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CS/HB 405, Engrossed 1

2007 Legislature

1                                   A bill to be entitled  
 2           An act relating to vacation and timeshare plans; amending  
 3           s. 721.03, F.S.; revising the formula for funding reserve  
 4           accounts for conversions; authorizing a seller to offer  
 5           timeshare interests in a timeshare plan located outside of  
 6           this state without filing a public offering statement for  
 7           such out-of-state timeshare plan; providing criteria for  
 8           such offers; requiring certain notice; providing for a  
 9           fee; conforming cross-references and terminology; amending  
 10          s. 721.05, F.S.; revising the definition of the term "one-  
 11          to-one purchaser to accommodation ratio"; providing  
 12          definitions for the terms "lead dealer," "personal contact  
 13          information," and "resale service provider"; amending s.  
 14          721.07, F.S.; revising information required to be  
 15          contained in filed public offering statements for certain  
 16          timeshare plans; authorizing the Division of Florida Land  
 17          Sales, Condominiums, and Mobile Homes to accept alternate  
 18          forms of timeshare disclosure statements; conforming  
 19          cross-references; amending s. 721.075, F.S.; conforming  
 20          terminology; amending s. 721.11, F.S.; revising provisions  
 21          relating to advertising and oral statements to include  
 22          those made by resale service providers; providing that a  
 23          seller or resale service provider may not misrepresent or  
 24          falsely imply that the resale service provider is  
 25          affiliated with, or obtained personal contact information  
 26          from, a developer, managing entity, or exchange company;  
 27          creating s. 721.121, F.S.; providing recordkeeping  
 28          requirements for resale service providers and lead

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29 | dealers; providing that the failure to produce such  
30 | records in any civil or criminal action relating to the  
31 | wrongful possession or wrongful use of personal contact  
32 | information shall lead to a presumption that the personal  
33 | contact information was wrongfully obtained; providing  
34 | what constitutes wrongful use of such personal contact  
35 | information; providing for recovery of certain damages and  
36 | attorney's fees and costs; amending s. 721.13, F.S. ;  
37 | providing that failure to obtain and maintain required  
38 | insurance coverage constitutes a breach of the managing  
39 | entity's fiduciary duty; authorizing funding of reserve  
40 | accounts to be waived or reduced; providing the managing  
41 | entity with certain rights and powers; providing language  
42 | to be included in public offering statements; providing  
43 | recordkeeping requirements; requiring the managing entity  
44 | to make certain records available to the division under  
45 | certain circumstances; conforming cross-references;  
46 | amending s. 721.15, F.S. ; providing that amounts expended  
47 | for any insurance coverage required by law or by the  
48 | timeshare instrument to be maintained by the owners'  
49 | association shall be exempt from assessment of common  
50 | expenses; providing that any determination by a timeshare  
51 | association of whether assessments exceed 115 percent of  
52 | assessments for the prior fiscal year shall exclude  
53 | anticipated expenses for required insurance coverage;  
54 | amending s. 721.165, F.S. ; revising provisions relating to  
55 | insurance; requiring managing entities to use due  
56 | diligence to obtain certain types of insurance; providing

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57 factors that a managing entity must take into account in  
 58 determining whether the insurance obtained is adequate;  
 59 providing that insurance coverage may be subject to  
 60 certain requirements; authorizing the managing entity to  
 61 apply any existing reserves for certain purposes; amending  
 62 s. 721.52, F.S.; providing application with respect to use  
 63 of the term "vacation club"; amending ss. 721.55 and  
 64 721.552, F.S.; conforming cross-references and  
 65 terminology; amending s. 721.97, F.S.; authorizing the  
 66 Governor to appoint commissioners of deeds to take  
 67 acknowledgments, proofs of execution, or oaths in  
 68 international waters; providing an effective date.

69

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

71

72 Section 1. Paragraph (b) of subsection (1), paragraph (e)  
 73 of subsection (3), and subsection (10) of section 721.03,  
 74 Florida Statutes, are amended, and subsection (11) is added to  
 75 that section, to read:

76 721.03 Scope of chapter.--

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

82 (b) With respect to a timeshare plan containing  
 83 accommodations or facilities located in this state which is  
 84 offered for sale outside the jurisdictional limits of the United

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85 States, such offer or sale shall be exempt from the requirements  
86 of this chapter, provided that the developer shall either file  
87 the timeshare plan with the division for approval pursuant to  
88 this chapter, or pay an exemption registration fee of \$100 and  
89 file the following minimum information pertaining to the  
90 timeshare plan with the division for approval:

91 1. The name and address of the timeshare plan.

92 2. The name and address of the developer and seller, if  
93 any.

94 3. The location and a brief description of the  
95 accommodations and facilities, if any, that are located in this  
96 state.

97 4. The number of timeshare interests and timeshare periods  
98 to be offered.

99 5. The term of the timeshare plan.

100 6. A copy of the timeshare instrument relating to the  
101 management and operation of accommodations and facilities, if  
102 any, that are located in this state.

103 7. A copy of the budget required by s. 721.07(5) (t) ~~(u)~~ or  
104 s. 721.55(4)(h)5., as applicable.

105 8. A copy of the management agreement and any other  
106 contracts regarding management or operation of the  
107 accommodations and facilities, if any, that are located in this  
108 state, and which have terms in excess of 1 year.

109 9. A copy of the provision of the purchase contract to be  
110 utilized in offering the timeshare plan containing the following  
111 disclosure in conspicuous type immediately above the space  
112 provided for the purchaser's signature:

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113  
114 The offering of this timeshare plan outside the jurisdictional  
115 limits of the United States of America is exempt from regulation  
116 under Florida law, and any such purchase is not protected by the  
117 State of Florida. However, the management and operation of any  
118 accommodations or facilities located in Florida is subject to  
119 Florida law and may give rise to enforcement action regardless  
120 of the location of any offer.

121 (3) A timeshare plan which is subject to the provisions of  
122 chapter 718 or chapter 719, if fully in compliance with the  
123 provisions of this chapter, is exempt from the following:

124 (e) Part VI of chapter 718 and part VI of chapter 719,  
125 relating to conversion of existing improvements to the  
126 condominium or cooperative form of ownership, respectively,  
127 provided that a developer converting existing improvements to a  
128 timeshare condominium or timeshare cooperative must comply with  
129 ss. 718.606, 718.608, 718.61, and 718.62, or ss. 719.606,  
130 719.608, 719.61, and 719.62, if applicable, and, if the existing  
131 improvements received a certificate of occupancy more than 18  
132 months before such conversion, one of the following:

133 1. The accommodations and facilities shall be renovated  
134 and improved to a condition such that the remaining useful life  
135 in years of the roof, plumbing, air-conditioning, and any  
136 component of the structure which has a useful life less than the  
137 useful life of the overall structure is equal to the useful life  
138 of accommodations or facilities that would exist if such  
139 accommodations and facilities were newly constructed and not  
140 previously occupied.

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141           2. The developer shall fund reserve accounts for capital  
142 expenditures and deferred maintenance for the roof, plumbing,  
143 air-conditioning, and any component of the structure the useful  
144 life of which is less than the useful life of the overall  
145 structure. The reserve accounts shall be funded for each  
146 component in an amount equal to the product of the estimated  
147 current replacement cost of such component as of the date of  
148 such conversion (as disclosed and substantiated by a certificate  
149 under the seal of an architect or engineer authorized to  
150 practice in this state) multiplied by a fraction, the numerator  
151 of which shall be the age ~~remaining life~~ of the component in  
152 years (as disclosed and substantiated by a certificate under the  
153 seal of an architect or engineer authorized to practice in this  
154 state) and the denominator of which shall be the total useful  
155 life of the component in years (as disclosed and substantiated  
156 by a certificate under the seal of an architect or engineer  
157 authorized to practice in this state). Alternatively, the  
158 reserve accounts may be funded for each component in an amount  
159 equal to the amount that, except for the application of this  
160 subsection, would be required to be maintained pursuant to s.  
161 718.618(1) or s. 719.618(1). The developer shall fund the  
162 reserve accounts contemplated in this subparagraph out of the  
163 proceeds of each sale of a timeshare interest, on a pro rata  
164 basis, in an amount not less than a percentage of the total  
165 amount to be deposited in the reserve account equal to the  
166 percentage of ownership allocable to the timeshare interest  
167 sold. When an owners' association makes an expenditure of  
168 reserve account funds before the developer has initially sold

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169 all timeshare interests, the developer shall make a deposit in  
 170 the reserve account if the reserve account is insufficient to  
 171 pay the expenditure. Such deposit shall be at least equal to  
 172 that portion of the expenditure which would be charged against  
 173 the reserve account deposit that would have been made for any  
 174 such timeshare interest had the timeshare interest been  
 175 initially sold. When a developer deposits amounts in excess of  
 176 the minimum reserve account funding, later deposits may be  
 177 reduced to the extent of the excess funding.

178 3. The developer shall provide each purchaser with a  
 179 warranty of fitness and merchantability pursuant to s.  
 180 718.618(6) or s. 719.618(6).

181 (10) A developer or seller may not offer any number of  
 182 timeshare interests that would cause the total number of  
 183 timeshare interests offered to exceed a one-to-one use right  
 184 ~~purchaser to use night requirement accommodation~~ ratio.

185 (11) (a) A seller may offer timeshare interests in a real  
 186 property timeshare plan located outside of this state without  
 187 filing a public offering statement for such out-of-state real  
 188 property timeshare plan pursuant to s. 721.07 or s. 721.55,  
 189 provided all of the following criteria have been satisfied:

190 1. The seller shall provide a disclosure statement to each  
 191 prospective purchaser of such out-of-state timeshare plan. The  
 192 disclosure statement for a single-site timeshare plan shall  
 193 contain information otherwise required under s. 721.07(5)(e) -  
 194 (cc) and the exhibits required by s. 721.07(5)(ff)1., 2., 3.,  
 195 4., 5., 7., 8., and 20. The disclosure statement for a multisite  
 196 timeshare plan shall contain information otherwise required

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197 under s. 721.55(4) and (5) and the exhibits required under s.  
 198 721.55(7). If a developer has, in good faith, attempted to  
 199 comply with the requirements of this subsection and if the  
 200 developer has substantially complied with the disclosure  
 201 requirements of this subsection, nonmaterial errors or omissions  
 202 shall not be actionable. With respect to any offer for an out-  
 203 of-state timeshare plan made pursuant to this subsection, the  
 204 delivery by the seller to a prospective purchaser of the  
 205 disclosure statement required by this subparagraph shall be  
 206 deemed to satisfy any requirement of this chapter regarding a  
 207 public offering statement.

208 2. The seller shall utilize and furnish to each purchaser  
 209 of an out-of-state timeshare plan offered under this subsection  
 210 a fully completed and executed copy of a purchase contract that  
 211 contains the statement set forth in s. 721.065(2)(c) in  
 212 conspicuous type located immediately prior to the space in the  
 213 contract reserved for the purchaser's signature. The purchase  
 214 contract shall also contain the initial purchase price and any  
 215 additional charges to which the purchaser may be subject in  
 216 connection with the purchase of the timeshare plan, such as  
 217 financing, or that will be collected from the purchaser on or  
 218 before closing, such as the current year's annual assessment for  
 219 common expenses.

220 3. All purchase contracts for out-of-state timeshare plans  
 221 offered under this subsection must also contain the following  
 222 statements in conspicuous type:  
 223



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224 This timeshare plan has not been reviewed or approved by  
 225 the State of Florida.

227 The timeshare interest you are purchasing requires certain  
 228 procedures to be followed in order for you to use your  
 229 interest. These procedures may be different from those  
 230 followed in other timeshare plans. You should read and  
 231 understand these procedures prior to purchasing.

233 4.a. An out-of-state timeshare plan may only be offered  
 234 pursuant to this subsection by the seller on behalf of:

235 (I) The developer of a timeshare plan that has been  
 236 approved by the division within the preceding 7 years pursuant  
 237 to s. 721.07 or s. 721.55, or concerning which an amendment by  
 238 the developer has been approved by the division within the  
 239 preceding 7 years, which timeshare plan has been neither  
 240 terminated nor withdrawn; or

241 (II) A developer under common ownership or control with a  
 242 developer described in sub-sub-subparagraph (I), provided that  
 243 any common ownership shall constitute at least a 50-percent  
 244 ownership interest.

245 b. An out-of-state timeshare plan may only be offered  
 246 pursuant to this subsection to a person who already owns a  
 247 timeshare interest in a timeshare plan filed by a developer  
 248 described in sub-subparagraph a.

249 5. Any seller of an out-of-state timeshare plan offered  
 250 pursuant to this subsection shall be required to provide notice  
 251 of such plan to the division on a form prescribed by the

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252 division, along with payment of a one-time fee not to exceed  
 253 \$1,000 per filing.

254 (b) Timeshare plans offered pursuant to this subsection  
 255 shall be exempt from the requirements of ss. 721.06, 721.065,  
 256 721.07, 721.27, 721.55, and 721.58 in addition to the exemptions  
 257 otherwise applicable to accommodations and facilities located  
 258 outside of the state pursuant to subparagraph (1)(c)1.

259 (c) Any escrow account required to be established by s.  
 260 721.08 for any out-of-state timeshare plan offered under this  
 261 subsection may be maintained in the situs jurisdiction provided  
 262 the escrow agent submits to personal jurisdiction in this state  
 263 in a form satisfactory to the division.

264 Section 2. Subsection (25) of section 721.05, Florida  
 265 Statutes, is amended, and subsections (42), (43), and (44) are  
 266 added to that section, to read:

267 721.05 Definitions.--As used in this chapter, the term:

268 (25) "One-to-one use right purchaser to use night  
 269 requirement accommodation ratio" means that the sum of the  
 270 nights that owners are entitled to use in a given 12-month  
 271 period shall not exceed the number of nights available for use  
 272 by those owners during the same 12-month period. No individual  
 273 timeshare unit may be counted as providing more than 365 use  
 274 nights per 12-month period or more than 366 use nights per 12-  
 275 month period that includes February 29. The use rights of each  
 276 owner shall be counted without regard to whether the owner's use  
 277 rights have been suspended for failure to pay assessments or  
 278 otherwise the ratio of the number of purchasers eligible to use  
 279 the accommodations of a timeshare plan on a given day to the

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280 ~~number of accommodations available for use within the plan on~~  
 281 ~~that day, such that the total number of purchasers eligible to~~  
 282 ~~use the accommodations of the timeshare plan during a given~~  
 283 ~~calendar year never exceeds the total number of accommodations~~  
 284 ~~available for use in the timeshare plan during that year. For~~  
 285 ~~purposes of calculation under this subsection, each purchaser~~  
 286 ~~must be counted at least once, and no individual timeshare unit~~  
 287 ~~may be counted more than 365 times per calendar year (or more~~  
 288 ~~than 366 times per leap year). A purchaser who is delinquent in~~  
 289 ~~the payment of timeshare plan assessments shall continue to be~~  
 290 ~~considered eligible to use the accommodations of the timeshare~~  
 291 ~~plan for purposes of this subsection notwithstanding any~~  
 292 ~~application of s. 721.13(6).~~

293 (42) "Lead dealer" means any person who sells or otherwise  
 294 provides a resale service provider or any other person with  
 295 personal contact information for five or more owners of  
 296 timeshare interests. In the event a lead dealer is not a natural  
 297 person, the term shall also include the natural person providing  
 298 personal contact information to a resale service provider or  
 299 other person on behalf of the lead dealer entity. The term does  
 300 not include developers, managing entities, or exchange companies  
 301 to the extent they provide others with personal contact  
 302 information about owners of timeshare interests in their own  
 303 timeshare plans or members of their own exchange programs. The  
 304 term does not include persons providing personal contact  
 305 information that is not designed specifically or primarily to  
 306 identify owners of timeshare interests even though the

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307 information provided may include five or more owners of  
 308 timeshare interests.

309 (43) "Personal contact information" means any information  
 310 that can be used to contact the owner of a specific timeshare  
 311 interest, including, but not limited to, the owner's name,  
 312 address, telephone number, and e-mail address.

313 (44) "Resale service provider" means any person who uses  
 314 unsolicited telemarketing, direct mail, or e-mail in connection  
 315 with the offering of resale brokerage or resale advertising  
 316 services to owners of timeshare interests. The term does not  
 317 include developers, managing entities, or exchange companies to  
 318 the extent they offer resale brokerage or resale advertising  
 319 services to owners of timeshare interests in their own timeshare  
 320 plans or members of their own exchange programs.

321 Section 3. Paragraphs (n) through (v) of subsection (5) of  
 322 section 721.07, Florida Statutes, are redesignated as paragraphs  
 323 (m) through (u), present paragraphs (m), (v), and (ff) of that  
 324 subsection are amended, and subsection (7) is added to that  
 325 section, to read:

326 721.07 Public offering statement.--Prior to offering any  
 327 timeshare plan, the developer must submit a filed public  
 328 offering statement to the division for approval as prescribed by  
 329 s. 721.03, s. 721.55, or this section. Until the division  
 330 approves such filing, any contract regarding the sale of that  
 331 timeshare plan is subject to cancellation by the purchaser  
 332 pursuant to s. 721.10.

333 (5) Every filed public offering statement for a timeshare  
 334 plan which is not a multisite timeshare plan shall contain the

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335 information required by this subsection. The division is  
 336 authorized to provide by rule the method by which a developer  
 337 must provide such information to the division.

338 ~~(m) A description of any financing to be offered to~~  
 339 ~~purchasers by the developer or any person or entity in which the~~  
 340 ~~developer has a financial interest, together with a disclosure~~  
 341 ~~that the description of such financing may be changed by the~~  
 342 ~~developer and that any change in the financing offered to~~  
 343 ~~prospective purchasers will not be deemed to be a material~~  
 344 ~~change.~~

345 (u) (v) For any timeshare plan for which the purchase or  
 346 closing of timeshare interests is not subject to the  
 347 requirements of the Real Estate Settlement Procedures Act, 12  
 348 U.S.C. s. 2601 et seq., a schedule of estimated closing expenses  
 349 to be paid by a purchaser or lessee of a timeshare interest.

350 (v) ~~and~~ A statement as to whether a title opinion or title  
 351 insurance policy is available to the purchaser and, if so, at  
 352 whose expense.

353 (ff) Copies of the following documents and plans, to the  
 354 extent they are applicable, shall be included as exhibits to the  
 355 filed public offering statement provided, if the timeshare plan  
 356 has not been declared or created at the time of the filing, the  
 357 developer shall provide proposed documents:

- 358 1. The declaration of condominium.
- 359 2. The cooperative documents.
- 360 3. The declaration of covenants and restrictions.
- 361 4. The articles of incorporation creating the owners'
- 362 association.

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- 363           5. The bylaws of the owners' association.
- 364           6. Any ground lease or other underlying lease of the real
- 365 property associated with the timeshare plan. In the case of a
- 366 personal property timeshare plan, any lease of the personal
- 367 property associated with the personal property timeshare plan.
- 368           7. The management agreement and all maintenance and other
- 369 contracts regarding the management and operation of the
- 370 timeshare property which have terms in excess of 1 year.
- 371           8. The estimated operating budget for the timeshare plan
- 372 and the required schedule of purchasers' expenses.
- 373           9. The floor plan of each type of accommodation and the
- 374 plot plan showing the location of all accommodations and
- 375 facilities declared as part of the timeshare plan and filed with
- 376 the division.
- 377           10. The lease for any facilities.
- 378           11. A declaration of servitude of properties serving the
- 379 accommodations and facilities, but not owned by purchasers or
- 380 leased to them or the owners' association.
- 381           12. Any documents required by s. 721.03(3)(e) as the
- 382 result of the inclusion of a timeshare plan in the conversion of
- 383 the building to condominium or cooperative ownership.
- 384           13. The form of agreement for sale or lease of timeshare
- 385 interests.
- 386           14. The executed agreement for escrow of payments made to
- 387 the developer prior to closing and the form of any agreement for
- 388 escrow of ad valorem tax escrow payments, if any, to be made
- 389 into an ad valorem tax escrow account pursuant to s. 192.037(6).

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390 15. The documents containing any restrictions on use of  
 391 the property required by paragraph (r) ~~(s)~~.

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

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

398 18. In the case of any personal property timeshare plan in  
 399 which the accommodations and facilities are located on or in a  
 400 documented vessel or foreign vessel as provided in s.  
 401 721.08(2)(c)3.e., a copy of the certificate of ownership of such  
 402 vessel and either a copy of the certificate of documentation or  
 403 certificate of registry of such vessel.

404 19. An executed affidavit given under oath by an attorney  
 405 licensed to practice law in any jurisdiction in the United  
 406 States stating that the attorney has researched the applicable  
 407 laws of the jurisdiction in which governing law has been  
 408 established and the laws of the jurisdiction in which the vessel  
 409 is registered, and has found that the timeshare instrument  
 410 complies with the provisions of s. 721.08(2)(c)3.e.(II)(C) and  
 411 (III).

412 20. Any other documents or instruments creating the  
 413 timeshare plan.

414 (7) The division may accept an alternate form of timeshare  
 415 disclosure statement under an agreement with another state. At a  
 416 minimum, the alternate form of timeshare disclosure statement  
 417 must have provisions substantially similar to this section. The

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418 division may adopt rules pursuant to ss. 120.536(1) and 120.54  
 419 to implement this subsection.

420 Section 4. Paragraph (d) of subsection (1) of section  
 421 721.075, Florida Statutes, is amended to read:

422 721.075 Incidental benefits.--Incidental benefits shall be  
 423 offered only as provided in this section.

424 (1) Accommodations, facilities, products, services,  
 425 discounts, or other benefits which satisfy the requirements of  
 426 this subsection shall be subject to the provisions of this  
 427 section and exempt from the other provisions of this chapter  
 428 which would otherwise apply to such accommodations or facilities  
 429 if and only if:

430 (d) The continued availability to purchasers of timeshare  
 431 plan accommodations on no greater than a one-to-one use right  
 432 ~~purchaser~~ to use night requirement accommodation ratio is not  
 433 dependent upon continued availability of the incidental benefit.

434 Section 5. Subsection (4) of section 721.11, Florida  
 435 Statutes, is amended to read:

436 721.11 Advertising materials; oral statements.--

437 (4) No advertising or oral statement made by any seller or  
 438 resale service provider shall:

439 (a) Misrepresent a fact or create a false or misleading  
 440 impression regarding the timeshare plan or promotion thereof.

441 (b) Make a prediction of specific or immediate increases  
 442 in the price or value of timeshare interests.

443 (c) Contain a statement concerning future price increases  
 444 by a seller which are nonspecific or not bona fide.

445 (d) Contain any asterisk or other reference symbol as a



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446 means of contradicting or substantially changing any previously  
 447 made statement or as a means of obscuring a material fact.

448 (e) Describe any facility that is not required to be built  
 449 or that is uncompleted unless the improvement is conspicuously  
 450 labeled as "NEED NOT BE BUILT," "PROPOSED," or "UNDER  
 451 CONSTRUCTION." If the facility is labeled "NEED NOT BE BUILT" or  
 452 "PROPOSED," the seller may indicate the estimated date that such  
 453 facility will be made part of the timeshare plan. If the  
 454 facility is labeled "UNDER CONSTRUCTION," the estimated date of  
 455 completion must be included.

456 (f) Misrepresent the size, nature, extent, qualities, or  
 457 characteristics of the offered accommodations or facilities.

458 (g) Misrepresent the amount or period of time during which  
 459 the accommodations or facilities will be available to any  
 460 purchaser.

461 (h) Misrepresent the nature or extent of any incidental  
 462 benefit.

463 (i) Make any misleading or deceptive representation with  
 464 respect to the contents of the public offering statement and the  
 465 contract or the rights, privileges, benefits, or obligations of  
 466 the purchaser under the contract or this chapter.

467 (j) Misrepresent the conditions under which a purchaser  
 468 may exchange the right to use accommodations or facilities in  
 469 one location for the right to use accommodations or facilities  
 470 in another location.

471 (k) Misrepresent the availability of a resale or rental  
 472 program or resale or rental opportunity ~~offered by or on behalf~~  
 473 ~~of the developer.~~

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474 (l) Contain an offer or inducement to purchase which  
 475 purports to be limited as to quantity or restricted as to time  
 476 unless the numerical quantity or time limit applicable to the  
 477 offer or inducement is clearly stated.

478 (m) Imply that a facility is available for the exclusive  
 479 use of purchasers if the facility will actually be shared by  
 480 others or by the general public.

481 (n) Purport to have resulted from a referral unless the  
 482 name of the person making the referral can be produced upon  
 483 demand of the division.

484 (o) Misrepresent the source of the advertising or  
 485 statement by leading a prospective purchaser to believe that the  
 486 advertising material is mailed by a governmental or official  
 487 agency, credit bureau, bank, or attorney, if that is not the  
 488 case.

489 (p) Misrepresent the value of any prize, gift, or other  
 490 item to be awarded in connection with any prize and gift  
 491 promotional offer, as described in s. 721.111, or any incidental  
 492 benefit.

493 (q) Misrepresent or falsely imply that the resale service  
 494 provider is affiliated with, or obtained personal contact  
 495 information from, a developer, managing entity, or exchange  
 496 company.

497 Section 6. Section 721.121, Florida Statutes, is created  
 498 to read:

499 721.121 Recordkeeping by resale service providers and lead  
 500 dealers.--

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501           (1) Resale service providers and lead dealers shall  
 502 maintain the following records for a period of 5 years from the  
 503 date each piece of personal contact information is obtained:

504           (a) The name, home address, work address, home telephone  
 505 number, work telephone number, and cellular telephone number of  
 506 the lead dealer from which the personal contact information was  
 507 obtained.

508           (b) A copy of a current government-issued photographic  
 509 identification for the lead dealer from which the personal  
 510 contact information was obtained, such as a driver's license,  
 511 passport, or military identification card.

512           (c) The date, time, and place of the transaction at which  
 513 the personal contact information was obtained, along with the  
 514 amount of consideration paid and a signed receipt from the lead  
 515 dealer or copy of a canceled check.

516           (d) A copy of all pieces of personal contact information  
 517 obtained in the exact form and media in which they were  
 518 received.

519           (e) If personal contact information was directly  
 520 researched and assembled by the resale service provider or lead  
 521 dealer and not obtained from another lead dealer, a complete  
 522 written description of the sources from which personal contact  
 523 information was obtained, the methodologies used for researching  
 524 and assembling it, the items set forth in paragraphs (a) and (b)  
 525 for the individuals who performed the work, and the date such  
 526 work was done.

527           (2) In any civil or criminal action relating to the  
 528 wrongful possession or wrongful use of personal contact

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529 information by a resale service provider or lead dealer, any  
530 failure by a resale service provider or lead dealer to produce  
531 the records required by subsection (1) shall lead to a  
532 presumption that the personal contact information was wrongfully  
533 obtained.

534 (3) Any use by a resale service provider or lead dealer of  
535 personal contact information that is wrongfully obtained  
536 pursuant to this section shall be considered wrongful use of  
537 such personal contact information by the resale service provider  
538 or lead dealer, as applicable. Any party who establishes that a  
539 resale service provider or lead dealer wrongfully obtained or  
540 wrongfully used personal contact information with respect to  
541 owners of a timeshare plan or members of an exchange program  
542 shall, in addition to any other remedies that may be available  
543 in law or equity, be entitled to recover from such resale  
544 service provider or lead dealer an amount equal to \$1,000 for  
545 each owner about whom personal contact information was  
546 wrongfully obtained or used. Upon prevailing, the plaintiff in  
547 any such action shall also be entitled to recover reasonable  
548 attorney's fees and costs.

549 Section 7. Paragraph (c) is added to subsection (2) of  
550 section 721.13, Florida Statutes, paragraph (c) of subsection  
551 (3) of that section is amended, and subsection (12) is added to  
552 that section, to read:

553 721.13 Management.--

554 (2)

555 (c) Failure by a managing entity to obtain and maintain  
556 insurance coverage as required under s. 721.165 during any

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557 period of developer control of the managing entity shall  
 558 constitute a breach of the managing entity's fiduciary duty.

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

561 (c)1. Providing each year to all purchasers an itemized  
 562 annual budget which shall include all estimated revenues and  
 563 expenses. The budget shall be in the form required by s.  
 564 721.07(5) (t) ~~(u)~~. The budget shall be the final budget adopted by  
 565 the managing entity for the current fiscal year. The final  
 566 adopted budget is not required to be delivered if the managing  
 567 entity has previously delivered a proposed annual budget for the  
 568 current fiscal year to purchasers in accordance with chapter 718  
 569 or chapter 719 and the managing entity includes a description of  
 570 any changes in the adopted budget with the assessment notice and  
 571 a disclosure regarding the purchasers' right to receive a copy  
 572 of the adopted budget, if desired. The budget shall contain, as  
 573 a footnote or otherwise, any related party transaction  
 574 disclosures or notes which appear in the audited financial  
 575 statements of the managing entity for the previous budget year  
 576 as required by paragraph (e). A copy of the final budget shall  
 577 be filed with the division for review within 30 days after the  
 578 beginning of each fiscal year together with a statement of the  
 579 number of periods of 7-day annual use availability that exist  
 580 within the timeshare plan, including those periods filed for  
 581 sale by the developer but not yet committed to the timeshare  
 582 plan, for which annual fees are required to be paid to the  
 583 division under s. 721.27.

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584           2. Notwithstanding anything contained in chapter 718 or  
585 chapter 719 to the contrary, the board of administration of an  
586 owners' association which serves as the managing entity may from  
587 time to time reallocate reserves for deferred maintenance and  
588 capital expenditures required by s. 721.07(5) (t)~~(u)~~3.a.(XI) from  
589 any deferred maintenance or capital expenditure reserve account  
590 to any other deferred maintenance or capital expenditure reserve  
591 account or accounts in its discretion without the consent of  
592 purchasers of the timeshare plan. Funds in any deferred  
593 maintenance or capital expenditure reserve account may not be  
594 transferred to any operating account without the consent of a  
595 majority of the purchasers of the timeshare plan. The managing  
596 entity may from time to time transfer excess funds in any  
597 operating account to any deferred maintenance or capital  
598 expenditure reserve account without the vote or approval of  
599 purchasers of the timeshare plan. In the event any amount of  
600 reserves for accommodations and facilities of a timeshare plan  
601 containing timeshare licenses or personal property timeshare  
602 interests exists at the end of the term of the timeshare plan,  
603 such reserves shall be refunded to purchasers on a pro rata  
604 basis.

605           3. With respect to any timeshare plan that has a managing  
606 entity that is an owners' association, reserves may be waived or  
607 reduced by a majority vote of those voting interests that are  
608 present, in person or by proxy, at a duly called meeting of the  
609 owners' association. If a meeting of the purchasers has been  
610 called to determine whether to waive or reduce the funding of  
611 reserves and no such result is achieved or a quorum is not

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612 attained, the reserves as included in the budget shall go into  
 613 effect.

614 (12) (a) In addition to any other rights granted by the  
 615 rules and regulations of the timeshare plan, the managing entity  
 616 of a timeshare plan is authorized to manage the reservation and  
 617 use of accommodations using those processes, analyses,  
 618 procedures, and methods that are in the best interests of the  
 619 owners as a whole to efficiently manage the timeshare plan and  
 620 encourage the maximum use and enjoyment of the accommodations  
 621 and other benefits made available through the timeshare plan.  
 622 The managing entity shall have the right to forecast anticipated  
 623 reservation and use of the accommodations, including the right  
 624 to take into account current and previous reservation and use of  
 625 the accommodations, information about events that are scheduled  
 626 to occur, seasonal use patterns, and other pertinent factors  
 627 that affect the reservation or use of the accommodations. In  
 628 furtherance of the provisions of this subsection, the managing  
 629 entity is authorized to reserve accommodations, in the best  
 630 interests of the owners as a whole, for the purposes of  
 631 depositing such reserved use with an affiliated exchange program  
 632 or renting such reserved accommodations in order to facilitate  
 633 the use or future use of the accommodations or other benefits  
 634 made available through the timeshare plan.

635 (b) A statement in conspicuous type, in substantially the  
 636 following form, shall appear in the public offering statement as  
 637 provided in s. 721.07:

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639       The managing entity shall have the right to forecast  
 640       anticipated reservation and use of the accommodations of  
 641       the timeshare plan and is authorized to reasonably reserve,  
 642       deposit, or rent the accommodations for the purpose of  
 643       facilitating the use or future use of the accommodations or  
 644       other benefits made available through the timeshare plan.

645  
 646       (c) The managing entity shall maintain copies of all  
 647       records, data, and information supporting the processes,  
 648       analyses, procedures, and methods utilized by the managing  
 649       entity in its determination to reserve accommodations of the  
 650       timeshare plan pursuant to this subsection for a period of 5  
 651       years from the date of such determination. In the event of an  
 652       investigation by the division for failure of a managing entity  
 653       to comply with this subsection, the managing entity shall make  
 654       all such records, data, and information available to the  
 655       division for inspection, provided that if the managing entity  
 656       complies with the provisions of s. 721.071, any such records,  
 657       data, and information provided to the division shall constitute  
 658       a trade secret pursuant to that section.

659       Section 8. Paragraph (c) of subsection (2) of section  
 660       721.15, Florida Statutes, is amended, and subsection (11) is  
 661       added to that section, to read:

662       721.15 Assessments for common expenses.--

663       (2)

664       (c) For the purpose of calculating the obligation of a  
 665       developer under a guarantee pursuant to paragraph (b), amounts  
 666       expended for any insurance coverage required by law or by the



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667 timeshare instrument to be maintained by the owners' association  
 668 and depreciation expenses related to real property shall be  
 669 excluded from common expenses incurred during the guarantee  
 670 period, except that for real property that is used for the  
 671 production of fees, revenues, or other income, depreciation  
 672 expenses shall be excluded only to the extent that they exceed  
 673 the net income from the production of such fees, revenues, or  
 674 other income. Any special assessment imposed for amounts  
 675 excluded from the developer guarantee pursuant to this paragraph  
 676 shall be paid proportionately by all owners of timeshare  
 677 interests, including the developer with respect to the timeshare  
 678 interests owned by the developer, in accordance with the  
 679 timeshare instrument.

680 (11) Notwithstanding any provision of chapter 718 or  
 681 chapter 719 to the contrary, any determination by a timeshare  
 682 association of whether assessments exceed 115 percent of  
 683 assessments for the prior fiscal year shall exclude anticipated  
 684 expenses for insurance coverage required by law or by the  
 685 timeshare instrument to be maintained by the association.

686 Section 9. Section 721.165, Florida Statutes, is amended  
 687 to read:

688 721.165 Insurance.--

689 (1) Notwithstanding any provision contained in the  
 690 timeshare instrument or in this chapter, chapter 718, or chapter  
 691 719 to the contrary, the seller, initially, and thereafter the  
 692 managing entity, shall use due diligence to obtain adequate  
 693 casualty be responsible for obtaining insurance as a common  
 694 expense of the timeshare plan to protect the timeshare property

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695 against all reasonably foreseeable perils, in such covered  
 696 amounts and subject to such reasonable exclusions and reasonable  
 697 deductibles as are consistent with the provisions of this  
 698 ~~section accommodations and facilities of the timeshare plan in~~  
 699 ~~an amount equal to the replacement cost of such accommodations~~  
 700 ~~and facilities. Failure to obtain and maintain the insurance~~  
 701 ~~required by this subsection during any period of developer~~  
 702 ~~control of the managing entity shall constitute a breach of s.~~  
 703 ~~721.13(2) (a) by the managing entity, unless the managing entity~~  
 704 ~~can show that, despite such failure, it exercised due diligence~~  
 705 ~~to obtain and maintain the insurance required by this~~  
 706 ~~subsection.~~

707 (2) In making the determination as to whether the  
 708 insurance obtained pursuant to subsection (1) is adequate, the  
 709 managing entity shall take into account the following factors,  
 710 among others as may be applicable:

711 (a) Available insurance coverages and related premiums in  
 712 the marketplace.

713 (b) Amounts of any related deductibles, types of  
 714 exclusions, and coverage limitations; provided that, for  
 715 purposes of this paragraph, a deductible of 5 percent or less  
 716 shall be deemed to be reasonable per se.

717 (c) The probable maximum loss relating to the insured  
 718 timeshare property during the policy term.

719 (d) The extent to which a given peril is insurable under  
 720 commercially reasonable terms.

721 (e) Amounts of any deferred maintenance or replacement  
 722 reserves on hand.

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723 (f) Geography and any special risks associated with the  
 724 location of the timeshare property.

725 (g) The age and type of construction of the timeshare  
 726 property.

727 (3) Notwithstanding any provision contained in this  
 728 section or in the timeshare instrument to the contrary,  
 729 insurance shall be procured and maintained by the managing  
 730 entity for the timeshare property as a common expense of the  
 731 timeshare plan against such perils, in such coverages, and  
 732 subject to such reasonable deductions or reasonable exclusions  
 733 as may be required by:

734 (a) An institutional lender to a developer, for so long as  
 735 such lender holds a mortgage encumbering any interest in or lien  
 736 against a portion of the timeshare property; or

737 (b) Any holder or pledgee of, or any institutional lender  
 738 having a security interest in, a pool of promissory notes  
 739 secured by mortgages or other security interests relating to the  
 740 timeshare plan, executed by purchasers in connection with such  
 741 purchasers' acquisition of timeshare interests in such timeshare  
 742 property, or any agent, underwriter, placement agent, trustee,  
 743 servicer, custodian, or other portfolio manager acting on behalf  
 744 of such holder, pledgee, or institutional lender, for so long as  
 745 any such notes and mortgages or other security interests remain  
 746 outstanding.

747 (4) Notwithstanding any provision contained in the  
 748 timeshare instrument or in this chapter, chapter 718, or chapter  
 749 719 to the contrary, the managing entity is authorized to apply  
 750 any existing reserves for deferred maintenance and capital

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751 expenditures toward payment of insurance deductibles or the  
 752 repair or replacement of the timeshare property after a casualty  
 753 without regard to the purposes for which such reserves were  
 754 originally established.

755 ~~(5)(2)~~ A copy of each policy of insurance in effect shall  
 756 be made available for reasonable inspection by purchasers and  
 757 their authorized agents.

758 Section 10. Subsection (8) of section 721.52, Florida  
 759 Statutes, is amended to read:

760 721.52 Definitions.--As used in this chapter, the term:

761 (8) "Vacation club" means a multisite timeshare plan.

762 However, notwithstanding any other provision of this chapter,  
 763 the use of the term "vacation club" by a person or entity as  
 764 part of a company, brand, or product name shall not, in and of  
 765 itself, subject the person, entity, or product being offered to  
 766 the provisions of this part unless the product offered otherwise  
 767 meets the definition of a "multisite timeshare plan" as defined  
 768 in subsection (4).

769 Section 11. Paragraphs (f) and (h) of subsection (4) and  
 770 paragraph (1) of subsection (7) of section 721.55, Florida  
 771 Statutes, are amended to read:

772 721.55 Multisite timeshare plan public offering  
 773 statement.--Each filed public offering statement for a multisite  
 774 timeshare plan shall contain the information required by this  
 775 section and shall comply with the provisions of s. 721.07,  
 776 except as otherwise provided therein. The division is authorized  
 777 to provide by rule the method by which a developer must provide  
 778 such information to the division. Each multisite timeshare plan

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779 | filed public offering statement shall contain the following  
 780 | information and disclosures:

781 |       (4) A text, which shall include, where applicable, the  
 782 | information and disclosures set forth in paragraphs (a)-(l).

783 |       (f) If the provisions of s. 721.552 and the timeshare  
 784 | instrument permit additions, substitutions, or deletions of  
 785 | accommodations or facilities, the public offering statement must  
 786 | include substantially the following information:

787 |       1. Additions.--

788 |       a. A description of the basis upon which new  
 789 | accommodations and facilities may be added to the multisite  
 790 | timeshare plan; by whom additions may be made; and the  
 791 | anticipated effect of the addition of new accommodations and  
 792 | facilities upon the reservation system, its priorities, its  
 793 | rules and regulations, and the availability of existing  
 794 | accommodations and facilities.

795 |       b. The developer must disclose the existence of any cap on  
 796 | annual increases in common expenses of the multisite timeshare  
 797 | plan that would apply in the event that additional  
 798 | accommodations and facilities are made a part of the plan.

799 |       c. The developer shall also disclose any extent to which  
 800 | the purchasers of the multisite timeshare plan will have the  
 801 | right to consent to any proposed additions; if the purchasers do  
 802 | not have the right to consent, the developer must include the  
 803 | following disclosure in conspicuous type:

804 |  
 805 |       Accommodations and facilities may be added to this  
 806 | multisite timeshare plan (or multisite vacation ownership plan

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807 or multisite vacation plan or vacation club) without the consent  
 808 of the purchasers. The addition of accommodations and facilities  
 809 to the plan may result in the addition of new purchasers who  
 810 will compete with existing purchasers in making reservations for  
 811 the use of available accommodations and facilities within the  
 812 plan, and may also result in an increase in the annual  
 813 assessment against purchasers for common expenses.

814  
 815 2. Substitutions.--

816 a. A description of the basis upon which new  
 817 accommodations and facilities may be substituted for existing  
 818 accommodations and facilities of the multisite timeshare plan;  
 819 by whom substitutions may be made; the basis upon which the  
 820 determination may be made to cause such substitutions to occur;  
 821 and any limitations upon the ability to cause substitutions to  
 822 occur.

823 b. The developer shall also disclose any extent to which  
 824 purchasers will have the right to consent to any proposed  
 825 substitutions; if the purchasers do not have the right to  
 826 consent, the developer must include the following disclosure in  
 827 conspicuous type:

828  
 829 New accommodations and facilities may be substituted for  
 830 existing accommodations and facilities of this multisite  
 831 timeshare plan (or multisite vacation ownership plan or  
 832 multisite vacation plan or vacation club) without the consent of  
 833 the purchasers. The replacement accommodations and facilities  
 834 may be located at a different place or may be of a different

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835 type or quality than the replaced accommodations and facilities.  
 836 The substitution of accommodations and facilities may also  
 837 result in an increase in the annual assessment against  
 838 purchasers for common expenses.

839  
 840 3. Deletions.--A description of any provision of the  
 841 timeshare instrument governing deletion of accommodations or  
 842 facilities from the multisite timeshare plan. If the timeshare  
 843 instrument does not provide for business interruption insurance  
 844 in the event of a casualty, or if it is unavailable, or if the  
 845 instrument permits the developer, the managing entity, or the  
 846 purchasers to elect not to reconstruct after casualty under  
 847 certain circumstances or to secure replacement accommodations or  
 848 facilities in lieu of reconstruction, the public offering  
 849 statement must contain a disclosure that during the  
 850 reconstruction, replacement, or acquisition period, or as a  
 851 result of a decision not to reconstruct, purchasers of the plan  
 852 may temporarily compete for available accommodations on a  
 853 greater than one-to-one use right purchaser to use night  
 854 requirement accommodation ratio.

855 (h) A description of the purchaser's liability for common  
 856 expenses of the multisite timeshare plan, including the  
 857 following:

858 1. A description of the common expenses of the plan,  
 859 including the method of allocation and assessment of such common  
 860 expenses, whether component site common expenses and real estate  
 861 taxes are included within the total common expense assessment of  
 862 the multisite timeshare plan, and, if not, the manner in which

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863 timely payment of component site common expenses and real estate  
 864 taxes shall be accomplished.

865 2. A description of any cap imposed upon the level of  
 866 common expenses payable by the purchaser. In no event shall the  
 867 total common expense assessment for the multisite timeshare plan  
 868 in a given calendar year exceed 125 percent of the total common  
 869 expense assessment for the plan in the previous calendar year.

870 3. A description of the entity responsible for the  
 871 determination of the common expenses of the multisite timeshare  
 872 plan, as well as any entity which may increase the level of  
 873 common expenses assessed against the purchaser at the multisite  
 874 timeshare plan level.

875 4. A description of the method used to collect common  
 876 expenses, including the entity responsible for such collections,  
 877 and the lien rights of any entity for nonpayment of common  
 878 expenses. If the common expenses of any component site are  
 879 collected by the managing entity of the multisite timeshare  
 880 plan, a statement to that effect together with the identity and  
 881 address of the escrow agent required by s. 721.56(3).

882 5. If the purchaser will receive an interest in a  
 883 nonspecific multisite timeshare plan, a statement that a  
 884 multisite timeshare plan budget is attached to the public  
 885 offering statement as an exhibit pursuant to paragraph (7)(c).  
 886 The multisite timeshare plan budget shall comply with the  
 887 provisions of s. 721.07(5) (t) ~~(u)~~.

888 6. If the developer intends to guarantee the level of  
 889 assessments for the multisite timeshare plan, such guarantee  
 890 must be based upon a good faith estimate of the revenues and



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891 expenses of the multisite timeshare plan. The guarantee must  
 892 include a description of the following:

893 a. The specific time period, measured in one or more  
 894 calendar or fiscal years, during which the guarantee will be in  
 895 effect.

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

900 c. The level, expressed in total dollars, at which the  
 901 developer guarantees the assessments. If the developer has  
 902 reserved the right to extend or increase the guarantee level, a  
 903 disclosure must be included to that effect.

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

906 a. Any limitation upon annual increases in common  
 907 expenses;

908 b. The existence of any bad debt or working capital  
 909 reserve; and

910 c. The existence of any replacement or deferred  
 911 maintenance reserve.

912 (7) The following documents shall be included as exhibits  
 913 to the filed public offering statement, if applicable:

914 (1)1. If the multisite timeshare plan contains any  
 915 component sites located in this state, the information required  
 916 by s. 721.07(5) pertaining to each such component site unless  
 917 exempt pursuant to s. 721.03.

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918           2. If the purchaser will receive a timeshare estate  
 919 pursuant to s. 721.57, or an interest in a specific multisite  
 920 timeshare plan, in a component site located outside of this  
 921 state but which is offered in this state, the information  
 922 required by s. 721.07(5) pertaining to that component site,  
 923 provided, however, that the provisions of s. 721.07(5) (t) ~~(u)~~  
 924 shall only require disclosure of information related to the  
 925 estimated budget for the timeshare plan and purchaser's expenses  
 926 as required by the jurisdiction in which the component site is  
 927 located.

928           Section 12. Paragraph (b) of subsection (1), paragraph (g)  
 929 of subsection (2), and subsection (3) of section 721.552,  
 930 Florida Statutes, are amended to read:

931           721.552 Additions, substitutions, or deletions of  
 932 component site accommodations or facilities; purchaser remedies  
 933 for violations.--Additions, substitutions, or deletions of  
 934 component site accommodations or facilities may be made only in  
 935 accordance with the following:

936           (1) ADDITIONS.--

937           (b) Any person who is authorized by the timeshare  
 938 instrument to make additions to the multisite timeshare plan  
 939 pursuant to this subsection shall act as a fiduciary in such  
 940 capacity in the best interests of the purchasers of the plan as  
 941 a whole and shall adhere to the demand balancing standard set  
 942 forth in s. 721.56(6) in connection with such additions.  
 943 Additions that are otherwise permitted may be made only so long  
 944 as a one-to-one use right purchaser to use night requirement  
 945 ~~accommodation~~ ratio is maintained at all times.

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946 (2) SUBSTITUTIONS.--  
 947 (g) The person who is authorized by the timeshare  
 948 instrument to make substitutions to the multisite timeshare plan  
 949 pursuant to this subsection shall act as a fiduciary in such  
 950 capacity in the best interests of the purchasers of the plan as  
 951 a whole and shall adhere to the demand balancing standard set  
 952 forth in s. 721.56(6) in connection with such substitutions.  
 953 Substitutions that are otherwise permitted may be made only so  
 954 long as a one-to-one use right purchaser to use night  
 955 requirement ~~accommodation~~ ratio is maintained at all times.

956 (3) DELETIONS.--  
 957 (a) Deletion by casualty.--  
 958 1. Pursuant to s. 721.165, the timeshare instrument  
 959 creating the multisite timeshare plan must provide for casualty  
 960 insurance for the accommodations and facilities of the multisite  
 961 timeshare plan in an amount equal to the replacement cost of  
 962 such accommodations or facilities. The timeshare instrument must  
 963 also provide that in the event of a casualty that results in  
 964 accommodations or facilities being unavailable for use by  
 965 purchasers, the managing entity shall notify all affected  
 966 purchasers of such unavailability of use within 30 days after  
 967 the event of casualty.

968 2. The timeshare instrument must also provide for the  
 969 application of any insurance proceeds arising from a casualty to  
 970 either the replacement or acquisition of additional similar  
 971 accommodations or facilities or to the removal of purchasers  
 972 from the multisite timeshare plan so that purchasers will not be  
 973 competing for available accommodations on a greater than one-to-

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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974 one use right purchaser to use night requirement accommodation  
 975 ratio.

976 3. If the timeshare instrument does not provide for  
 977 business interruption insurance, or if it is unavailable, or if  
 978 the instrument permits the developer, the managing entity, or  
 979 the purchasers to elect not to reconstruct after casualty under  
 980 certain circumstances or to secure replacement accommodations or  
 981 facilities in lieu of reconstruction, purchasers of the plan may  
 982 temporarily compete for available accommodations on a greater  
 983 than one-to-one use right purchaser to use night requirement  
 984 ~~accommodation~~ ratio. The decision whether or not to reconstruct  
 985 shall be made as promptly as possible under the circumstances.

986 4. Any replacement of accommodations or facilities  
 987 pursuant to this paragraph shall be made upon the same basis as  
 988 required for substitution as set forth in subparagraph (2)(b)2.

989 (b) Deletion by eminent domain.--

990 1. The timeshare instrument creating the multisite  
 991 timeshare plan must also provide for the application of any  
 992 proceeds arising from a taking under eminent domain proceedings  
 993 to either the replacement or acquisition of additional similar  
 994 accommodations or facilities or to the removal of purchasers  
 995 from the multisite timeshare plan so that purchasers will not be  
 996 competing for available accommodations on a greater than one-to-  
 997 one use right purchaser to use night requirement accommodation  
 998 ratio.

999 2. Any replacement of accommodations or facilities  
 1000 pursuant to this paragraph shall be made upon the same basis as  
 1001 required for substitution set forth in subparagraph (2)(b)2.

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1002 (c) Automatic deletion.--The timeshare instrument may  
 1003 provide that a component site will be automatically deleted upon  
 1004 the expiration of its term in a timeshare plan other than a  
 1005 nonspecific multisite timeshare plan or as otherwise provided in  
 1006 the timeshare instrument. However, the timeshare instrument must  
 1007 also provide that in the event a component site is deleted from  
 1008 the plan in this manner, a sufficient number of purchasers of  
 1009 the plan will also be deleted so as to maintain no greater than  
 1010 a one-to-one use right purchaser to use night requirement  
 1011 ~~accommodation~~ ratio.

1012 Section 13. Subsection (1) of section 721.97, Florida  
 1013 Statutes, is amended to read:

1014 721.97 Timeshare commissioner of deeds.--

1015 (1) The Governor may appoint commissioners of deeds to  
 1016 take acknowledgments, proofs of execution, or oaths in any  
 1017 foreign country, in international waters, or in any possession,  
 1018 territory, or commonwealth of the United States outside the 50  
 1019 states. The term of office is 4 years. Commissioners of deeds  
 1020 shall have authority to take acknowledgments, proofs of  
 1021 execution, and oaths in connection with the execution of any  
 1022 deed, mortgage, deed of trust, contract, power of attorney, or  
 1023 any other writing to be used or recorded in connection with a  
 1024 timeshare estate, personal property timeshare interest,  
 1025 timeshare license, any property subject to a timeshare plan, or  
 1026 the operation of a timeshare plan located within this state;  
 1027 provided such instrument or writing is executed outside the  
 1028 United States. Such acknowledgments, proofs of execution, and  
 1029 oaths must be taken or made in the manner directed by the laws

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1030 | of this state, including but not limited to s. 117.05(4),  
1031 | (5)(a), and (6), Florida Statutes 1997, and certified by a  
1032 | commissioner of deeds. The certification must be endorsed on or  
1033 | annexed to the instrument or writing aforesaid and has the same  
1034 | effect as if made or taken by a notary public licensed in this  
1035 | state.

1036 |       Section 14. This act shall take effect July 1, 2007.