulfillment of specific
 2682 requests for exchanges are made by the exchange program.

2683 (k) Whether and under what circumstances a purchaser, in
 2684 dealing with the exchange program, may lose the use and
 2685 occupancy of her or his timeshare period in any properly applied
 2686 for exchange without her or his being provided with substitute
 2687 accommodations by the exchange program.

2688 (l) The fees or range of fees for membership or
 2689 participation by purchasers in the exchange program by
 2690 purchasers, including any conversion or other fees payable to
 2691 third parties, a statement whether any such fees may be altered
 2692 by the exchange company, and the circumstances under which
 2693 alterations may be made.

2694 (m) The name and address of the site of each ~~accommodation~~
 2695 ~~or facility included in the~~ timeshare plan ~~plans~~ participating
 2696 in the exchange program.

2697 (n) The number of the timeshare units in each timeshare
 2698 plan which are available for occupancy and which qualify for
 2699 participation in the exchange program, expressed within the
 2700 following numerical groupings: 1-5; 6-10; 11-20; 21-50; and 51
 2701 and over.

2702 (o) The number of currently enrolled purchasers for each
 2703 timeshare plan participating in the exchange program, expressed
 2704 within the following numerical groupings: 1-100; 101-249; 250-
 2705 499; 500-999; and 1,000 and over; and a statement of the
 2706 criteria used to determine those purchasers who are currently
 2707 enrolled with the exchange program.

2708 (p) The disposition made by the exchange company of
 2709 timeshare periods deposited with the exchange program by
 2710 purchasers enrolled in the exchange program and not used by the
 2711 exchange company in effecting exchanges.

2712 (q) The following information, which shall be
 2713 independently audited by a certified public accountant or
 2714 accounting firm in accordance with the standards of the
 2715 Accounting Standards Board of the American Institute of
 2716 Certified Public Accountants and reported annually ~~beginning no~~
 2717 ~~later than July 1, 1982:~~

2718 1. The number of purchasers currently enrolled in the
 2719 exchange program.

2720 2. The number of accommodations and facilities that have
 2721 current written affiliation agreements with the exchange
 2722 program.

2723 3. The percentage of confirmed exchanges, which is the
 2724 number of exchanges confirmed by the exchange program divided by
 2725 the number of exchanges properly applied for, together with a
 2726 complete and accurate statement of the criteria used to
 2727 determine whether an exchange request was properly applied for.

2728 4. The number of timeshare periods for which the exchange
 2729 program has an outstanding obligation to provide an exchange to
 2730 a purchaser who relinquished a timeshare period during the year
 2731 in exchange for a timeshare period in any future year.

2732 5. The number of exchanges confirmed by the exchange
 2733 program during the year.

2734 (r) A statement in boldfaced type to the effect that the
 2735 percentage described in subparagraph (q)3. is a summary of the

2736 | exchange requests entered with the exchange program in the
 2737 | period reported and that the percentage does not indicate the
 2738 | probabilities of a purchaser's being confirmed to any specific
 2739 | choice or range of choices.

2740 | (2) Each exchange company offering an exchange program to
 2741 | purchasers in this state shall file with the division for review
 2742 | the information specified in subsection (1), together with any
 2743 | membership agreement and application between the purchaser and
 2744 | the exchange company, and the audit specified in subsection (1)
 2745 | on or before June 1 of each year. However, an exchange company
 2746 | shall make its initial filing at least 20 days prior to offering
 2747 | an exchange program to any purchaser in this state. Each filing
 2748 | shall be accompanied by an annual filing fee of \$500. Within 20
 2749 | days after ~~of~~ receipt of such filing, the division shall
 2750 | determine whether the filing is adequate to meet the
 2751 | requirements of this section and shall notify the exchange
 2752 | company in writing that the division has either approved the
 2753 | filing or found specified deficiencies in the filing. If the
 2754 | division fails to respond within 20 days, the filing shall be
 2755 | deemed approved. The exchange company may correct the
 2756 | deficiencies; and, within 10 days after receipt of corrections
 2757 | from the exchange company, the division shall notify the
 2758 | exchange company in writing that the division has either
 2759 | approved the filing or found additional specified deficiencies
 2760 | in the filing. If the exchange company fails to adequately
 2761 | respond to any deficiency notice within 10 days, the division
 2762 | may reject the filing. Subsequent to such rejection, a new
 2763 | filing fee and a new division initial review period pursuant to

2764 this subsection shall apply to any refiling or further review of
 2765 the rejected filing.

2766 (a) Any material change to an approved exchange company
 2767 filing shall be filed with the division for approval as an
 2768 amendment prior to becoming effective. Each amendment filing
 2769 shall be accompanied by a filing fee of \$100. The exchange
 2770 company may correct the deficiencies; and, within 10 days after
 2771 receipt of corrections from the exchange company, the division
 2772 shall notify the exchange company in writing that the division
 2773 has either approved the filing or found additional specified
 2774 deficiencies in the filing. Each approved amendment to the
 2775 approved exchange company filing, other than an amendment that
 2776 does not materially alter or modify the exchange program in a
 2777 manner that is adverse to a purchaser, as determined by the
 2778 exchange company in its reasonable discretion, shall be
 2779 delivered to each purchaser who has not closed. An approved
 2780 exchange program filing is required to be updated with respect
 2781 to added or deleted resorts only once each year, and such annual
 2782 update shall not be deemed to be a material change to the
 2783 filing.

2784 (b) If at any time the division determines that any of
 2785 such information supplied by an exchange company fails to meet
 2786 the requirements of this section, the division may undertake
 2787 enforcement action against the exchange company in accordance
 2788 with the provision of s. 721.26.

2789 (3) No developer shall have any liability with respect to
 2790 any violation of this chapter arising out of the publication by
 2791 the developer of information provided to it by an exchange

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2792 company pursuant to this section. No exchange company shall have
 2793 any liability with respect to any violation of this chapter
 2794 arising out of the use by a developer of information relating to
 2795 an exchange program other than that provided to the developer by
 2796 the exchange company.

2797 (4) At the request of the exchange company, the division
 2798 shall review any audio, written, or visual publications or
 2799 materials relating to an exchange company or an exchange program
 2800 shall be filed for review by the exchange company and shall
 2801 notify the exchange company of any deficiencies within 10 with
 2802 the division within 3 days after the filing of their use. If the
 2803 exchange company corrects the deficiencies, or if there are no
 2804 deficiencies, the division shall notify the exchange company of
 2805 its approval of the advertising materials. If the exchange
 2806 company fails to adequately respond to any deficiency notice
 2807 within 10 days, the division may reject the advertising
 2808 materials. Subsequent to such rejection, a new division initial
 2809 review period pursuant to this subsection shall apply to any
 2810 refiling or further review.

2811 (5) The failure of an exchange company to observe the
 2812 requirements of this section, or the use of any unfair or
 2813 deceptive act or practice in connection with the operation of an
 2814 exchange program, is a violation of this chapter.

2815 Section 18. Section 721.19, Florida Statutes, is amended
 2816 to read:

2817 721.19 Provisions requiring purchase or lease of timeshare
 2818 property by owners' association or purchasers; validity.--In any
 2819 timeshare plan in which timeshare estates or personal property

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2820 timeshare interests are sold, no grant or reservation made by a
 2821 declaration, lease, or other document, nor any contract made by
 2822 the developer, managing entity, or owners' association, which
 2823 requires the owners' association or purchasers to purchase or
 2824 lease any portion of the timeshare property shall be valid
 2825 unless approved by a majority of the purchasers other than the
 2826 developer, after more than 50 percent of the timeshare periods
 2827 have been sold.

2828 Section 19. Section 721.20, Florida Statutes, is amended
 2829 to read:

2830 721.20 Licensing requirements; suspension or revocation of
 2831 license; exceptions to applicability; collection of advance fees
 2832 for listings unlawful.--

2833 (1) Any seller of a timeshare plan must be a licensed real
 2834 estate broker, broker associate, or sales associate as defined
 2835 in s. 475.01, except as provided in s. 475.011.

2836 (2) Solicitors who engage only in the solicitation of
 2837 prospective purchasers and any purchaser who refers no more than
 2838 20 people to a developer per year or who otherwise provides
 2839 testimonials on behalf of a developer are exempt from the
 2840 provisions of chapter 475.

2841 (3) A solicitor who has violated the provisions of chapter
 2842 468, chapter 718, chapter 719, this chapter, or the rules of the
 2843 division governing timesharing shall be subject to the
 2844 provisions of s. 721.26. Any developer or other person who
 2845 supervises, directs, or engages the services of a solicitor
 2846 shall be liable for any violation of the provisions of chapter

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2847 468, chapter 718, chapter 719, this chapter, or the rules of the
2848 division governing timesharing committed by such solicitor.

2849 (4) County and municipal governments shall have the
2850 authority to adopt codes of conduct and regulations to govern
2851 solicitor activity conducted on public property, including
2852 providing for the imposition of penalties prescribed by a
2853 schedule of fines adopted by ordinance for violations of any
2854 such code of conduct or regulation. Any violation of any such
2855 adopted code of conduct or regulation shall not constitute a
2856 separate violation of this chapter. This subsection is not
2857 intended to restrict or invalidate any local code of conduct or
2858 regulation.

2859 (5) This section does not apply to those individuals who
2860 offer for sale only timeshare interests in timeshare property
2861 located outside this state and who do not engage in any sales
2862 activity within this state or to timeshare plans which are
2863 registered with the Securities and Exchange Commission. For the
2864 purposes of this section, both timeshare licenses and timeshare
2865 estates are considered to be interests in real property.

2866 (6) Notwithstanding the provisions of s. 475.452, it is
2867 unlawful for any real estate broker, broker associate, or sales
2868 associate to collect any advance fee for the listing of any
2869 timeshare estate or timeshare license.

2870 (7) It is unlawful for any broker, salesperson, or broker-
2871 salesperson to collect any advance fee for the listing of a
2872 personal property timeshare interest.

2873 (8) Subsections (1), (2), and (3) do not apply to persons
2874 who offer personal property timeshare plans.

2875 Section 20. Subsection (6) is added to section 721.24,
2876 Florida Statutes, to read:

2877 721.24 Firesafety.--

2878 (6) Accommodations and facilities of personal property
2879 timeshare plans shall be exempt from the requirements of this
2880 section.

2881 Section 21. Paragraphs (a), (d), and (e) of subsection (5)
2882 of section 721.26, Florida Statutes, are amended to read:

2883 721.26 Regulation by division.--The division has the power
2884 to enforce and ensure compliance with the provisions of this
2885 chapter, except for parts III and IV, using the powers provided
2886 in this chapter, as well as the powers prescribed in chapters
2887 498, 718, and 719. In performing its duties, the division shall
2888 have the following powers and duties:

2889 (5) Notwithstanding any remedies available to purchasers,
2890 if the division has reasonable cause to believe that a violation
2891 of this chapter, or of any division rule or order promulgated or
2892 issued pursuant to this chapter, has occurred, the division may
2893 institute enforcement proceedings in its own name against any
2894 regulated party, as such term is defined in this subsection:

2895 (a)1. "Regulated party," for purposes of this section,
2896 means any developer, exchange company, seller, managing entity,
2897 owners' association, owners' association director, owners'
2898 association officer, manager, management firm, escrow agent,
2899 trustee, any respective assignees or agents, or any other person
2900 having duties or obligations pursuant to this chapter.

2901 2. Any person who materially participates in any offer or
2902 disposition of any interest in, or the management or operation

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2903 of, a timeshare plan in violation of this chapter or relevant
 2904 rules involving fraud, deception, false pretenses,
 2905 misrepresentation, or false advertising or the disbursement,
 2906 concealment, or diversion of any funds or assets, which conduct
 2907 adversely affects the interests of a purchaser, and which person
 2908 directly or indirectly controls a regulated party or is a
 2909 general partner, officer, director, agent, or employee of such
 2910 regulated party, shall be jointly and severally liable under
 2911 this subsection with such regulated party, unless such person
 2912 did not know, and in the exercise of reasonable care could not
 2913 have known, of the existence of the facts giving rise to the
 2914 violation of this chapter. A right of contribution shall exist
 2915 among jointly and severally liable persons pursuant to this
 2916 paragraph.

2917 (d)1. The division may bring an action in circuit court
 2918 for declaratory or injunctive relief or for other appropriate
 2919 relief, including restitution.

2920 2. The division shall have broad authority and discretion
 2921 to petition the circuit court to appoint a receiver with respect
 2922 to any managing entity which fails to perform its duties and
 2923 obligations under this chapter with respect to the operation of
 2924 a timeshare plan. The circumstances giving rise to an
 2925 appropriate petition for receivership under this subparagraph
 2926 include, but are not limited to:

2927 a. Damage to or destruction of any of the accommodations
 2928 or facilities of a timeshare plan, where the managing entity has
 2929 failed to repair or reconstruct same.

2930 b. A breach of fiduciary duty by the managing entity,
2931 including, but not limited to, undisclosed self-dealing or
2932 failure to timely assess, collect, or disburse the common
2933 expenses of the timeshare plan.

2934 c. Failure of the managing entity to operate the timeshare
2935 plan in accordance with the timeshare instrument and this
2936 chapter.

2937

2938 If, under the circumstances, it appears that the events giving
2939 rise to the petition for receivership cannot be reasonably and
2940 timely corrected in a cost-effective manner consistent with the
2941 timeshare instrument, the receiver may petition the circuit
2942 court to implement such amendments or revisions to the timeshare
2943 instrument as may be necessary to enable the managing entity to
2944 resume effective operation of the timeshare plan, or to enter an
2945 order terminating the timeshare plan, or to enter such further
2946 orders regarding the disposition of the timeshare property as
2947 the court deems appropriate, including the disposition and sale
2948 of the timeshare property held by the owners' association or the
2949 purchasers. In the event of a receiver's sale, all rights,
2950 title, and interest held by the owners' association or any
2951 purchaser shall be extinguished and title shall vest in the
2952 buyer. This provision applies to timeshare estates, personal
2953 property timeshare interests, and timeshare licenses. All
2954 reasonable costs and fees of the receiver relating to the
2955 receivership shall become common expenses of the timeshare plan
2956 upon order of the court.

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2957 3. The division may revoke its approval of any filing for
2958 any timeshare plan for which a petition for receivership has
2959 been filed pursuant to this paragraph.

2960 (e)1. The division may impose a penalty against any
2961 regulated party for a violation of this chapter or any rule
2962 adopted thereunder. A penalty may be imposed on the basis of
2963 each day of continuing violation, but in no event may the
2964 penalty for any offense exceed \$10,000. All accounts collected
2965 shall be deposited with the Chief Financial Officer to the
2966 credit of the Division of Florida Land Sales, Condominiums, and
2967 Mobile Homes Trust Fund.

2968 2.a. If a regulated party fails to pay a penalty, the
2969 division shall thereupon issue an order directing that such
2970 regulated party cease and desist from further operation until
2971 such time as the penalty is paid; or the division may pursue
2972 enforcement of the penalty in a court of competent jurisdiction.

2973 b. If an owners' association or managing entity fails to
2974 pay a civil penalty, the division may pursue enforcement in a
2975 court of competent jurisdiction.

2976 Section 22. Section 721.52, Florida Statutes, is amended
2977 to read:

2978 721.52 Definitions.--As used in this chapter, the term:

2979 (1) "Applicable law" means the law of the jurisdiction
2980 where the accommodations and facilities referred to are located.

2981 (2) "Component site" means a specific geographic site
2982 where a portion of the accommodations and facilities of the
2983 multisite timeshare plan are located. If permitted under
2984 applicable law, separate phases operated as a single development

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2985 | located at a specific geographic site under common management
 2986 | shall be deemed a single component site for purposes of this
 2987 | part.

2988 | (3) "Inventory" means the accommodations and facilities
 2989 | located at a particular component site or sites owned, leased,
 2990 | licensed, or otherwise acquired for use by a developer and
 2991 | offered as part of the multisite timeshare plan.

2992 | (4) "Multisite timeshare plan" means any method,
 2993 | arrangement, or procedure with respect to which a purchaser
 2994 | obtains, by any means, a recurring right to use and occupy
 2995 | accommodations or facilities of more than one component site,
 2996 | only through use of a reservation system, whether or not the
 2997 | purchaser is able to elect to cease participating in the plan.
 2998 | However, the term "multisite timeshare plan" shall not include
 2999 | any method, arrangement, or procedure wherein:

3000 | (a) The contractually specified maximum total financial
 3001 | obligation on the purchaser's part is \$3,000 or less, during the
 3002 | entire term of the plan; or

3003 | (b) The term is for a period of 3 years or less,
 3004 | regardless of the purchaser's contractually specified maximum
 3005 | total financial obligation, if any. For purposes of determining
 3006 | the term of such use and occupancy rights, the period of any
 3007 | optional renewals which a purchaser, in his or her sole
 3008 | discretion, may elect to exercise, whether or not for additional
 3009 | consideration, shall not be included. For purposes of
 3010 | determining the term of such use and occupancy rights, the
 3011 | period of any automatic renewals shall be included unless a
 3012 | purchaser has the right to terminate the membership at any time

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3013 and receive a pro rata refund or the purchaser receives a notice
 3014 no less than 30 days and no more than 60 days prior to the date
 3015 of renewal informing the purchaser of the right to terminate at
 3016 any time prior to the date of automatic renewal.

3017
 3018 Multisite timeshare plan does not mean an exchange program as
 3019 defined in s. 721.05. Timeshare estates may only be offered in a
 3020 multisite timeshare plan pursuant to s. 721.57.

3021 (5) "Nonspecific multisite timeshare plan" means a
 3022 multisite timeshare plan containing timeshare licenses or
 3023 personal property timeshare interests, with respect to which a
 3024 purchaser receives a right to use all of the accommodations and
 3025 facilities, if any, of the multisite timeshare plan through the
 3026 reservation system, but no specific right to use any particular
 3027 accommodations and facilities for the remaining term of the
 3028 multisite timeshare plan in the event that the reservation
 3029 system is terminated for any reason prior to the expiration of
 3030 the term of the multisite timeshare plan.

3031 (6)~~(5)~~ "Reservation system" means the method, arrangement,
 3032 or procedure by which a purchaser, in order to reserve the use
 3033 and occupancy of any accommodation or facility of the multisite
 3034 timeshare plan for one or more use periods, is required to
 3035 compete with other purchasers in the same multisite timeshare
 3036 plan regardless of whether such reservation system is operated
 3037 and maintained by the multisite timeshare plan managing entity,
 3038 an exchange company, or any other person. In the event that a
 3039 purchaser is required to use an exchange program as the
 3040 purchaser's principal means of obtaining the right to use and

3041 occupy a multisite timeshare plan's accommodations and
 3042 facilities, such arrangement shall be deemed a reservation
 3043 system. When an exchange company utilizes a mechanism for the
 3044 exchange of use of timeshare periods among members of an
 3045 exchange program, such utilization is not a reservation system
 3046 of a multisite timeshare plan.

3047 (7) "Specific multisite timeshare plan" means a multisite
 3048 timeshare plan containing timeshare licenses or personal
 3049 property timeshare interests, with respect to which a purchaser
 3050 receives a specific right to use accommodations and facilities,
 3051 if any, at one component site of a multisite timeshare plan,
 3052 together with use rights in the other accommodations and
 3053 facilities of the multisite timeshare plan created by or
 3054 acquired through the reservation system.

3055 (8)~~(6)~~ "Vacation club" means a multisite timeshare plan.

3056 Section 23. Paragraph (a) of subsection (1) of section
 3057 721.53, Florida Statutes, is amended, and paragraph (f) is added
 3058 to said subsection, to read:

3059 721.53 Subordination instruments; alternate security
 3060 arrangements.--

3061 (1) With respect to each accommodation or facility of a
 3062 multisite timeshare plan, the developer shall provide the
 3063 division with satisfactory evidence that one of the following
 3064 has occurred with respect to each interestholder prior to
 3065 offering the accommodation or facility as a part of the
 3066 multisite timeshare plan:

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3067 (a) The interestholder has executed and recorded a
 3068 nondisturbance and notice to creditors instrument pursuant to s.
 3069 721.08(2)(e).

3070 (f) With respect to any personal property accommodations
 3071 or facilities, the developer and any other interestholder have
 3072 complied fully with the applicable provisions of s. 721.08.

3073 Section 24. Section 721.54, Florida Statutes, is amended
 3074 to read:

3075 721.54 Term of nonspecific multisite timeshare plans.--It
 3076 shall be a violation of this part to represent to a purchaser of
 3077 a nonspecific multisite timeshare plan as defined in s.
 3078 721.52(5) ~~721.552(4)~~ that the term of the plan for that
 3079 purchaser is longer than the shortest term of availability of
 3080 any of the accommodations included within the plan at the time
 3081 of purchase.

3082 Section 25. Section 721.55, Florida Statutes, is amended
 3083 to read:

3084 721.55 Multisite timeshare plan public offering
 3085 statement.--Each filed ~~registered~~ public offering statement for
 3086 a multisite timeshare plan shall contain the information
 3087 required by this section and shall comply with the provisions of
 3088 s. 721.07, except as otherwise provided therein. The division is
 3089 authorized to provide by rule the method by which a developer
 3090 must provide such information to the division. Each multisite
 3091 timeshare plan filed ~~registered~~ public offering statement shall
 3092 contain the following information and disclosures:

3093 (1) A cover page containing:

3094 (a) The name of the multisite timeshare plan.

3095 (b) The following statement in conspicuous type:

3096
3097 This public offering statement contains important matters
3098 to be considered in acquiring an interest in a multisite
3099 timeshare plan (or multisite vacation ownership plan or
3100 multisite vacation plan or vacation club). The statements
3101 contained herein are only summary in nature. A prospective
3102 purchaser should refer to all references, accompanying exhibits,
3103 contract documents, and sales materials. The prospective
3104 purchaser should not rely upon oral representations as being
3105 correct and should refer to this document and accompanying
3106 exhibits for correct representations.

3107
3108 (2) A summary containing all statements required to be in
3109 conspicuous type in the public offering statement and in all
3110 exhibits thereto.

3111 (3) A separate index for the contents and exhibits of the
3112 public offering statement.

3113 (4) A text, which shall include, where applicable, the
3114 information and disclosures set forth in paragraphs (a)-(1).

3115 (a) A description of the multisite timeshare plan,
3116 including its term, legal structure, and form of ownership. For
3117 multisite timeshare plans in which the purchaser will receive a
3118 timeshare estate pursuant to s. 721.57 and for ~~or a~~ specific
3119 multisite timeshare plans ~~license as defined in s. 721.552(4),~~
3120 the description must also include the term of each component
3121 site within the multisite timeshare plan.

3122 (b) A description of the structure and ownership of the
 3123 reservation system together with a disclosure of the entity
 3124 responsible for the operation of the reservation system. The
 3125 description shall include the financial terms of any lease of
 3126 the reservation system, if applicable. The developer shall not
 3127 be required to disclose the financial terms of any such lease if
 3128 such lease is prepaid in full for the term of the multisite
 3129 timeshare plan or to any extent that neither purchasers nor the
 3130 managing entity will be required to make payments for the
 3131 continued use of the system following default by the developer
 3132 or termination of the managing entity.

3133 (c)1. A description of the manner in which the reservation
 3134 system operates. The description shall include a disclosure in
 3135 compliance with the demand balancing standard set forth in s.
 3136 721.56(6) and shall describe the developer's efforts to comply
 3137 with same in creating the reservation system. The description
 3138 shall also include a summary of the rules and regulations
 3139 governing access to and use of the reservation system.

3140 2. In lieu of describing the rules and regulations of the
 3141 reservation system in the public offering statement text, the
 3142 developer may attach the rules and regulations as a separate
 3143 public offering statement exhibit, together with a cross-
 3144 reference in the public offering statement text to such exhibit.

3145 (d) The existence of and an explanation regarding any
 3146 priority reservation features that affect a purchaser's ability
 3147 to make reservations for the use of a given accommodation or
 3148 facility on a first come, first served basis, including, if
 3149 applicable, the following statement in conspicuous type:

3150
3151 Component sites contained in the multisite timeshare plan
3152 (or multisite vacation ownership plan or multisite vacation plan
3153 or vacation club) are subject to priority reservation features
3154 which may affect your ability to obtain a reservation.

3155
3156 (e) A summary of the material rules and regulations, if
3157 any, other than the reservation system rules and regulations,
3158 affecting the purchaser's use of each accommodation and facility
3159 at each component site.

3160 (f) If the provisions of s. 721.552 and the timeshare
3161 instrument permit additions, substitutions, or deletions of
3162 accommodations or facilities, the public offering statement must
3163 include substantially the following information:

3164 1. Additions.--

3165 a. A description of the basis upon which new
3166 accommodations and facilities may be added to the multisite
3167 timeshare plan; by whom additions may be made; and the
3168 anticipated effect of the addition of new accommodations and
3169 facilities upon the reservation system, its priorities, its
3170 rules and regulations, and the availability of existing
3171 accommodations and facilities.

3172 b. The developer must disclose the existence of any cap on
3173 annual increases in common expenses of the multisite timeshare
3174 plan that would apply in the event that additional
3175 accommodations and facilities are made a part of the plan.

3176 c. The developer shall also disclose any extent to which
3177 the purchasers of the multisite timeshare plan will have the

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3178 right to consent to any proposed additions; if the purchasers do
 3179 not have the right to consent, the developer must include the
 3180 following disclosure in conspicuous type:

3181
 3182 Accommodations and facilities may be added to this
 3183 multisite timeshare plan (or multisite vacation ownership plan
 3184 or multisite vacation plan or vacation club) without the consent
 3185 of the purchasers. The addition of accommodations and facilities
 3186 to the plan may result in the addition of new purchasers who
 3187 will compete with existing purchasers in making reservations for
 3188 the use of available accommodations and facilities within the
 3189 plan, and may also result in an increase in the annual
 3190 assessment against purchasers for common expenses.

3191
 3192 2. Substitutions.--

3193 a. A description of the basis upon which new
 3194 accommodations and facilities may be substituted for existing
 3195 accommodations and facilities of the multisite timeshare plan;
 3196 by whom substitutions may be made; the basis upon which the
 3197 determination may be made to cause such substitutions to occur;
 3198 and any limitations upon the ability to cause substitutions to
 3199 occur.

3200 b. The developer shall also disclose any extent to which
 3201 purchasers will have the right to consent to any proposed
 3202 substitutions; if the purchasers do not have the right to
 3203 consent, the developer must include the following disclosure in
 3204 conspicuous type:

3205

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3206 New accommodations and facilities may be substituted for
3207 existing accommodations and facilities of this multisite
3208 timeshare plan (or multisite vacation ownership plan or
3209 multisite vacation plan or vacation club) without the consent of
3210 the purchasers. The replacement accommodations and facilities
3211 may be located at a different place or may be of a different
3212 type or quality than the replaced accommodations and facilities.
3213 The substitution of accommodations and facilities may also
3214 result in an increase in the annual assessment against
3215 purchasers for common expenses.

3216
3217 3. Deletions.--A description of any provision of the
3218 timeshare instrument governing deletion of accommodations or
3219 facilities from the multisite timeshare plan. If the timeshare
3220 instrument does not provide for business interruption insurance
3221 in the event of a casualty, or if it is unavailable, or if the
3222 instrument permits the developer, the managing entity, or the
3223 purchasers to elect not to reconstruct after casualty under
3224 certain circumstances or to secure replacement accommodations or
3225 facilities in lieu of reconstruction, the public offering
3226 statement must contain a disclosure that during the
3227 reconstruction, replacement, or acquisition period, or as a
3228 result of a decision not to reconstruct, purchasers of the plan
3229 may temporarily compete for available accommodations on a
3230 greater than one-to-one purchaser to accommodation ratio.

3231 (g) A description of the developer and the managing entity
3232 of the multisite timeshare plan, including:

3233 1. The identity of the developer; the developer's business
 3234 address; the number of years of experience the developer has in
 3235 the timeshare, hotel, motel, travel, resort, or leisure
 3236 industries; and a description of any pending lawsuit or judgment
 3237 against the developer which is material to the plan. If there
 3238 are no such pending lawsuits or judgments, there shall be a
 3239 statement to that effect.

3240 2. The identity of the managing entity of the multisite
 3241 timeshare plan; the managing entity's business address; the
 3242 number of years of experience the managing entity has in the
 3243 timeshare, hotel, motel, travel, resort, or leisure industries;
 3244 and a description of any lawsuit or judgment against the
 3245 managing entity which is material to the plan. If there are no
 3246 pending lawsuits or judgments, there shall be a statement to
 3247 that effect. The description of the managing entity shall also
 3248 include a description of the relationship among the managing
 3249 entity of the multisite timeshare plan and the various component
 3250 site managing entities.

3251 (h) A description of the purchaser's liability for common
 3252 expenses of the multisite timeshare plan, including the
 3253 following:

3254 1. A description of the common expenses of the plan,
 3255 including the method of allocation and assessment of such common
 3256 expenses, whether component site common expenses and real estate
 3257 taxes are included within the total common expense assessment of
 3258 the multisite timeshare plan, and, if not, the manner in which
 3259 timely payment of component site common expenses and real estate
 3260 taxes shall be accomplished.

3261 2. A description of any cap imposed upon the level of
3262 common expenses payable by the purchaser. In no event shall the
3263 total common expense assessment for the multisite timeshare plan
3264 in a given calendar year exceed 125 percent of the total common
3265 expense assessment for the plan in the previous calendar year.

3266 3. A description of the entity responsible for the
3267 determination of the common expenses of the multisite timeshare
3268 plan, as well as any entity which may increase the level of
3269 common expenses assessed against the purchaser at the multisite
3270 timeshare plan level.

3271 4. A description of the method used to collect common
3272 expenses, including the entity responsible for such collections,
3273 and the lien rights of any entity for nonpayment of common
3274 expenses. If the common expenses of any component site are
3275 collected by the managing entity of the multisite timeshare
3276 plan, a statement to that effect together with the identity and
3277 address of the escrow agent required by s. 721.56(3).

3278 5. If the purchaser will receive an interest in a
3279 nonspecific multisite timeshare plan ~~license as defined in s.~~
3280 ~~721.552(4)~~, a statement that a multisite timeshare plan budget
3281 is attached to the public offering statement as an exhibit
3282 pursuant to paragraph (7)(c). The multisite timeshare plan
3283 budget shall comply with the provisions of s. 721.07(5)(u).

3284 6. If the developer intends to guarantee the level of
3285 assessments for the multisite timeshare plan, such guarantee
3286 must be based upon a good faith estimate of the revenues and
3287 expenses of the multisite timeshare plan. The guarantee must
3288 include a description of the following:

3289 a. The specific time period, measured in one or more
3290 calendar or fiscal years, during which the guarantee will be in
3291 effect.

3292 b. A statement that the developer will pay all common
3293 expenses incurred in excess of the total revenues of the
3294 multisite timeshare plan, if the developer is to be excused from
3295 the payment of assessments during the guarantee period.

3296 c. The level, expressed in total dollars, at which the
3297 developer guarantees the assessments. If the developer has
3298 reserved the right to extend or increase the guarantee level, a
3299 disclosure must be included to that effect.

3300 7. If required under applicable law, the developer shall
3301 also disclose the following matters for each component site:

3302 a. Any limitation upon annual increases in common
3303 expenses;

3304 b. The existence of any bad debt or working capital
3305 reserve; and

3306 c. The existence of any replacement or deferred
3307 maintenance reserve.

3308 (i) If there are any restrictions upon the sale, transfer,
3309 conveyance, or leasing of an interest in a multisite timeshare
3310 plan, a description of the restrictions together with a
3311 statement in conspicuous type in substantially the following
3312 form:

3313
3314 The sale, lease, or transfer of interests in this multisite
3315 timeshare plan is restricted or controlled.

3316

3317 (j) The following statement in conspicuous type in
3318 substantially the following form:

3319
3320 The purchase of an interest in a multisite timeshare plan
3321 (or multisite vacation ownership plan or multisite vacation plan
3322 or vacation club) should be based upon its value as a vacation
3323 experience or for spending leisure time, and not considered for
3324 purposes of acquiring an appreciating investment or with an
3325 expectation that the interest may be resold.

3326
3327 (k) If the multisite timeshare plan provides purchasers
3328 with the opportunity to participate in an exchange program, a
3329 description of the name and address of the exchange company and
3330 the method by which a purchaser accesses the exchange program.
3331 In lieu of this requirement, the public offering statement text
3332 may contain a cross-reference to other provisions in the public
3333 offering statement or in an exhibit containing this information.

3334 (l) A description of each component site, which
3335 description may be disclosed in a written, graphic, tabular, or
3336 other form approved by the division. The description of each
3337 component site shall include the following information:

- 3338 1. The name and address of each component site.
- 3339 2. The number of accommodations, timeshare interests, and
3340 timeshare periods, expressed in periods of 7-day use
3341 availability, committed to the multisite timeshare plan and
3342 available for use by purchasers.
- 3343 3. Each type of accommodation in terms of the number of
3344 bedrooms, bathrooms, sleeping capacity, and whether or not the

3345 accommodation contains a full kitchen. For purposes of this
 3346 description, a full kitchen shall mean a kitchen having a
 3347 minimum of a dishwasher, range, sink, oven, and refrigerator.

3348 4. A description of facilities available for use by the
 3349 purchaser at each component site, including the following:

3350 a. The intended use of the facility, if not apparent from
 3351 the description.

3352 b. Any user fees associated with a purchaser's use of the
 3353 facility.

3354 5. A cross-reference to the location in the public
 3355 offering statement of the description of any priority
 3356 reservation features which may affect a purchaser's ability to
 3357 obtain a reservation in the component site.

3358 (5) Such other information as the division determines is
 3359 necessary to fairly, meaningfully, and effectively disclose all
 3360 aspects of the multisite timeshare plan, including, but not
 3361 limited to, any disclosures made necessary by the operation of
 3362 s. 721.03(8). However, if a developer has, in good faith,
 3363 attempted to comply with the requirements of this section, and
 3364 if, in fact, the developer has substantially complied with the
 3365 disclosure requirements of this chapter, nonmaterial errors or
 3366 omissions shall not be actionable.

3367 (6) Any other information that the developer, with the
 3368 approval of the division, desires to include in the public
 3369 offering statement text.

3370 (7) The following documents shall be included as exhibits
 3371 to the filed ~~registered~~ public offering statement, if
 3372 applicable:

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- 3373 (a) The timeshare instrument.
- 3374 (b) The reservation system rules and regulations.
- 3375 (c) The multisite timeshare plan budget pursuant to
- 3376 subparagraph (4)(h)5.
- 3377 (d) Any document containing the material rules and
- 3378 regulations described in paragraph (4)(e).
- 3379 (e) Any contract, agreement, or other document through
- 3380 which component sites are affiliated with the multisite
- 3381 timeshare plan.
- 3382 (f) Any escrow agreement required pursuant to s. 721.08 or
- 3383 s. 721.56(3).
- 3384 (g) The form agreement for sale or lease of an interest in
- 3385 the multisite timeshare plan.
- 3386 (h) The form receipt for multisite timeshare plan
- 3387 documents required to be given to the purchaser pursuant to s.
- 3388 721.551(2)(b).
- 3389 (i) The description of documents list required to be given
- 3390 to the purchaser by s. 721.551(2)(b).
- 3391 (j) The component site managing entity affidavit or
- 3392 statement required by s. 721.56(1).
- 3393 (k) Any subordination instrument required by s. 721.53.
- 3394 (l)1. If the multisite timeshare plan contains any
- 3395 component sites located in this state, the information required
- 3396 by s. 721.07(5) pertaining to each such component site unless
- 3397 exempt pursuant to s. 721.03.
- 3398 2. If the purchaser will receive a timeshare estate
- 3399 pursuant to s. 721.57, or an interest in a specific multisite
- 3400 timeshare plan, ~~license as defined in s. 721.552(4)~~ in a

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3401 component site located outside of this state but which is
 3402 offered in this state, the information required by s. 721.07(5)
 3403 pertaining to that component site, + provided, however, that the
 3404 provisions of s. 721.07(5)(u) shall only require disclosure of
 3405 information related to the estimated budget for the timeshare
 3406 plan and purchaser's expenses as required by the jurisdiction in
 3407 which the component site is located.

3408 (8)(a) A timeshare plan containing only one component site
 3409 must be filed with the division as a multisite timeshare plan if
 3410 the timeshare instrument reserves the right for the developer to
 3411 add future component sites. However, if the developer fails to
 3412 add at least one additional component site to a timeshare plan
 3413 described in this paragraph within 3 years after the date the
 3414 plan is initially filed with the division, the multisite filing
 3415 for such plan shall thereupon terminate, and the developer may
 3416 not thereafter offer any further interests in such plan unless
 3417 and until he or she refiles such plan with the division pursuant
 3418 to this chapter.

3419 (b) The public offering statement for any timeshare plan
 3420 described in paragraph (a) must include the following disclosure
 3421 in conspicuous type:
 3422

3423 This timeshare plan has been filed as a multisite timeshare
 3424 plan (or multisite vacation ownership plan or multisite vacation
 3425 plan or vacation club); however, this plan currently contains
 3426 only one component site. The developer is not required to add
 3427 any additional component sites to the plan. Do not purchase an

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3428 interest in this plan in reliance upon the addition of any other
3429 component sites.

3430 Section 26. Paragraphs (b), (c), and (f) of subsection (2)
3431 of section 721.551, Florida Statutes, are amended to read:

3432 721.551 Delivery of multisite timeshare plan purchaser
3433 public offering statement.--

3434 (2) The developer shall furnish each purchaser with the
3435 following:

3436 (b) A receipt for multisite timeshare plan documents and a
3437 list describing any exhibit to the filed ~~registered~~ public
3438 offering statement which is not delivered to the purchaser. The
3439 division is authorized to prescribe by rule the form of the
3440 receipt for multisite timeshare plan documents and the
3441 description of exhibits list that must be furnished to the
3442 purchaser pursuant to this section.

3443 (c) If the purchaser will receive a timeshare estate
3444 pursuant to s. 721.57, or an interest in a specific multisite
3445 timeshare plan, ~~license as defined in s. 721.552(4)~~ in a
3446 component site located in this state, the developer shall also
3447 furnish the purchaser with the information required to be
3448 delivered pursuant to s. 721.07(6)(a) and (b) for the component
3449 site in which the purchaser will receive an estate or interest
3450 in a specific multisite timeshare plan license.

3451 (f) The developer shall be required to provide the
3452 managing entity of the multisite timeshare plan with a copy of
3453 the approved filed ~~registered~~ public offering statement and any
3454 approved amendments thereto to be maintained by the managing

3455 entity as part of the books and records of the timeshare plan
3456 pursuant to s. 721.13(3)(d).

3457 Section 27. Paragraph (a) of subsection (2), paragraph (c)
3458 of subsection (3), and subsections (4) and (5) of section
3459 721.552, Florida Statutes, are amended to read:

3460 721.552 Additions, substitutions, or deletions of
3461 component site accommodations or facilities; purchaser remedies
3462 for violations.--Additions, substitutions, or deletions of
3463 component site accommodations or facilities may be made only in
3464 accordance with the following:

3465 (2) SUBSTITUTIONS.--

3466 (a) Substitutions are available only for nonspecific
3467 multisite timeshare ~~license~~ plans ~~as defined in subsection (4)~~.
3468 Specific multisite timeshare license plans or as defined in
3469 ~~subsection (4) and~~ plans offering timeshare estates pursuant to
3470 s. 721.57 may not contain an accommodation substitution right.

3471 (3) DELETIONS.--

3472 (c) Automatic deletion.--The timeshare instrument may
3473 provide that a component site will be automatically deleted upon
3474 the expiration of its term in a timeshare plan other than a
3475 nonspecific multisite timeshare ~~license~~ plan or as otherwise
3476 provided in the timeshare instrument. However, the timeshare
3477 instrument must also provide that in the event a component site
3478 is deleted from the plan in this manner, a sufficient number of
3479 purchasers of the plan will also be deleted so as to maintain no
3480 greater than a one-to-one purchaser to accommodation ratio.

3481 ~~(4) SPECIFIC AND NONSPECIFIC TIMESHARE LICENSES.-- For~~
3482 ~~purposes of this chapter, a specific timeshare license means one~~

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3483 ~~with respect to which a purchaser receives a specific right to~~
 3484 ~~use accommodations and facilities, if any, at one component site~~
 3485 ~~of a multisite timeshare plan, together with use rights in the~~
 3486 ~~other accommodations and facilities of the multisite timeshare~~
 3487 ~~plan created by or acquired through the reservation system. For~~
 3488 ~~purposes of this chapter, a nonspecific timeshare license means~~
 3489 ~~one with respect to which a purchaser receives a right to use~~
 3490 ~~all of the accommodations and facilities, if any, of a multisite~~
 3491 ~~timeshare plan through the reservation system, but no specific~~
 3492 ~~right to use any particular accommodations and facilities for~~
 3493 ~~the remaining term of the multisite timeshare plan in the event~~
 3494 ~~that the reservation system is terminated for any reason prior~~
 3495 ~~to the expiration of the term of the multisite timeshare plan.~~

3496 (4)~~(5)~~ VIOLATIONS; PURCHASER REMEDIES.--All purchaser
 3497 remedies pursuant to s. 721.21 shall be available for any
 3498 violation of the provisions of this section.

3499 Section 28. Subsections (4) and (5) of section 721.56,
 3500 Florida Statutes, are amended to read:

3501 721.56 Management of multisite timeshare plans;
 3502 reservation systems; demand balancing.--

3503 (4) The managing entity of a multisite timeshare plan
 3504 shall comply fully with the requirements of s. 721.13, subject
 3505 to the provisions of s. 721.13(11) for personal property
 3506 timeshare plans; however, with respect to a given component
 3507 site, the managing entity of the multisite timeshare plan shall
 3508 not be responsible for compliance as the managing entity of that
 3509 component site unless the managing entity of the multisite
 3510 timeshare plan is also the managing entity of that component

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3511 site. Unless the timeshare instrument provides otherwise, the
3512 operator of the reservation system is the managing entity of a
3513 multisite timeshare plan.

3514 (5)(a)1. The reservation system is a facility of any
3515 nonspecific ~~timeshare license~~ multisite timeshare plan ~~as~~
3516 ~~defined in s. 721.552(4)~~. The reservation system is not a
3517 facility of any specific ~~timeshare license~~ multisite timeshare
3518 plan ~~as defined in s. 721.552(4)~~, nor is it a facility of any
3519 multisite timeshare plan in which timeshare estates are offered
3520 pursuant to s. 721.57.

3521 2. The reservation system of any multisite timeshare plan
3522 shall include any computer software and hardware employed for
3523 the purpose of enabling or facilitating the operation of the
3524 reservation system. Nothing contained in this part shall
3525 preclude a manager or management firm that is serving as
3526 managing entity of a multisite timeshare plan from providing in
3527 its contract with the purchasers or owners' association of the
3528 multisite timeshare plan or in the timeshare instrument that the
3529 manager or management firm owns the reservation system and that
3530 the managing entity shall continue to own the reservation system
3531 in the event the purchasers discharge the managing entity
3532 pursuant to s. 721.14.

3533 (b) In the event of a termination of a managing entity of
3534 a nonspecific ~~license~~ multisite timeshare plan ~~as defined in s.~~
3535 ~~721.552(4)~~, which managing entity owns the reservation system,
3536 irrespective of whether the termination is voluntary or
3537 involuntary and irrespective of the cause of such termination,
3538 in addition to any other remedies available to purchasers in

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3539 | this part, the terminated managing entity shall, prior to such
3540 | termination, establish a trust meeting the criteria set forth in
3541 | this paragraph. It is the intent of the Legislature that this
3542 | trust arrangement provide for an adequate period of continued
3543 | operation of the reservation system of the multisite timeshare
3544 | plan, during which period the new managing entity shall make
3545 | provision for the acquisition of a substitute reservation
3546 | system.

3547 | 1. The trust shall be established with an independent
3548 | trustee. Both the terminated managing entity and the new
3549 | managing entity shall attempt to agree on an acceptable trustee.
3550 | In the event they cannot agree on an acceptable trustee, they
3551 | shall each designate a nominee, and the two nominees shall
3552 | select the trustee.

3553 | 2. The terminated managing entity shall take all steps
3554 | necessary to enable the trustee or the trustee's designee to
3555 | operate the reservation system in the same manner as provided in
3556 | the timeshare instrument and the public offering statement. The
3557 | trustee may, but shall not be required to, contract with the
3558 | terminated managing entity for the continued operation of the
3559 | reservation system. In the event the trustee elects to contract
3560 | with the terminated managing entity, that managing entity shall
3561 | be required to operate the reservation system and shall be
3562 | entitled to payment for that service. The payment shall in no
3563 | event exceed the amount previously paid to the terminated
3564 | managing entity for operation of the reservation system.

3565 3. The trust shall remain in effect for a period of no
3566 longer than 1 year following the date of termination of the
3567 managing entity.

3568 4. Nothing contained in this subsection shall abrogate or
3569 otherwise interfere with any proprietary rights in the
3570 reservation system that have been reserved by the discharged
3571 managing entity, in its management contract or otherwise, so
3572 long as such proprietary rights are not asserted in a manner
3573 that would prevent the continued operation of the reservation
3574 system as contemplated in this subsection.

3575 (c) In the event of a termination of a managing entity of
3576 a timeshare estate or specific ~~license~~ multisite timeshare plan
3577 ~~as defined in s. 721.552(4)~~, which managing entity owns the
3578 reservation system, irrespective of whether the termination is
3579 voluntary or involuntary and irrespective of the cause of such
3580 termination, in addition to any other remedies available to
3581 purchasers in this part, the terminated managing entity shall,
3582 prior to such termination, promptly transfer to each component
3583 site managing entity all relevant data contained in the
3584 reservation system with respect to that component site,
3585 including, but not limited to:

3586 1. The names, addresses, and reservation status of
3587 component site accommodations.

3588 2. The names and addresses of all purchasers of timeshare
3589 interests at that component site.

3590 3. All outstanding confirmed reservations and reservation
3591 requests for that component site.

3592 4. Such other component site records and information as
 3593 are necessary, in the reasonable discretion of the component
 3594 site managing entity, to permit the uninterrupted operation and
 3595 administration of the component site, provided that a given
 3596 component site managing entity shall not be entitled to any
 3597 information regarding other component sites or regarding the
 3598 terminated multisite timeshare plan managing entity.
 3599

3600 All reasonable costs incurred by the terminated managing entity
 3601 in effecting the transfer of information required by this
 3602 paragraph shall be reimbursed to the terminated managing entity
 3603 on a pro rata basis by each component site, and the amount of
 3604 such reimbursement shall constitute a common expense of each
 3605 component site.

3606 Section 29. Subsection (2) of section 721.57, Florida
 3607 Statutes, is amended to read:

3608 721.57 Offering of timeshare estates in multisite
 3609 timeshare plans; required provisions in the timeshare
 3610 instrument.--

3611 (2) The timeshare instrument of a multisite timeshare plan
 3612 in which timeshare estates are offered, other than a trust
 3613 meeting the requirements of s. 721.08, must contain or provide
 3614 for all of the following matters:

3615 (a) The purchaser will receive a timeshare estate as
 3616 defined in s. 721.05 in one of the component sites of the
 3617 multisite timeshare plan. The use rights in the other component
 3618 sites of the multisite timeshare plan shall be made available to

3619 | the purchaser through the reservation system pursuant to the
3620 | timeshare instrument.

3621 | (b) In the event that the reservation system is terminated
3622 | or otherwise becomes unavailable for any reason prior to the
3623 | expiration of the term of the multisite timeshare plan:

3624 | 1. The purchaser will be able to continue to use the
3625 | accommodations and facilities of the component site in which she
3626 | or he has been conveyed a timeshare estate in the manner
3627 | described in the timeshare instrument for the remaining term of
3628 | the timeshare estate; and

3629 | 2. Any use rights in that component site which had
3630 | previously been made available through the reservation system to
3631 | purchasers of the multisite timeshare plan who were not offered
3632 | a timeshare estate at that component site will terminate when
3633 | the reservation system is terminated or otherwise becomes
3634 | unavailable for any reason.

3635 | Section 30. Subsection (6) of section 721.84, Florida
3636 | Statutes, is amended to read:

3637 | 721.84 Appointment of a registered agent; duties.--

3638 | (6) Unless otherwise provided in this section, a
3639 | registered agent in receipt of any notice or other document
3640 | addressed from the lienholder to the obligor in care of the
3641 | registered agent at the registered office must mail, by first
3642 | class mail if the obligor's address is within the United States,
3643 | and by international air mail if the obligor's address is
3644 | outside the United States, with postage fees prepaid, such
3645 | notice or documents to the obligor at the obligor's last
3646 | designated address within 5 days after ~~of~~ receipt.

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3647 Section 31. Section 721.96, Florida Statutes, is amended
3648 to read:

3649 721.96 Purpose.--The purpose of this part is to provide
3650 for the appointment of commissioners of deeds to take
3651 acknowledgments, proofs of execution, and oaths outside the
3652 United States in connection with the execution of any deed,
3653 mortgage, deed of trust, contract, power of attorney, or any
3654 other agreement, instrument or writing concerning, relating to,
3655 or to be used or recorded in connection with a timeshare estate,
3656 personal property timeshare interest, timeshare license, any
3657 property subject to a timeshare plan, or the operation of a
3658 timeshare plan located within this state.

3659 Section 32. Subsection (1) of section 721.97, Florida
3660 Statutes, is amended to read:

3661 721.97 Timeshare commissioner of deeds.--

3662 (1) The Governor may appoint commissioners of deeds to
3663 take acknowledgments, proofs of execution, or oaths in any
3664 foreign country or any possession, territory, or commonwealth of
3665 the United States outside of the 50 states. The term of office
3666 is 4 years. Commissioners of deeds shall have authority to take
3667 acknowledgments, proofs of execution, and oaths in connection
3668 with the execution of any deed, mortgage, deed of trust,
3669 contract, power of attorney, or any other writing to be used or
3670 recorded in connection with a timeshare estate, personal
3671 property timeshare interest, timeshare license, any property
3672 subject to a timeshare plan, or the operation of a timeshare
3673 plan located within this state; provided such instrument or
3674 writing is executed outside the United States. Such

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3675 | acknowledgments, proofs of execution, and oaths must be taken or
 3676 | made in the manner directed by the laws of this state, including
 3677 | but not limited to s. 117.05(4), (5)(a), and (6), Florida
 3678 | Statutes 1997, and certified by a commissioner of deeds. The
 3679 | certification must be endorsed on or annexed to the instrument
 3680 | or writing aforesaid and has the same effect as if made or taken
 3681 | by a notary public licensed in this state.

3682 | Section 33. Paragraph (b) of subsection (8) of section
 3683 | 475.011, Florida Statutes, is amended to read:

3684 | 475.011 Exemptions.--This part does not apply to:
 3685 | (8)

3686 | (b) An exchange company, as that term is defined by s.
 3687 | 721.05(15)(~~14~~), but only to the extent that the exchange company
 3688 | is engaged in exchange program activities as described in and is
 3689 | in compliance with s. 721.18.

3690 | Section 34. Subsection (23) of section 718.103, Florida
 3691 | Statutes, is amended to read:

3692 | 718.103 Definitions.--As used in this chapter, the term:

3693 | (23) "Residential condominium" means a condominium
 3694 | consisting of two or more units, any of which are intended for
 3695 | use as a private temporary or permanent residence, except that a
 3696 | condominium is not a residential condominium if the use for
 3697 | which the units are intended is primarily commercial or
 3698 | industrial and not more than three units are intended to be used
 3699 | for private residence, and are intended to be used as housing
 3700 | for maintenance, managerial, janitorial, or other operational
 3701 | staff of the condominium. With respect to a condominium that is
 3702 | not a timeshare condominium, a residential unit includes a unit

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3703 intended as a private temporary or permanent residence as well
 3704 as a unit not intended for commercial or industrial use. With
 3705 respect to a timeshare condominium, the timeshare instrument as
 3706 defined in s. 721.05(35)(~~33~~) shall govern the intended use of
 3707 each unit in the condominium. If a condominium is a residential
 3708 condominium but contains units intended to be used for
 3709 commercial or industrial purposes, then, with respect to those
 3710 units which are not intended for or used as private residences,
 3711 the condominium is not a residential condominium. A condominium
 3712 which contains both commercial and residential units is a mixed-
 3713 use condominium and is subject to the requirements of s.
 3714 718.404.

3715 Section 35. This act shall take effect upon becoming a
 3716 law; however, with respect to any timeshare plan or exchange
 3717 program filing approved by the division prior to the date this
 3718 act becomes a law, the amendments to s. 721.06(1)(g)2., s.
 3719 721.07(2)(d)1. and (5)(e)4., s. 721.075(2)(e), or s.
 3720 721.18(1)(l) and (m), Florida Statutes, shall not apply to such
 3721 filing until the earlier of January 1, 2005, or the date that
 3722 any amendments to such filing are made subsequent to the date
 3723 this act becomes a law. With respect to any timeshare plan
 3724 filing approved by the division prior to the date this act
 3725 becomes a law, the amendment to s. 721.08(3)(a), Florida
 3726 Statutes, shall not apply to the nondisturbance and notice to
 3727 creditors instrument required by s. 721.08, Florida Statutes,
 3728 unless and only to the extent that the developer otherwise
 3729 voluntarily complies with all or a portion of such provisions.