CHAPTER 2000-302

Committee Substitute for Committee Substitute for House Bill No. 593

An act relating to real property; amending s. 617.3075, F.S.; prohibiting homeowners' associations from prohibiting display of the United States flag; amending s. 718.103, F.S.; revising definitions; providing an additional definition; amending s. 718.104, F.S.; providing additional requirements for a declaration of condominium; modifying time period for filing recorded documents; providing for determining the percentage share of liability for common expenses and ownership; amending s. 718.106, F.S.; providing for the right to assign exclusive use; providing for the right to seek election; amending s. 718.110, F.S.; clarifying requirements for amending and recording the declaration of condominium; providing for determining the percentage share of liability for common expenses and ownership for purposes of condominiums comprising a multicondominium development; amending s. 718.111, F.S.; clarifying an attorney-client privilege; revising requirements for financial reporting; authorizing certain financial statements in lieu of reports; deleting requirements for financial statements; revising certain limitations on the commingling of funds maintained in the name of a condominium association or multicondominium; amending s. 718.112, F.S.; revising requirements for budget meetings; requiring separate budgets for condominiums and associations; providing conditions under which a multicondominium association may waive or reduce its funding of reserves; amending s. 718.113, F.S.; providing certain limitations on making material alterations or additions to multicondominiums; providing a procedure for approving an alteration or addition if not provided for in the bylaws; revising requirements for condominium boards with respect to installing and maintaining hurricane shutters; specifying expenses that constitute common expenses of a multicondominium association; providing for an association's bylaws to allow certain educational expenses of the officers or directors to be a permitted common expense; amending s. 718.115, F.S.; providing for determining the common surplus owned by a unit owner of a multicondominium; authorizing condominium households receiving supplemental security income or food stamps to discontinue cable television service without fees, penalties, or service charges; amending s. 718.116, F.S.; revising circumstances under which a developer may be excused from paying certain common expenses and assessments; providing for the developer's obligation for such expenses with respect to a multicondominium association; amending s. 718.117, F.S.; providing that certain requirements governing the termination of a condominium are inapplicable to the merger of a condominium with one or more other condominiums; amending s. 718.403, F.S.; modifying time period for filing recorded documents; creating s. 718.405, F.S.; providing for the creation of multicondominiums; providing requirements for the declaration of condominium; providing for the merger or consolidation of condominium associations; repealing s. 718.5019, F.S., relating to the

Advisory Council on Condominiums; amending s. 718.504, F.S.; providing requirements for the prospectus or offering circular for a condominium that is or may become part of a multicondominium; amending s. 721.13, F.S.; conforming a cross-reference; repealing s. 718.501(1)(j), F.S., relating to uniform accounting principles, policies, and standards required to be adopted by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation; amending s. 719.103, F.S.; providing for governance of a timeshare cooperative; defining the term "timeshare estate" for purposes of ch. 719, F.S., the Cooperative Act; amending s. 719.107, F.S.; providing for joint and several liability for payments of assessments and charges with respect to a timeshare unit; amending s. 719.114, F.S.; providing for assessing timeshare estates for purposes of ad valorem taxes and special assessments; amending s. 719.3026, F.S.; exempting certain contracts from provisions governing products and services; amending s. 719.401, F.S.; specifying the term of the leasehold for a timeshare cooperative; amending s. 719.503, F.S.; requiring that certain additional disclosures be made prior to the sale or transfer of a timeshare estate; amending s. 719.504, F.S.; requiring that the creation and sale of a timeshare estate with respect to a cooperative unit be disclosed in the prospectus or offering circular; amending s. 721.03, F.S.; revising language with respect to the scope of the Florida Vacation Plan and Timesharing Act; amending s. 721.05, F.S.; providing definitions; amending s. 721.06, F.S.; revising requirements with respect to contracts for the purchase of timeshare interests; amending s. 721.065, F.S.; providing for resale listings; providing legislative intent; providing for the deposit of certain advance fees in a trust account; providing requirements with respect to resale; providing penalties; amending s. 721.07, F.S.; revising language with respect to public offering statements; providing conditions for the delivery of a purchaser public offering statement which is not yet approved by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation; amending s. 721.075, F.S.; revising language with respect to incidental benefits; amending s. 721.08, F.S.; revising language with respect to escrow accounts; providing additional criteria with respect to compliance with certain conditions for the release of escrow funds; providing requirements with respect to unclaimed escrow funds; amending s. 721.09, F.S.; revising language with respect to reservation agreements; amending s. 721.10, F.S.; revising language with respect to cancellation; amending s. 721.11, F.S.; providing a filing fee with respect to advertising materials filed with the division; revising language with respect to advertising materials; providing additional criteria for advertising materials; amending s. 721.111, F.S.; revising language with respect to prize and gift promotional offers; amending s. 721.12, F.S., relating to recordkeeping by a seller; amending s. 721.13, F.S.; revising language with respect to management; providing additional powers of the board of administration of the owners' association; amending s. 721.14, F.S., relating to discharge of the managing entity; amending s. 721.15, F.S.;

revising language with respect to assessments for common expenses; providing requirements with respect to insurance; amending s. 721.16, F.S.; revising language with respect to liens for overdue assessments and liens for labor performed on, or materials furnished to a timeshare unit; providing a lien for certain damages done by a guest; amending s. 721.165, F.S.; providing penalties for failure to obtain certain insurance; amending s. 721.17, F.S.; revising language with respect to transfer of interest; amending s. 721.18, F.S., relating to exchange programs; amending s. 721.19, F.S., relating to provisions requiring the purchase or lease of timeshare property by owners' associations or purchasers; amending s. 721.20, F.S.; revising language with respect to licensing requirements; amending s. 721.21, F.S., relating to purchasers' remedies; amending s. 721.24, F.S.; revising language with respect to firesafety; amending s. 721.26, F.S.; revising language with respect to regulation by the division; amending s. 721.27, F.S.; revising language with respect to the annual fee for each timeshare unit in the plan; creating s. 721.29, F.S.; providing for the protection of purchasers' rights when recording is not available in certain jurisdictions; amending s. 721.51, F.S.; revising language with respect to legislative purpose and scope concerning vacation clubs; amending s. 721.52, F.S.; revising the definition of the term "multisite timeshare plan"; amending s. 721.53, F.S.; providing an additional piece of information which the developer may provide to the division prior to offering an accommodation or facility as a part of a multisite timeshare plan; amending s. 721.55, F.S.; revising language with respect to the public offering statement for a multisite timeshare plan; amending s. 721.551, F.S., relating to the delivery of a multisite timeshare plan public offering statement; amending s. 721.552, F.S., relating to additions, substitutions, or deletions of component site accommodations or facilities; repealing s. 721.553, F.S., relating to the portrayal of proposed component sites; amending s. 721.56, F.S.; revising language with respect to the management of multisite timeshare plans; amending s. 721.81, F.S.; revising legislative purpose with respect to the Timeshare Lien Foreclosure Act; amending s. 721.82, F.S.; revising the definition of the term "assessment lien"; amending s. 721.84, F.S., relating to the appointment of a resident agent; amending s. 721.85, F.S., relating to service to notice address or on registered agent; amending s. 721.86, F.S., including a cross reference; amending s. 718.103, F.S.; correcting a cross reference; providing severability; providing an effective date.

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

Section 1. Subsection (21) of section 719.103, Florida Statutes, is amended, and present subsections (23) through (26) are renumbered as subsections (24) through (27), respectively, and a new subsection (23) is added to said section, to read:

719.103 Definitions.—As used in this chapter:

(21) "Residential cooperative" means a cooperative consisting of cooperative units, any of which are intended for use as a private residence. A cooperative is not a residential cooperative if the use of the units is intended as primarily commercial or industrial and not more than three units are intended to be used for private residence, domicile, or homestead, or if the units are intended to be used as housing for maintenance, managerial, janitorial, or other operational staff of the cooperative. If a cooperative is a residential cooperative under this definition, but has units intended to be commercial or industrial, then the cooperative is a residential cooperative with respect to those units intended for use as a private residence, domicile, or homestead, but not a residential cooperative with respect to those units intended for use commercially or industrially. With respect to a timeshare cooperative, the timeshare instrument as defined in s. 721.05 shall govern the intended use of each unit in the cooperative.

(23) "Timeshare estate" means any interest in a unit under which the exclusive right of use, possession, or occupancy of the unit circulates among the various purchasers of a timeshare plan pursuant to chapter 721 on a recurring basis for a period of time.

Section 2. Subsection (1) of section 719.107, Florida Statutes, is amended to read:

719.107 Common expenses; assessment.—

(1)(a) Common expenses include the expenses of the operation, maintenance, repair, or replacement of the cooperative property; costs of carrying out the powers and duties of the association; and any other expense, whether or not included in this paragraph, designated as common expense by this chapter or the cooperative documents.

(b) If so provided in the bylaws, the cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall be deemed a common expense, and if not obtained pursuant to a bulk contract, such cost shall be considered common expense if it is designated as such in a written contract between the board of administration and the company providing the master television antenna system or the cable television service. The contract shall be for a term of not less than 2 years.

1. Any contract made by the board after April 2, 1992, for a community antenna system or duly franchised cable television service may be canceled by a majority of the voting interests present at the next regular or special meeting of the association. Any member may make a motion to cancel the contract, but if no motion is made or if such motion fails to obtain the required majority at the next regular or special meeting, whichever is sooner, following the making of the contract, then such contract shall be deemed ratified for the term therein expressed.

2. Any such contract shall provide, and shall be deemed to provide if not expressly set forth, that any hearing impaired or legally blind unit owner who does not occupy the unit with a nonhearing impaired or sighted person may discontinue the service without incurring disconnect fees, penalties, or

subsequent service charges, and as to such units, the owners shall not be required to pay any common expenses charge related to such service. If less than all members of an association share the expenses of cable television, the expense shall be shared equally by all participating unit owners. The association may use the provisions of s. 719.108 to enforce payment of the shares of such costs by the unit owners receiving cable television.

(c) If any unpaid share of common expenses or assessments is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of common expenses or assessments are common expenses collectible from all the unit owners in the cooperative in which the unit is located.

(d) With respect to each timeshare unit, each owner of a timeshare estate therein is jointly and severally liable for the payment of all assessments and other charges levied against or with respect to that unit pursuant to the cooperative documents, except to the extent that the cooperative documents provide to the contrary. This paragraph does not apply to any unit that is not committed to a timeshare plan.

Section 3. Subsection (3) is added to section 719.114, Florida Statutes, to read:

719.114 Separate taxation of cooperative parcels; survival of contractual provisions after tax sale.—

(3) Cooperative property divided into timeshare estates shall be assessed for purposes of ad valorem taxes and special assessments as provided in s. 192.037.

Section 4. Section 719.3026, Florida Statutes, is amended to read:

719.3026 Contracts for products and services; in writing; bids; exceptions.—Associations with less than 100 units may opt out of the provisions of this section if two-thirds of the unit owners vote to do so, which opt-out may be accomplished by a proxy specifically setting forth the exception from this section.

(1) All contracts as further described herein or any contract that is not to be fully performed within 1 year after the making thereof, for the purchase, lease, or renting of materials or equipment to be used by the association in accomplishing its purposes under this chapter, and all contracts for the provision of services, shall be in writing. If a contract for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the association in an amount which in the aggregate exceeds 5 percent of the association's budget, including reserves, the association shall obtain competitive bids for the materials, equipment, or services. Nothing contained herein shall be construed to require the association to accept the lowest bid.

(2)(a)1. Notwithstanding the foregoing, contracts with employees of the association, and contracts for attorney, accountant, architect, community association manager, timeshare management firm, engineering, and landscape architect services shall not be subject to the provisions of this section.

2. A contract executed before January 1, 1992, and any renewal thereof, is not subject to the competitive bid requirements of this section. If a contract was awarded under the competitive bid procedures of this section, any renewal of that contract is not subject to such competitive bid requirements if the contract contains a provision that allows the board to cancel the contract on 30 days' notice. Materials, equipment, or services provided to a cooperative pursuant to a local government franchise agreement by a franchise holder are not subject to the competitive bid requirement. A contract with a manager, if made by a competitive bid, may be made for up to 3 years. A condominium whose declaration or bylaws provides for competitive bidding for services may operate under the provisions of that declaration or bylaws in lieu of this section if those provisions are not less stringent than the requirements of this section.

(b) This section does not limit the ability of an association to obtain needed products and services in an emergency.

(c) This section does not apply if the business entity with which the association desires to enter into a contract is the only source of supply within the county serving the association.

Section 5. Subsection (1) of section 719.401, Florida Statutes, is amended to read:

719.401 Leaseholds.—

(1) A cooperative may be created on lands held under lease or may include recreational facilities or other common elements or commonly used facilities on a leasehold, if, on the date the first unit is conveyed by the developer to a bona fide purchaser, the lease has an unexpired term of at least 50 years. <u>However, if the cooperative constitutes a timeshare cooperative created pursuant to chapter 721, the lease must have an unexpired term of at least 30 years.</u> If rent under the lease is payable by the association or by the unit owners, the lease shall include the following requirements:

(a) The leased land must be identified by a description that is sufficient to pass title, and the leased personal property must be identified by a general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility. In the alternative, the personal property may be identified by a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility. Unless the lease is of a unit, the identification of the land shall be supplemented by a survey showing the relation of the leased land to the land included in the common areas. This provision shall not prohibit adding additional land or personal property in accordance with the terms of the lease, provided there is no increase in rent or material increase in maintenance costs to the individual unit owner.

(b) The lease shall not contain a reservation of the right of possession or control of the leased property by the lessor or any person other than unit owners or the association, and shall not create rights to possession or use of the leased property in any parties other than the association or unit

owners of the cooperative to be served by the leased property, unless the reservations and rights created are conspicuously disclosed. Any provision for use of the leased property by anyone other than unit owners of the cooperatives to be served by the leased property shall require the other users to pay a fair and reasonable share of the maintenance and repair obligations and other exactions due from users of the leased property.

(c) The lease shall state the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease and the maximum number of units that will be served by the leased property. The limitation of the number of units to be served shall not preclude enlargement of the facilities leased and an increase in their capacity, if approved by the association operating the leased property after unit owners other than the developer have assumed control of the association. This paragraph does not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency or any political subdivision thereof.

(d)1. In any action by the lessor to enforce a lien for rent payable or in any action by the association or a unit owner with respect to the obligations of the lessee or the lessor under the lease, the unit owner or the association may raise any issue or interpose any defenses, legal or equitable, that he or she or it may have with respect to the lessor's obligations under the lease. If the unit owner or the association initiates any action or interposes any defense other than payment of rent under the lease, the unit owner or the association shall, upon service of process upon the lessor, pay into the registry of the court any allegedly accrued rent and the rent which accrues during the pendency of the proceeding, when due. If the unit owner or the association fails to pay the rent into the registry of the court, it shall constitute an absolute waiver of the unit owner's or association's defenses other than payment, and the lessor shall be entitled to default. The unit owner or the association shall notify the lessor of any deposits. When the unit owner or the association has deposited the required funds into the registry of the court, the lessor may apply to the court for disbursement of all or part of the funds shown to be necessary for the payment of taxes, mortgage payments, maintenance and operating expenses, and other necessary expenses incident to maintaining and equipping the leased facilities or necessary for the payment of other expenses arising out of personal hardship resulting from the loss of rental income from the leased facilities. The court, after an evidentiary hearing, may award all or part of the funds on deposit to the lessor for such purpose. The court shall require the lessor to post bond or other security, as a condition to the release of funds from the registry, when the value of the leased land and improvements, apart from the lease itself, is inadequate to fully secure the sum of existing encumbrances on the leased property and the amounts released from the court registry.

2. When the association or unit owners have deposited funds into the registry of the court pursuant to this subsection, and the unit owners and association have otherwise complied with their obligations under the lease or agreement, other than paying rent into the registry of the court rather than to the lessor, the lessor cannot hold the association or unit owners in default on their rental payments nor may the lessor file liens or initiate

foreclosure proceedings against unit owners. If the lessor, in violation of this subsection, attempts such liens or foreclosures, then the lessor may be liable for damages plus attorney's fees and costs which the association or unit owners incurred in satisfying those liens or foreclosures.

3. Nothing in this paragraph shall affect litigation commenced prior to October 1, 1979.

(e) If the lease is of recreational facilities or other commonly used facilities that are not completed, rent shall not commence until some of the facilities are completed. Until all of the facilities leased are completed, rent shall be prorated and paid only for the completed facilities in the proportion that the value of the completed facilities bears to the estimated value, when completed, of all of the facilities that are leased. The facilities shall be complete when they have been constructed, finished, and equipped and are available for use.

(f)1. A lease of recreational or other commonly used facilities entered into by the association or unit owners prior to the time the control of the association is turned over to unit owners other than the developer shall grant to the lessee an option to purchase the leased property, payable in cash on any anniversary date of the beginning of the lease term after the 10th anniversary, at a price then determined by agreement. If there is no agreement as to the price, then the price shall be determined by arbitration. This paragraph shall be applied to contracts entered into on, before, or after January 1, 1977, regardless of the duration of the lease.

2. If the lessor wishes to sell his or her interest and has received a bona fide offer to purchase it, the lessor shall send the association and each unit owner a copy of the executed offer. For 90 days following receipt of the offer by the association or unit owners, the association or unit owners have the option to purchase the interest on the terms and conditions in the offer. The option shall be exercised, if at all, by notice in writing given to the lessor within the 90-day period. If the association or unit owners do not exercise the option, the lessor shall have the right, for a period of 60 days after the 90-day period has expired, to complete the transaction described in the offer to purchase. If for any reason such transaction is not concluded within the 60 days, the offer shall have been abandoned, and the provisions of this subsection shall be reimposed.

3. The option shall be exercised upon approval by owners of two-thirds of the units served by the leased property.

4. The provisions of this paragraph shall not apply to a nonresidential cooperative and shall not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or, in the case of an underlying land lease, a person or entity which is not the developer or directly or indirectly owned or controlled by the developer and did not obtain, directly or indirectly, ownership of the leased property from the developer.

(g) The lease or a subordination agreement executed by the lessor must provide either:

1. That any lien which encumbers a unit for rent or other moneys or exactions payable is subordinate to any mortgage held by an institutional lender, or

2. That, upon the foreclosure of any mortgage held by an institutional lender or upon delivery of a deed in lieu of foreclosure, the lien for the unit owner's share of the rent or other exactions shall not be extinguished but shall be foreclosed and unenforceable against the mortgagee with respect to that unit's share of the rent and other exactions which mature or become due and payable on or before the date of the final judgment of foreclosure, in the event of foreclosure, or on or before the date of delivery of the deed in lieu of foreclosure. The lien may, however, automatically and by operation of the lease or other instrument, reattach to the unit and secure the payment of the unit's proportionate share of the rent or other exactions coming due subsequent to the date of final decree of foreclosure or the date of delivery of the deed in lieu of foreclosure.

This paragraph does not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency or political subdivision thereof.

Section 6. Paragraph (a) of subsection (1) and paragraph (b) of subsection (3) of section 719.503, Florida Statutes, are amended to read:

719.503 Disclosure prior to sale.—

(1) DEVELOPER DISCLOSURE.—

(a) Contents of contracts.—Any contracts for the sale of a unit or a lease thereof for an unexpired term of more than 5 years shall contain:

1. The following legend in conspicuous type: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY THE DEVELOPER UNDER SECTION 719.503, FLORIDA STATUTES. THIS AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

2. The following caveat in conspicuous type shall be placed upon the first page of the contract: ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE

DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 719.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE.

3. If the unit has been occupied by someone other than the buyer, a statement that the unit has been occupied.

4. If the contract is for the sale or transfer of a unit subject to a lease, the contract shall include as an exhibit a copy of the executed lease and shall contain within the text in conspicuous type: THE UNIT IS SUBJECT TO A LEASE (OR SUBLEASE).

5. If the contract is for the lease of a unit for a term of 5 years or more, the contract shall include as an exhibit a copy of the proposed lease.

6. If the contract is for the sale or lease of a unit that is subject to a lien for rent payable under a lease of a recreational facility or other common areas, the contract shall contain within the text the following statement in conspicuous type: THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMON AREAS. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE LIEN.

7. The contract shall state the name and address of the escrow agent required by s. 719.202 and shall state that the purchaser may obtain a receipt for his or her deposit from the escrow agent, upon request.

8. If the contract is for the sale or transfer of a unit in a cooperative in which timeshare estates have been or may be created, the following text in conspicuous type: UNITS IN THIS COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES. The contract for the sale of a timeshare estate must also contain, in conspicuous type, the following: FOR THE PURPOSE OF AD VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING AUTHORITIES AGAINST A TIMESHARE ESTATE, THE MANAGING ENTITY IS GENERALLY CONSIDERED THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE AN ASSESSMENT BY A TAXING AUTHORITY RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO THE PROVISIONS OF CHAPTER 194, FLORIDA STATUTES.

(3) OTHER DISCLOSURE.—

(b) Sales brochures, if any, shall be provided to each purchaser, and the following caveat in conspicuous type shall be placed on the inside front cover or on the first page containing text material of the sales brochure, or otherwise conspicuously displayed: ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING REPRESENTATIONS OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, MAKE REFERENCE TO THIS BROCHURE AND TO THE DOCUMENTS REQUIRED BY SECTION 719.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR LESSEE. If timeshare estates have been or may be created with respect to any unit in the cooperative, the sales

brochure for sales of timeshare estates in such units must contain the following statement in conspicuous type: UNITS IN THIS COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES.

Section 7. Subsection (5) of section 719.504, Florida Statutes, is amended to read:

719.504 Prospectus or offering circular.—Every developer of a residential cooperative which contains more than 20 residential units, or which is part of a group of residential cooperatives which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales, Condominiums, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which must be in accordance with a format approved by the division. This page must, in readable language: inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which identifies the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and state whether membership in a recreational facilities association is mandatory and, if so, identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one cooperative, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(5)(a) A statement in conspicuous type describing whether the cooperative is created and being sold as fee simple interests or as leasehold interests. If the cooperative is created or being sold on a leasehold, the location of the lease in the disclosure materials shall be stated.

(b) If timeshare estates are or may be created with respect to any unit in the cooperative, a statement in conspicuous type stating that timeshare estates are created and being sold in such specified units in the cooperative.

Section 8. Section 721.03, Florida Statutes, is amended to read:

721.03 Scope of chapter.—

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

accommodations and ~~or~~ facilities, if any, are located within this state or offered within this state; provided that:

(a) With respect to a timeshare plan ~~plans~~ containing accommodations or facilities located in this state which has previously been filed with and approved by the division and which is ~~are~~ offered for sale in other jurisdictions within the jurisdictional limits of the United States, ~~that regulate~~ the offering or sale of the timeshare plan in ~~plans,~~ such jurisdictions ~~offers~~ shall not be subject to the provisions of this chapter ~~ss. 721.06, 721.08-721.12, and 721.20 to the extent that such activity is regulated in the other United States jurisdictions, but only after the division has received and accepted satisfactory evidence that the timeshare plan has been filed and accepted by the appropriate agency in the other jurisdictions. The director of the division shall also have the discretion to require all or a portion of the disclosures required by s. 721.07 or s. 721.55 to be made in connection with offers made in the other United States jurisdictions~~.

(b) With respect to a timeshare plan ~~plans~~ containing accommodations or facilities located in this state which is ~~are~~ offered for sale outside the jurisdictional limits of the United States, such offer or sale ~~offers~~ shall be exempt from the requirements of this chapter, provided that the developer shall either file the timeshare plan with the division for approval pursuant to this chapter, or pay an exemption registration fee of $100 and file the following minimum information pertaining to the timeshare plan with the division for approval:

1. The name and address of the timeshare plan.

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

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

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

5. The term of the timeshare plan.

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

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

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

9. A copy of the provision of the purchase contract to be utilized in offering the timeshare plan containing ~~so long as the seller files the information required by s. 721.07 or s. 721.55 with, and obtains the approval of, the division. This exemption becomes effective upon the filing of such information with the division, if approval is obtained within 6 months after the~~

~~initial filing at which time the exemption will expire unless the division stipulates otherwise or approves the filing. The fees set forth in s. 721.07(4) apply to all filings made hereunder. Each purchase contract utilized in any offer of a timeshare plan that occurs outside the jurisdictional limits of the United States shall contain~~ the following disclosure in conspicuous type immediately above the space provided for the purchaser's signature:

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

~~Purchaser should note that ...(name of developer or other person or entity)... at ...(address)... has a ...(describe developer's or other person's or entity's actual interest)... in the accommodations and facilities of the timeshare plan.~~

~~(c) The exemption provided in paragraph (a) shall not apply unless and until a claim of exemption from regulation containing the information required by paragraph (a) and s. 721.51(3)(b) and accompanied by the fee required by s. 721.51(3)(b) is filed with and approved by the division. The division may adopt rules designating those provisions of ss. 721.07 and 721.55 which need not be addressed in the filings required in paragraph (b).~~

(c)~~(2)~~ All timeshare accommodations or facilities which are located outside the state but offered for sale in this state shall be governed by the following:

1. The offering for sale in this state of timeshare accommodations and facilities located outside the state is ~~are~~ subject only to the provisions of ss. 721.01-721.12, 721.18, 721.20, 721.21, 721.26, ~~and~~ 721.28, and part II.

2. The division shall not require a developer of ~~All~~ timeshare accommodations or facilities located outside of this state to make changes in any timeshare instrument to conform to the provisions of s. 721.07 or s. 721.55. The division shall have the power to require disclosure of those provisions of the timeshare instrument that do not conform to s. 721.07 or s. 721.55 as the director determines is necessary to fairly, meaningfully, and effectively disclose all aspects of the timeshare plan.

3. Except as provided in this subparagraph, the division shall have no authority to determine whether any person has complied with another state's laws or to disapprove any filing out-of-state, timeshare instrument, or component site document, based solely upon the lack or degree of timeshare regulation in another state. The division may require a developer to obtain and provide to the division existing documentation relating to an out-of-state filing, timeshare instrument, or component site document and prove compliance of same with the laws of that state. In this regard, the division may accept any evidence of the approval or acceptance of any out-of-state filing, timeshare instrument, or component site document by another state

in lieu of requiring a developer to file the out-of-state filing, timeshare instrument, or component site document with the division pursuant to this section, or the division may accept an opinion letter from an attorney or law firm opining as to the compliance of such out-of-state filing, timeshare instrument, or component site document with the laws of another state. The division may refuse to approve the inclusion of any out-of-state filing, timeshare instrument, or component site document as part of a public offering statement based upon the inability of the developer to establish the compliance of same with the laws of another state.

4. The division is authorized to enter into an agreement with another state for the purpose of facilitating the processing of out-of-state timeshare instruments or other component site documents pursuant to this chapter and for the purpose of facilitating the referral of consumer complaints to the appropriate state.

5. Notwithstanding any other provision of this paragraph, the offer, in this state, of an additional interest to existing purchasers in the same timeshare plan or the same component site of a multisite timeshare plan with accommodations and facilities located outside of this state shall not be ~~which are located outside the state but offered for sale in this state as part of a vacation club are also~~ subject to the provisions of this chapter if the offer complies with the provisions of s. 721.11(4) ~~part II~~.

(2)~~(3)~~ When a timeshare plan is subject to both the provisions of this chapter and the provisions of chapter 718 or chapter 719, the plan shall meet the requirements of both chapters unless exempted as provided in this section. The division shall have the authority to adopt rules differentiating between timeshare condominiums and nontimeshare condominiums, and between timeshare cooperatives and nontimeshare cooperatives, in the interpretation and implementation of chapters 718 and 719, respectively. In the event of a conflict between the provisions of this chapter and the provisions of chapter 718 or chapter 719, the provisions of this chapter shall prevail.

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

(a) Sections 718.202 and 719.202, relating to sales or reservation deposits prior to closing.

(b) Sections 718.502 and 719.502, relating to filing prior to sale or lease.

(c) Sections 718.503 and 719.503, relating to disclosure prior to sale.

(d) Sections 718.504 and 719.504, relating to prospectus or offering circular.

(e) Part VI of chapter 718 and part VI of chapter 719, relating to conversion of existing improvements to the condominium or cooperative form of ownership, respectively, provided that a developer converting existing improvements to a timeshare condominium or timeshare cooperative must

comply with ss. 718.606, 718.608, 718.61, and 718.62, or ss. 719.606, 719.608, 719.61, and 719.62, if applicable, and, if the existing improvements received a certificate of occupancy more than 18 months before such conversion, one of the following:

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

2. The developer shall fund reserve accounts for capital expenditures and deferred maintenance for the roof, plumbing, air-conditioning, and any component of the structure the useful life of which is less than the useful life of the overall structure. The reserve accounts shall be funded for each component in an amount equal to the product of the estimated current replacement cost of such component as of the date of such conversion (as disclosed and substantiated by a certificate under the seal of an architect or engineer authorized to practice in this state) multiplied by a fraction, the numerator of which shall be the remaining life of the component in years (as disclosed and substantiated by a certificate under the seal of an architect or engineer authorized to practice in this state) and the denominator of which shall be the total useful life of the component in years (as disclosed and substantiated by a certificate under the seal of an architect or engineer authorized to practice in this state). Alternatively, the reserve accounts may be funded for each component in an amount equal to the amount that, except for the application of this subsection, would be required to be maintained pursuant to s. 718.618(1) or s. 719.618(1). The developer shall fund the reserve accounts contemplated in this subparagraph out of the proceeds of each sale of a timeshare interest, on a pro rata basis, in an amount not less than a percentage of the total amount to be deposited in the reserve account equal to the percentage of ownership allocable to the timeshare interest sold. When an owners' association makes an expenditure of reserve account funds before the developer has initially sold all timeshare interests, the developer shall make a deposit in the reserve account if the reserve account is insufficient to pay the expenditure. Such deposit shall be at least equal to that portion of the expenditure which would be charged against the reserve account deposit that would have been made for any such timeshare interest had the timeshare interest been initially sold. When a developer deposits amounts in excess of the minimum reserve account funding, later deposits may be reduced to the extent of the excess funding.

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

(4)~~(5)~~ The treatment of timeshare estates for ad valorem tax purposes and special assessments shall be as prescribed in chapters 192 through 200.

(5)~~(6)~~ Membership camping plans shall be subject to the provisions of ss. 509.501-509.512 and not to the provisions of this chapter.

(6)~~(7)~~ Unless otherwise provided herein, this chapter shall not apply to the offering of any timeshare plan under which the prospective purchaser's total financial obligation will be $3,000 ~~$1,500~~ or less during the entire term of the plan.

(7)~~(8)~~ Every escrow agent or trustee required under this chapter, or under chapter 192 as it relates to timeshare plans, must be independent.

(8)~~(9)~~ With respect to any accommodation or facility of a timeshare plan which is situated upon personal property, the division shall have the authority to adopt rules interpreting and implementing the provisions of this chapter as they apply to such accommodation or facility, or as they apply to any other laws of this state, of the several states, or of the United States with respect to such accommodation or facility.

(9) Notwithstanding the provisions of any other law, s. 687.03 shall govern with respect to the rate of interest permitted for any loan, advance of money, line of credit, forbearance to enforce the collection of any sum of money, or other obligation in connection with a timeshare license.

(10) A developer or seller may not offer any number of timeshare interests that would cause the total number of timeshare interests offered to exceed a one-to-one purchaser to accommodation ratio.

Section 9. Section 721.05, Florida Statutes, is amended to read:

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

(1) "Accommodation" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, campground, or other private or commercial structure which is situated on real or personal property and designed for occupancy or use by one or more individuals. The term does not include an incidental benefit as defined in this section.

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

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

(4) "Closing" means:

(a) For any plan selling timeshare estates, conveyance of the legal or beneficial title to a timeshare estate ~~period~~ as evidenced by the delivery of a deed for conveyance of legal title, or other instrument for conveyance of beneficial title, to the purchaser or to the clerk of the court for recording or conveyance of the equitable title to a timeshare estate ~~period~~ as evidenced by the irretrievable delivery of an agreement for deed to the clerk of the court for recording.

(b) For any plan selling timeshare licenses, the final execution and delivery by all parties of the last document necessary for vesting in the purchaser the full rights available under the plan.

(5) "Common expenses" means:

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

(b) Any other expenses designated as common expenses in a timeshare instrument.

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

(6) "Completion of construction" means:

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

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

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

~~(c) Notwithstanding the provisions of paragraph (b), a seller of a timeshare plan that is not a multisite timeshare plan may portray possible accommodations or facilities to prospective purchasers in advertising material or a public offering statement filed with the division without such accommodations or facilities being available for use by purchasers so long as the advertising material or public offering statement complies with the provisions of s. 721.11(4).~~

~~(d) Notwithstanding the provisions of paragraph (b), a developer of a timeshare plan that is not a multisite timeshare plan may portray the general geographic location of possible accommodations or facilities to prospective purchasers by disseminating oral or written statements regarding same to broadcast or print media with no obligation on the developer's part to actually construct such accommodations or facilities or to file such accommodations and facilities with the division, but only so long as such oral or written statements are not considered advertising material pursuant to s. 721.11(3)(e). For purposes of this paragraph, the term "general geographic location" means the boundaries of a state or country.~~

~~(e) Notwithstanding the provisions of paragraph (b), a seller of a multisite timeshare plan may portray possible component sites to purchasers pursuant to s. 721.553.~~

(7) "Conspicuous type" means:

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

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

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

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

(9) "Developer" includes:

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

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

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

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

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

2. A managing entity, ~~that is~~ not otherwise a developer, that offers, or engages a third party to offer on its behalf, timeshare interests ~~of a timeshare plan in its own right and that offers timeshare periods for its own account~~ in a timeshare plan which it manages, provided that such offer complies ~~to existing purchasers of that timeshare plan, or a managing entity which complies~~ with the provisions of s. 721.065; or

3. A person who owns or is conveyed, assigned, or transferred more than seven timeshare interests ~~periods from a developer in a single voluntary or involuntary transaction~~ and who subsequently conveys, assigns, or transfers all acquired ~~of the~~ timeshare interests ~~periods received from the developer~~ to a single purchaser in a single transaction, which transaction may occur in stages; or

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

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

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

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

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

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

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

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

(13) "Escrow agent" includes only:

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

(b) An attorney who is a member of The Florida Bar or his or her law firm~~, so long as the attorney or firm has posed a fidelity bond issued by a company authorized and licensed to do business in this state as surety in the amount of $50,000~~;

(c) A real estate broker who is licensed pursuant to chapter 475 or his or her brokerage firm~~, so long as the broker or firm has posted a fidelity bond~~

~~issued by a company authorized and licensed to do business in this state as surety in the amount of $50,000~~; or

(d) A title insurance agent that is licensed pursuant to s. 626.8417, ~~or~~ a title insurance agency that is licensed pursuant to s. 626.8418, or a title insurer authorized to transact business in this state pursuant to s. 624.401 ~~so long as the agent or agency has posted a fidelity bond issued by a company authorized and licensed to do business in this state as surety in the amount of $50,000~~.

~~If an escrow agent is required to post a $50,000 fidelity bond pursuant to this section, the escrow agent shall only be required to post and maintain one such bond, regardless of the number of escrow accounts maintained by that agent for any number of developers, managing entities, or timeshare plans at any given time.~~

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

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

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

(17) "Incidental benefit" means an accommodation, product, service, discount, or other benefit which is offered to a prospective purchaser of a timeshare plan or to a purchaser of a timeshare plan prior to the expiration of his or her initial 10-day voidability period pursuant to s. 721.10; which is not an exchange program as defined in subsection (15); and which complies with the provisions of s. 721.075. The term shall not include an offer of the use of the accommodations and facilities of the timeshare plan on a free or discounted one-time basis.

(18) "Independent," for purposes of determining eligibility of escrow agents and trustees pursuant to s. 721.03(7)~~(8)~~, means that:

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

(b) There is no financial relationship, other than the payment of fiduciary fees or as otherwise provided in this subsection, between the escrow agent

or trustee and the developer, seller, or managing entity, or any officer, director, affiliate, or subsidiary thereof.

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

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

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

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

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

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

(19) "Interestholder" means a developer, an owner of the underlying fee, a mortgagee, judgment creditor, or other lienor, or any other person having an interest in or lien or encumbrance against the accommodations or facilities of the timeshare plan.

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

(21) "Memorandum of agreement" means a written document, in recordable form, which includes the names of the ~~purchaser and~~ seller and the purchasers, a legal description of the timeshare property and all timeshare interests to be included in such document ~~period~~, and a description of the type of timeshare license sold by the seller.

(22) "Offer to sell," "offer for sale," "offered for sale," or "offer" means the solicitation, advertisement, or inducement, or any other method or attempt, to encourage any person to acquire the opportunity to participate in a timeshare plan.

(23) "One-to-one purchaser to accommodation ratio" means the ratio of the number of purchasers eligible to use the accommodations of a timeshare plan on a given day to the number of accommodations available for use within the plan on that day, such that the total number of purchasers eligible to use the accommodations of the timeshare plan during a given calendar year never exceeds the total number of accommodations available for use in the timeshare plan during that year. For purposes of calculation under this subsection, each purchaser must be counted at least once, and no

individual timeshare unit may be counted more than 365 times per calendar year (or more than 366 times per leap year). A purchaser who is delinquent in the payment of timeshare plan assessments shall continue to be considered eligible to use the accommodations of the timeshare plan for purposes of this subsection notwithstanding any application of s. 721.13(6).

(24) "Owner of the underlying fee" means any person having an interest in the real property underlying the accommodations or facilities of the timeshare plan at or subsequent to the time of creation of the timeshare plan ~~or any person who purchases 15 or more timeshare periods for resale in the ordinary course of business~~.

(25) "Owners' association" means the association made up of all purchasers of a timeshare plan who have purchased timeshare estates.

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

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

(28) "Purchaser public offering statement" means that portion of the registered public offering statement which must be delivered to purchasers pursuant to s. 721.07(6) or s. 721.551.

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

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

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

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

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

(a) An owner of a timeshare interest ~~period~~ who has acquired the timeshare interest ~~period~~ for his or her own use and occupancy and who later

offers it for resale; provided that a rebuttable presumption shall exist that an owner who has acquired more than seven timeshare interests ~~periods~~ did not acquire them for his or her own use and occupancy;

(b) A managing entity, ~~that is~~ not otherwise a seller, that offers, or engages a third party to offer on its behalf, timeshare interests ~~of a timeshare plan in its own right and that offers timeshare periods for its own account~~ in a timeshare plan which it manages, provided that such offer complies ~~to existing purchasers of that timeshare plan, or a managing entity which complies~~ with the provisions of s. 721.065; ~~or~~

(c) A person who owns or is conveyed, assigned, or transferred more than seven timeshare interests ~~periods from a developer in a single voluntary or involuntary transaction~~ and who subsequently conveys, assigns, or transfers all acquired ~~of the~~ timeshare interests ~~periods received from the developer~~ to a single purchaser in a single transaction, which transaction may occur in stages; or

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

(32)~~(29)~~ "Timeshare estate" means a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof. The term shall also mean an interest in a condominium unit pursuant to s. 718.103, an interest in a cooperative unit pursuant to s. 719.103, or an interest in a trust that complies in all respects with the provisions of s. 721.08(2)(c)3.

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

(34) "Timeshare interest" means a timeshare estate or timeshare license.

(35)~~(31)~~ "Timeshare license" means a right to occupy a timeshare unit, which right is neither coupled with a freehold interest, nor coupled with an estate for years with a future interest, in a timeshare property.

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

(37)~~(33)~~ "Timeshare plan" means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, whereby a purchaser, for consideration, receives ownership rights in or a right to use accommodations, and facilities, if any, for a period of time less than a full year during any given year, but not necessarily for consecutive years.

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

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

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

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

Section 10. Section 721.06, Florida Statutes, is amended to read:

721.06 Contracts for purchase of timeshare interests ~~periods~~.—

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

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

(b) The names and addresses of the developer~~, any owner of the underlying fee,~~ and the timeshare plan.

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

(d) Any annually recurring use charge and the next year's estimated annual assessment for common expenses and for ad valorem taxes or, if an estimate for next year's assessment is unavailable, the current year's actual annual assessment for common expenses and for ad valorem taxes. ~~reservation, maintenance, management, and recreation charges.~~

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

(f)~~(e)~~ A brief description of the nature and duration of the timeshare interest ~~period~~ being sold, including whether any interest in real property is being conveyed and the specific number of years constituting the term of the timeshare plan.

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

You may cancel this contract without any penalty or obligation within 10 calendar days after the date you sign this contract~~, and within 10 calendar days after the date you receive the approved public offering statement, whichever is later~~.

If you decide to cancel this contract, you must notify the seller ~~developer~~ in writing of your intent to cancel. Your notice of cancellation shall be effective upon the date sent and shall be sent to ...(Name of Seller ~~Developer~~)... at ...(Address of Seller ~~Developer~~).... Any attempt to obtain a waiver of your cancellation right is void and of no effect ~~unlawful~~. While you may execute all closing documents in advance, the closing, as evidenced by delivery of the deed or other document, before expiration of your 10-day cancellation period, is prohibited.

(h)~~(g)~~ If a timeshare estate ~~license~~ is being conveyed, the following statement in conspicuous type:

~~You may also cancel this contract at any time after the accommodations or facilities are no longer available as provided in this contract and the public offering statement.~~

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

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

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

(j) If the timeshare interest ~~period~~ is being sold pursuant to an agreement for deed, a statement that the signing of the agreement for deed does not entitle the purchaser to receive a deed until all payments under the agreement have been made.

(k) Unless the developer is at the time of offering the plan the owner in fee simple absolute of the accommodations and facilities of the timeshare plan, free and clear of all liens and encumbrances, a statement that the developer is not the sole owner of the underlying fee of such ~~the~~ accommodations or facilities without liens or encumbrances, which statement shall include:

1. The names and addresses of all persons or entities having an ownership interest or other interest in the accommodations or facilities; and

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

~~(l) If the contract is for the sale or transfer of a timeshare period in which the accommodations or facilities are subject to a lease, the following statement within the text in conspicuous type: This timeshare period is subject to a lease (or sublease). A copy of the executed lease shall be attached as an exhibit.~~

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

The developer is required to provide the managing entity of the multisite timeshare plan ~~(or multisite vacation ownership plan or multisite vacation plan or vacation club)~~ with a copy of the approved public offering statement text and exhibits filed with the division and any approved amendments thereto, and any other component site documents as described in section 721.07 or section 721.55, Florida Statutes, that are not required to be ~~not~~ filed with the division, to be maintained by the managing entity for inspection as part of the books and records of the plan.

(m)~~(n)~~ The following statement in conspicuous type:

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

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

(2) An agreement for deed shall be recorded by the developer within 30 days after the day it is executed by the purchaser. The developer shall pay all recording costs associated therewith.

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

~~(4) A developer may not offer any number of timeshare estates or timeshare licenses that would cause the total number of estates or licenses offered to exceed a one-to-one purchaser to accommodation ratio.~~

Section 11. Section 721.065, Florida Statutes, is amended to read:

721.065 Resale purchase agreements.—

(1) An owner who acquires a timeshare interest ~~period~~ for her or his own use and occupancy and later offers it for resale, or any agent of such person, must utilize a resale purchase agreement which complies with the provisions of subsection (2) to effectuate any resale of the timeshare interest ~~period~~. A managing entity, not otherwise a developer, that sells, or engages a third party to sell on its behalf, 50 or fewer timeshare interests ~~which, for its own account, offers fewer than 20 timeshare periods~~ in the timeshare plan which it manages in a given calendar year to persons who are not existing purchasers of that timeshare plan may also use a resale purchase agreement which complies with subsection (2) in lieu of complying with the provisions of ss. 721.06-721.12 and 721.20. A managing entity, not otherwise a developer, that sells, or engages a third party to sell on its behalf, timeshare interests in the timeshare plan which it manages to persons who are existing purchasers of that timeshare plan may also use a resale purchase agreement in compliance with subsection (2) in lieu of complying with the provisions of ss. 721.06-721.12 and 721.20. For purposes of this subsection, a rebuttable presumption shall exist that an owner who has acquired more than seven timeshare interests ~~periods~~ did not acquire them for her or his own use and occupancy.

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

(a) The name and address of the timeshare plan and of the managing entity of the timeshare plan.

(b) The following statements in conspicuous type located immediately prior to the disclosure required by paragraph (c):

The current year's assessment for common expenses allocable to the timeshare interest ~~period~~ you are purchasing is $..... This assessment, which may be increased from time to time by the managing entity of the timeshare plan, is payable in full each year on or before ..... This assessment (includes/does not include) yearly ad valorem real estate taxes, which (are/are not) billed and collected separately. (If ad valorem real property taxes are not included in the current year's assessment for common expenses, the following statement must be included: The most recent annual assessment for ad valorem real estate taxes for the timeshare interest ~~period~~ you are purchasing is $.....) (If there are any delinquent assessments for common expenses or ad valorem taxes outstanding with respect to the timeshare interest ~~period~~ in question, the following statement must be included: A delinquency in the amount of $.... for unpaid common expenses or ad valorem taxes currently exists with respect to the timeshare interest ~~period~~ you are purchasing, together with a per diem charge of $.... for interest and late charges.) For the purpose of ad valorem assessment, taxation, and special assessments, the managing entity will be considered the taxpayer as your agent pursuant to section 192.037, Florida Statutes. Each owner is personally liable for the payment of her or his assessments for common expenses, and failure to timely pay these assessments may result in restriction or loss of your use and/or ownership rights.

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

(c) The following statement in conspicuous type located immediately prior to the space in the contract reserved for the signature of the purchaser:

You may cancel this contract without any penalty or obligation within 10 days after the date you sign this contract. If you decide to cancel this contract, you must notify the seller in writing of your intent to cancel. Your notice of cancellation shall be effective upon the date sent and shall be sent to the seller at ...(address).... Any attempt to obtain a waiver of your cancellation right is void and of no effect. While you may execute all closing documents in advance, the closing, as evidenced by delivery of the deed or other document, before expiration of your 10-day cancellation period, is prohibited.

(d) The year in which the purchaser will first be entitled to occupancy of a timeshare period associated with the timeshare interest that is the subject of the resale purchase agreement.

(3) If a resale purchase agreement utilized by a person described in subsection (1) does not comply with the provisions of subsection (2), the contract shall be voidable at the option of the purchaser for a period of 1 year after the date of closing.

Section 12. Section 721.07, Florida Statutes, is amended to read:

721.07 Public offering statement.—Prior to offering any timeshare plan, the developer must submit ~~file~~ a registered public offering statement to ~~with~~ the division for approval as prescribed by s. 721.03, s. 721.55, or this section. Until the division approves such filing, any contract regarding the sale of that ~~the~~ timeshare plan ~~which is the subject of the public offering statement~~ is voidable by the purchaser.

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

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

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

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

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

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

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

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

Your statutory right to cancel this transaction without any penalty or obligation expires 10 calendar days after the date you signed your purchase contract or 10 calendar days after you receive revisions required to be delivered to you, if any, whichever is later.

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

The unapproved public offering statement previously delivered to you, together with the enclosed revisions, has been approved by the Division of Florida Land Sales, Condominiums, and Mobile Homes. Accordingly, your cancellation right expires 10 calendar days after you sign your purchase

contract or 10 calendar days after you receive these revisions, whichever is later. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address].

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

The unapproved public offering statement previously delivered to you has been approved by the Division of Florida Land Sales, Condominiums, and Mobile Homes. Revisions made to the unapproved public offering statement, if any, are either not required to be delivered to you or are not deemed by the developer, in its opinion, to materially alter or modify the offering in a manner that is adverse to you. Accordingly, your cancellation right expired 10 days after you signed your purchase contract. A complete copy of the approved public offering statement is available through the managing entity for inspection as part of the books and records of the plan. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address]. ~~The division is authorized to enter into an agreement with another state for the purpose of facilitating the processing of out-of-state timeshare instruments or other component site documents pursuant to subsection (5) or part II and for the purpose of facilitating the referral of consumer complaints to the appropriate state.~~

~~(e) The division shall have no authority to determine whether any person has complied with another state's laws or to disapprove any filing, or out-of-state timeshare instrument or component site document, based solely upon the lack or degree of timeshare regulation in another state. The division may require a developer to obtain and provide to the division existing documentation certified by another state relating to an out-of-state filing, timeshare instrument, or component site document and attesting to the compliance of same with the laws of that state. The division may accept evidence of the approval or acceptance of any out-of-state filing, timeshare instrument, or component site document by another state in lieu of requiring a developer to file the out-of-state filing, timeshare instrument, or component site document with the division pursuant to this section. The division may refuse to approve the inclusion of any out-of-state filing, timeshare instrument, or component site document as part of a public offering statement based upon the inability of the developer to establish the compliance of same with the laws of another state.~~

(3)(a)1. Any change to an approved public offering statement filing shall be filed with the division for approval as an amendment prior to becoming effective. The division shall have 20 days after receipt of a proposed amendment to approve or cite deficiencies in the proposed amendment. If the division fails to act within 20 days, the amendment will be deemed approved. If the proposed amendment adds a new component site to an approved multisite timeshare plan, the division's initial period in which to approve or cite deficiencies is 45 days. If the developer fails to adequately respond to

any deficiency notice within 30 days, the division may reject the amendment. Subsequent to such rejection, a new filing fee pursuant to subsection (4) and a new division initial review period pursuant to this paragraph shall apply to any refiling or further review of the rejected amendment.

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

3. Amendments made to a timeshare instrument for a component site located in this state are not required to ~~shall only~~ be delivered to ~~those~~ purchasers who do not ~~will~~ receive a timeshare estate or a specific timeshare license in that component site. Amendments made to a timeshare instrument for a component site not located in this state are not required to be delivered to purchasers.

(b) At the time that any amendments required to be delivered to purchasers, as provided in paragraph (a), are delivered to purchasers, the developer shall provide to those purchasers who have not closed a written statement that ~~if any of such amendments materially alter or modify the offering in a manner which is adverse to the purchaser,~~ the purchaser or lessee will have a 10-day voidability period.

(4)(a) Upon the filing of a registered public offering statement, the developer shall pay a filing fee of $2 for each 7 days of annual use availability in each timeshare unit that may be offered as a part of the proposed timeshare plan pursuant to the filing. ~~Commencing January 1, 1995, the division may by rule increase the filing fee up to a maximum of $3 for each 7 days of annual use availability in each timeshare unit that is offered as a part of the proposed timeshare plan.~~

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

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

(a) A cover page stating only:

1. The name of the timeshare plan; and

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

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

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

(d) A text~~,~~ which shall include, where applicable, the disclosures set forth in paragraphs (e)-(hh) ~~and cross-references to the location in the public offering statement of each exhibit~~.

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

1. Its name and location.

2. An explanation of the form of timeshare ownership that is being offered, including a statement as to whether any interest in the underlying real property will be conveyed to the purchaser. If the plan is being created or being sold on a leasehold, a description of the material terms of the lease shall be included ~~the location of the lease in the exhibits to the public offering statement shall be stated~~. If the plan is a plan in which timeshare estates are sold as interests in a trust pursuant to the requirements of this chapter, a full and accurate description of the trust arrangement and the trustee's duties shall be included.

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

(f) A description of the accommodations ~~and facilities~~, including, but not limited to:

1. The number of timeshare ~~buildings, the number of~~ units in each building, the ~~number of timeshare periods in each unit, the~~ total number of timeshare periods declared as part of the timeshare plan and filed with the division, and ~~being offered,~~ the number of bathrooms and bedrooms in each type of timeshare unit~~, and the total number of units and unit weeks~~.

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

3. The estimated maximum number of units and timeshare periods that will use the accommodations and facilities. If the maximum number of timeshare units or timeshare periods will vary, a description of the basis for variation ~~and the minimum amount of dollars per timeshare period to be spent for additional recreational facilities or for enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a purchaser's maintenance expense or rental expense, the maximum increase and limitations thereon shall be stated~~.

~~4. A statement of whether the developer intends to offer whole units in addition to timeshare units.~~

4.~~5.~~ The duration, in years, of the timeshare plan.

(g) A description of the ~~recreational and other commonly used~~ facilities that will be used ~~only~~ by purchasers of the plan, including, but not limited to:

1. The intended purpose, if not apparent from the description. ~~Each room and its intended purposes, location capacity in numbers of people.~~

~~2. Each swimming pool and its general location, approximate size, depths, and capacity; its approximate deck size and capacity; and whether the pool is heated.~~

~~3. Each additional facility; the number of each such facility; and its approximate location, approximate size, and approximate capacity.~~

~~4. A general description of the items of personal property and the approximate numbers of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.~~

2.~~5.~~ The estimated date when each ~~room or other~~ facility will be available for use by the purchaser.

~~6. An identification of each room, accommodation, or other facility to be used by purchasers that will not be owned by the purchasers or the association.~~

~~7. A reference to the location in the disclosure materials of the lease or other agreements providing for the use of those facilities.~~

~~8. A description of the terms of the lease or other agreement, including the length of its term; the rent payable, directly or indirectly, by each purchaser; and the total rent payable to the lessor, stated in weekly, monthly, and annual amounts for the entire term of the lease; and a description of any option to purchase the property under any such lease, including the time the option may be exercised, the purchase price or how it is to be determined, the manner of payment, and whether the option may be exercised for a purchaser's share or only as to the entire leased property.~~

3.~~9.~~ A statement as to whether the facilities will ~~developer may provide additional facilities not described above; the general locations and types of such facilities; improvements or changes that may be made; the approximate dollar amounts to be expended; and the estimated maximum additional common expense or cost to the individual purchaser that may be charged during the first annual period of operation of the modified or added facilities.~~

~~(h) A description of the recreational and other commonly used facilities which will not~~ be used exclusively by purchasers of the timeshare plan, and, if not, a statement as to whether the purchasers of the timeshare plan are required to pay ~~and which require the payment of~~ any portion of the maintenance and expenses of such facilities.~~, either directly or indirectly, by the purchasers. The description shall include, but not be limited to, the following:~~

~~1. Each building or facility committed to be built.~~

~~2. Facilities not committed to be built except under certain conditions, and a statement of those conditions or contingencies.~~

~~3. As to each facility committed to be built, or which will be committed to be built upon the happening of one of the conditions in subparagraph 2., a statement as to whether it will be owned by the purchasers having the use thereof or by an association or other entity which will be controlled by the purchasers, or others, and the location in the exhibits of the lease or other document providing for use of those facilities.~~

~~4. The year in which each facility will be available for use by the purchasers or, in the alternative, the maximum number of purchasers in the project at the time each of the facilities is committed to be completed.~~

~~5. A general description of the items of personal property and the approximate numbers of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.~~

~~6. If there are leases, descriptions thereof, including the length of their terms, the rents payable, and descriptions of any options to purchase.~~

(h)~~(i)~~1. If any ~~recreational facilities or other~~ facilities offered by the developer for use by purchasers are to be leased or have club memberships ~~membership~~ associated with them, other than participation in a vacation club, one of the following statements in conspicuous type: There is a ~~recreational facilities~~ lease associated with one or more facilities of the ~~this~~ timeshare plan; or, There is a club membership associated with one or more facilities of the ~~this~~ timeshare plan. ~~There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.~~

2. If it is mandatory that purchasers ~~unit owners~~ pay fees, rent, dues, or other charges under a ~~recreational~~ facilities lease or club membership for

the use of the facilities, other than participation in a vacation club, the applicable statement in conspicuous type in substantially the following form:

a. Membership in a ~~the recreational~~ facilities club is mandatory for purchasers;

b. Purchasers or the association(s) are required, as a condition of ownership, to be lessees under the ~~recreational~~ facilities lease;

c. Purchasers or the association(s) are required to pay their share of the rent or costs and expenses of maintenance, management, upkeep, and replacement~~, rent, and fees~~ under the ~~recreational~~ facilities lease (or the other instruments providing the facilities); or

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

Immediately following the applicable statement a description of the lease or other instrument shall be stated, including a description of terms of the payment of rent or costs and expenses of maintenance, management, upkeep, and replacement of the facilities~~, the location in the disclosure materials where the development is described in detail shall be stated~~.

3. If the purchasers are required to pay a use ~~If the developer, or any other person other than the purchasers and other persons having use rights in the facilities, reserves, or is entitled to receive, any rent,~~ fee, or other payment for the use of the facilities, not including the rent or maintenance, management, upkeep, or replacement costs and expenses, the following statement in conspicuous type: The purchasers or the association(s) must pay ~~rent or land~~ use fees for one or more ~~recreational or other commonly used~~ facilities. Immediately following this statement a description of the use fees shall be included~~, the location in the disclosure materials where the rent or land use fees are described in detail shall be stated~~.

4. If~~, in any recreation format, whether leasehold, club, or other,~~ any person other than the association has the right to a lien on the timeshare interests ~~periods~~ to secure the payment of assessments, rent, or other exactions, a statement in conspicuous type in substantially the following form:

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

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

Immediately following the applicable statement, a description of the lien right shall be included ~~the location in the disclosure materials where the lien or lien right is described in detail shall be stated~~.

(i)~~(j)~~ If the developer or any other person has the right to increase or add to the ~~recreational~~ facilities at any time after the establishment of the timeshare plan, without the consent of the purchasers or association being required, a statement in conspicuous type in substantially the following form: ~~Recreational~~ Facilities may be expanded or added without consent of the purchasers or the association(s). Immediately following this statement, a description of ~~the location in the disclosure materials where~~ such reserved rights ~~are described~~ shall be included ~~stated~~.

(j)~~(k)~~ An explanation of the status of the title to the real property underlying the timeshare plan, including a statement of the existence of any lien, defect, judgment, mortgage, or other encumbrance affecting the title to the property, and how such lien, defect, judgment, mortgage, or other encumbrance will be removed or satisfied prior to closing.

(k)~~(l)~~ A description of any judgment against the developer, the managing entity, or owner of the underlying fee, which judgment is material to the timeshare plan; the status of any pending suit to which the developer, the managing entity, or owner of the underlying fee is a party, which suit is material to the timeshare plan; and any other suit which is material to the timeshare plan of which the developer, managing entity, or owner of the underlying fee has actual knowledge. If no judgments or pending suits exist, there shall be a statement of such fact.

(l)~~(m)~~ A description of all unusual and material circumstances, features, and characteristics of the real property.

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

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

~~(p) A statement as to whether the plan of the developer includes a program of leasing units or timeshare periods rather than selling them, or leasing and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in conspicuous type that: The units (or timeshare periods) may be transferred subject to a lease.~~

(o)~~(q)~~ The name and address of the managing entity; a statement whether the seller may change the managing entity or its control and, if so, the manner by which the seller may change the managing entity; a statement of the arrangements for management, maintenance, and operation of the accommodations and facilities and of other property that will serve the purchasers; and a description of the management arrangement and any contracts for these purposes having a term in excess of 1 year, including the names of the contracting parties, the term of the contract, the nature of the services included, and the compensation, stated for a month and for a year,

and provisions for increases in the compensation. ~~Copies of all described contracts shall be attached as exhibits.~~

(p)~~(r)~~ If ~~the developer, or~~ any person other than the purchasers ~~purchaser,~~ has the right to retain control of the board of administration of the association for a period of time which may exceed 1 year after the closing of the sale of a majority of the timeshare interests ~~units~~ in that timeshare plan to persons other than successors or concurrent developers and the plan is one in which all purchasers automatically become members of the association, a statement in conspicuous type in substantially the following form: The developer (or other person) has the right to retain control of the association after a majority of the timeshare interests ~~units~~ have been sold. Immediately following this statement, a description of the applicable transfer of control provisions of the timeshare plan shall be included ~~the location in the disclosure materials where this right to control is described in detail shall be stated~~.

(q)~~(s)~~1. If there are any restrictions upon the sale, transfer, conveyance, or leasing of a timeshare interest ~~period~~, a statement in conspicuous type in substantially the following form: The sale, lease, or transfer of timeshare interests ~~periods~~ is restricted or controlled. Immediately following this statement, a description of the nature of ~~the location in the disclosure materials where~~ the restriction, limitation, or control on the sale, lease, or transfer of timeshare interests ~~periods is described in detail~~ shall be included ~~stated~~.

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

(r)~~(t)~~ If the timeshare plan is part of a phase project, a statement to that effect and a complete description of the phasing. Notwithstanding any provisions of s. 718.110 or s. 719.1055, a developer may develop a timeshare condominium or a timeshare cooperative in phases if the original declaration of condominium or cooperative documents submitting the initial phase to condominium ownership or cooperative ownership or an amendment to the declaration of condominium or cooperative documents which has been approved by all of the unit owners and unit mortgagees provides for phasing. Notwithstanding any provisions of s. 718.403 or s. 719.403 to the contrary, the original declaration of condominium or cooperative documents, or an amendment to the declaration of condominium or cooperative documents adopted pursuant to this subsection, need only generally describe the developer's phasing plan and the land which may become part of the condominium or cooperative, and, in conjunction therewith, the developer may also reserve all rights to vary his or her phasing plan as to phase boundaries, plot plans and floor plans, timeshare unit types, timeshare unit sizes and timeshare unit type mixes, numbers of timeshare units, ~~and recreational areas~~ and facilities with respect to each subsequent phase. There shall be no time limit during which a developer of a timeshare condominium or timeshare cooperative must complete his or her phasing plan, and the developer shall

not be required to notify owners of existing timeshare estates of his or her decision not to add one or more proposed phases.

(s)~~(u)~~ A description of the material restrictions, if any, to be imposed on timeshare interests ~~periods~~ concerning the use of any of the accommodations or facilities, including statements as to whether there are restrictions upon children and pets or a reference to~~, and references to the volumes and pages of the timeshare plan documents where such restrictions are found; or, if such restrictions are contained elsewhere, then~~ a copy of the documents containing the restrictions which shall be attached as an exhibit. If there are no restrictions, there shall be a statement of such fact.

(t)~~(v)~~ If there is any land that is offered by the developer for use by the purchasers and which is neither owned by them nor leased to them, the association, or any entity controlled by the purchasers, a statement describing the land, how it will serve the timeshare plan, and the nature and term of service. ~~Immediately following this statement, the location in the disclosure materials where the declaration or other instrument creating such servitude is found shall be stated.~~

~~(w) A description of the manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage, will be provided and the names of the persons or entities furnishing them.~~

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

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

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

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

a. Expenses for the managing entity:

(I) Administration of the managing entity.

(II) Management fees.

(III) Maintenance.

(IV) Rent for ~~recreational and other commonly used~~ facilities.

(V) Taxes upon timeshare property.

(VI) Taxes upon leased areas.

(VII) Insurance.

(VIII) Security provisions.

(IX) Other expenses.

(X) Operating capital.

(XI) Reserves for deferred maintenance and reserves for capital expenditures. All reserves for any accommodations and facilities located in this state shall be calculated by a formula which is based upon estimated life and replacement cost of each reserve item. Reserves for deferred maintenance for such accommodations and facilities shall include accounts for roof replacement, building painting, pavement resurfacing, replacement of timeshare unit furnishings and equipment, and any other component, the useful life of which is less than the useful life of the overall structure. For any accommodations and facilities located outside of this state, the developer shall disclose the amount of reserves for deferred maintenance or capital expenditures required by the law of the situs state, if applicable, and maintained for such accommodations and facilities.

(XII) Fees payable to the division.

b. Expenses for a purchaser:

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

(II) Rent payable by the purchaser directly to the lessor or agent under any ~~recreational lease or~~ lease for the use of ~~commonly used~~ facilities, which use and payment is a mandatory condition of ownership and is not included in the common expenses ~~expense~~ or assessments for common maintenance paid by the purchasers to the managing entity ~~association~~.

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

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

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

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

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

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

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

b. The name and address of the trustee.

c. The investment methods permitted by the trust agreement.

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

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

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

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

~~(aa) A statement of any service, maintenance, or recreation contracts or leases that may be canceled by the purchasers.~~

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

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

(z)~~(dd)~~ A statement ~~An explanation~~ of the purchaser's right of cancellation of the purchase contract.

(aa)~~(ee)~~ A description of the insurance coverage provided for the timeshare plan ~~benefit of the purchasers~~.

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

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

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

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

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

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

(ff)~~(hh)~~ Copies of the following documents and plans, to the extent they are applicable, shall be included as exhibits to the registered public offering

statement provided, if the timeshare plan has not been declared at the time of the filing, the developer shall provide proposed documents:

1. The declaration of condominium~~, or the proposed declaration if the declaration has not been recorded~~.

2. The cooperative documents~~, or the proposed cooperative documents if the documents have not been recorded~~.

3. The declaration of covenants and restrictions~~, or proposed declaration if the declaration has not been recorded~~.

4. The articles of incorporation creating the association.

5. The bylaws of the association.

6. The ground lease or other underlying lease of the real property on which the timeshare plan is situated.

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

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

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

10. The lease for any facilities. ~~The lease of recreational facilities and other facilities which will be used only by purchasers of the timeshare plan.~~

~~11. The lease of facilities used by purchasers and others.~~

~~12. The form of timeshare period lease, if the offer is of a leasehold.~~

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

12.~~14.~~ Any documents required by s. 721.03(3)(e) as the result of the inclusion of a timeshare plan in the conversion of building ~~The statement of condition of the existing building or buildings, if the offering is of timeshare periods in an operation being converted~~ to condominium or cooperative ownership.

~~15. The statement of inspection for termite damage and treatment of the existing improvements, if the timeshare property is a conversion.~~

13.~~16.~~ The form of agreement for sale or lease of timeshare interests ~~periods~~.

14.~~17.~~ The executed agreement for escrow of payments made to the developer prior to closing and the form of any agreement for escrow of ad

valorem tax escrow payments to be made into an ad valorem tax escrow account pursuant to s. 192.037(6).

15.~~18.~~ The documents containing any restrictions on use of the property required by paragraph (s) ~~(u)~~.

16. ~~19.~~ Any other documents or instruments creating the timeshare plan.

~~20. Any contract or lease to be signed by the purchasers.~~

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

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

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

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

(b) Copies of the exhibits required to be filed with the division pursuant to subparagraphs (5)(ff)~~(hh)~~1., 2., 4., 5., 8., and 16 ~~19~~.

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

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

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

~~(7) For purposes of this section, descriptions shall include locations, areas, capacities, numbers, volumes, or sizes and may be stated as approximations or minimums.~~

Section 13. Section 721.075, Florida Statutes, is amended to read:

721.075 Incidental benefits.—Incidental benefits shall be offered only as provided in this section.

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

(a) The use of or participation in the incidental benefit by the prospective purchaser is completely voluntary, and payment of any fee or other cost associated with the incidental benefit is required only upon such use or participation.

(b) No costs of acquisition, operation, maintenance, or repair of the incidental benefit are passed on to purchasers of the timeshare plan as common expenses of the timeshare plan or as common expenses of a component site of a multisite timeshare plan.

(c) The continued availability of the incidental benefit is not necessary in order for any accommodation or facility of the timeshare plan to be available for use by purchasers of the timeshare plan in a manner consistent in all material respects with the manner portrayed by any promotional material, advertising, or purchaser public offering statement.

(d) The continued availability to purchasers of timeshare plan accommodations on no greater than a one-to-one purchaser to accommodation ratio is not dependent upon continued availability of the incidental benefit.

(e) The incidental benefit will continue to be available in the manner represented to prospective purchasers for ~~no less than 6 months but less than~~ 3 years or less after the first date that the timeshare plan is available for use by the purchaser. ~~The developer shall not be required to make the incidental benefit available for longer than 18 months after the date of purchase.~~ Nothing herein shall prevent the renewal or extension of the availability of an incidental benefit.

(f) The aggregate represented value of all incidental benefits offered by a developer to a purchaser may not exceed 15 percent of the purchase price paid by the purchaser for his or her timeshare interest ~~period~~.

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

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

(a) A fair description of the incidental benefit, including, but not limited to, ~~the represented value of the benefit;~~ any user fees or costs associated therewith~~;~~ and any restrictions upon use or availability.

(b) A statement that use of or participation in the incidental benefit by the prospective purchaser is completely voluntary, and that payment of any fee or other cost associated with the incidental benefit is required only upon such use or participation.

(c) A statement that the incidental benefit is not assignable or otherwise transferable by the prospective purchaser or purchaser.

(d) The following disclosure in conspicuous type immediately above the space for the purchaser's signature:

The ~~[Describe~~ incidental benefit[s] described in this statement is [are] ~~benefit is an incidental benefit~~ offered to prospective purchasers of the timeshare plan [or other permitted reference pursuant to s. 721.11(5)(a)]. This [These] benefit[s] is [are] ~~benefit is~~ available for your use for ~~a~~ [some period ~~minimum of 6 months but less than~~ 3 years or less] after the first date that the timeshare plan is available for your use. The availability of the incidental benefit[s] ~~benefit~~ may or may not be renewed or extended. You should not purchase an interest in the timeshare plan in reliance upon the continued availability or renewal or extension of this [these] benefit[s] ~~benefit~~.

The acknowledgment and disclosure statement for any ~~each~~ incidental benefit shall be filed with the division prior to use. Each purchaser shall receive a copy of his or her executed acknowledgment and disclosure statement as a document required to be provided to him or her pursuant to s. 721.10(1)(b).

(3)(a) In the event that an incidental benefit becomes unavailable to purchasers in the manner represented by the developer in the acknowledgment and disclosure statement, the developer shall pay the purchaser the greater of twice the verifiable retail value or twice the represented value of the unavailable incidental benefit in cash within 30 days of the date that the unavailability of the incidental benefit was made known to the developer unless the developer has reserved a substitution right pursuant to paragraph (b) ~~by making the required disclosure in the acknowledgment and disclosure statement~~ and timely makes the substitution as required by paragraph (b). The developer shall promptly notify the division upon learning of the unavailability of any incidental benefit.

(b) If an incidental benefit becomes unavailable as a result of events beyond the control of the developer, the developer may reserve the right to substitute a replacement incidental benefit of a type, quality, value, and term reasonably similar to the unavailable incidental benefit. If the developer reserves the right to substitute, the acknowledgement and disclosure statement required pursuant to paragraph (2)(a) shall contain the following

conspicuous disclosure ~~by including the following language in the disclosure required by paragraph (2)(d)~~:

In the event any ~~[describe~~ incidental benefit described in this statement ~~benefit]~~ becomes unavailable as a result of events beyond the control of the developer, the developer reserves the right to substitute a replacement incidental benefit of a type, quality, value, and term reasonably similar to the unavailable incidental benefit.

The substituted incidental benefit shall be delivered to the purchaser within 30 days after the date that the unavailability of the incidental benefit was made known to the developer.

(4) All purchaser remedies pursuant to s. 721.21 shall be available for any violation of the provisions of this section.

Section 14. Section 721.08, Florida Statutes, is amended to read:

721.08 Escrow accounts; nondisturbance instruments; alternate security arrangements; transfer of legal title.—

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

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

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

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

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

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

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

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

(c) Compliance with conditions.—

1. If the timeshare plan is one in which timeshare licenses are to be sold and no cancellation or default has occurred, the escrow agent may release the escrowed funds or property upon presentation of:

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

(IV) Either execution and recordation by each interestholder of the nondisturbance and notice to creditors instrument, as described in this section or, alternatively, transfer by the developer of legal title to the subject accommodations and facilities, or all use rights therein, to a trust satisfying the requirements of sub-subparagraph 3.b. and the execution and recordation by each other interestholder of the nondisturbance and notice to creditors instrument, as described in this section.

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

c. One of the following:

(I) A copy of a memorandum of agreement, as defined in s. 721.05(21), together with satisfactory evidence that the original memorandum of agreement has been irretrievably delivered for recording to the appropriate official responsible for maintaining the public records in the county in which the

subject accommodations and ~~or~~ facilities are located. The original memorandum of agreement must be recorded within 180 days after the date on which the purchaser executed her or his purchase agreement.

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

2. If the timeshare plan is one in which timeshare estates are to be sold, other than interests in a trust pursuant to subparagraph 3., and no cancellation or default has occurred, the escrow agent may release the escrowed funds or property upon presentation of:

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

(III) Closing.

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

c. Evidence that the timeshare estate is free and clear of the claims of any interestholders, other than the claims of interestholders that, through a recorded instrument, are irrevocably made subject to the timeshare instrument and the use rights of purchasers made available through the timeshare instrument, or that are the subject of a recorded nondisturbance and notice to creditors instrument that complies with subsection (3).

3. If the timeshare plan is one in which timeshare estates are to be sold as interests in a trust that complies in all respects with the provisions of sub-subparagraph b., and no cancellation or default has occurred, the escrow agent may release the escrowed funds or property upon presentation of:

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

(I) Expiration of the cancellation period.

(II) Completion of construction.

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

(IV) Closing.

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

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

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

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

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

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

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

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

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

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

(3) The nondisturbance and notice to creditors instrument, when required, shall be executed by each interestholder. The instrument shall state that:

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

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

(c) So long as the interestholder has any interest in the accommodations, facilities, or plan, the interestholder will fully honor all the rights of the timeshare purchasers in and to the timeshare plan, will honor the purchasers' right to cancel their contracts and receive appropriate refunds, and will comply with all other requirements of this chapter and rules promulgated hereunder.

The instrument shall contain language sufficient to provide subsequent creditors of the developer and interestholders with notice of the existence of the timeshare plan and of the rights of purchasers and shall serve to protect the interest of the timeshare purchasers from any claims of subsequent creditors. A copy of the recorded nondisturbance and notice to creditors instrument, when required, shall be provided to each timeshare purchaser at the time the purchase contract is executed.

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

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

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

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

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

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

(9) For each transfer of the legal title to a timeshare estate, the developer shall deliver an instrument evidencing such transfer to the purchaser or to the clerk of the court for recording.

(10)~~(8)~~ Any developer, seller, or escrow agent who intentionally fails to comply with the provisions of this section concerning the establishment of an escrow account, deposits of funds into escrow, and withdrawal therefrom is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or the successor thereof. The failure to establish

an escrow account or to place funds therein as required in this section is prima facie evidence of an intentional and purposeful violation of this section.

Section 15. Section 721.09, Florida Statutes, is amended to read:

721.09 Reservation agreements; escrows.—

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

(b) Reservations shall not be taken on a timeshare plan unless the seller has an ownership interest, ~~or~~ leasehold interest, or legal option to purchase or lease of a duration at least equal to the duration of the proposed timeshare plan, in the land upon which the timeshare plan is to be developed.

(c) If the timeshare plan subject to the reservation agreement has not been filed with the division under s. 721.07(5) or s. 721.55 within 180 ~~90~~ days after the date the division approves the reservation agreement filing, the seller must immediately cancel all outstanding reservation agreements, refund all escrowed funds to prospective purchasers, and discontinue accepting reservation deposits or advertising the availability of reservation agreements.

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

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

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

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

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

(a) A statement that the escrow agent will grant a prospective purchaser an immediate, unqualified refund of the reservation deposit upon the written request of either the purchaser or the seller directed to the escrow agent.

(b) A statement that the escrow agent may not otherwise release moneys unless a contract is signed by the purchaser, authorizing the transfer of the

escrowed reservation deposit as a deposit on the purchase price. Such deposit shall then be subject to the requirements of s. 721.08.

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

(d) A statement of the right of the purchaser to receive the purchaser public offering statement required by this chapter.

(e) The name and address of the escrow agent and a statement that the escrow agent will provide a receipt.

(f) A statement that the seller assures that the purchase price represented in or pursuant to the reservation agreement will be the price in the contract for the purchase or that the price represented may be exceeded within a stated amount or percentage or a statement that no assurance is given as to the price in the contract for purchase.

(3)(a) The total amount paid for a reservation shall be deposited into a reservation escrow account.

(b) An escrow agent shall maintain the accounts called for in this section only in such a manner as to be under the direct supervision and control of the escrow agent.

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

(d) The escrowed funds shall at all reasonable times be available for withdrawal in full by the escrow agent.

(e) Each escrow agent shall maintain separate books and records for each timeshare plan and shall maintain such books and records in accordance with good accounting practices.

(f) Any seller or escrow agent who intentionally fails to comply with the provisions of this section regarding deposit of funds in escrow and withdrawal therefrom is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or the successor of any of such sections. The failure to establish an escrow account or to place funds therein as required in this section is prima facie evidence of an intentional and purposeful violation of this section.

Section 16. Section 721.10, Florida Statutes, is amended to read:

721.10 Cancellation.—

(1) A purchaser has the right to cancel the contract until midnight of the 10th calendar day following whichever of the following days occurs later:

(a) The execution date; or

(b) The day on which the purchaser received the last of all documents required to be provided to him or her, including the notice required by s. 721.07(2)(d)2., if applicable.

This right of cancellation may not be waived by any purchaser or by any other person on behalf of the purchaser. Furthermore, no closing may occur until the cancellation period of the timeshare purchaser has expired. Any attempt to obtain a waiver of the cancellation right of the timeshare purchaser, or to hold a closing prior to the expiration of the cancellation period, is unlawful and such closing is voidable at the option of the purchaser for a period of 1 year after the expiration of the cancellation period. However, nothing in this section precludes the execution of documents in advance of closing for delivery after expiration of the cancellation period.

(2) Any notice of cancellation shall be considered given on the date postmarked if mailed, or when transmitted from the place of origin if telegraphed, so long as the notice is actually received by the developer or escrow agent. If given by means of a writing transmitted other than by mail or telegraph, the notice of cancellation shall be considered given at the time of delivery at the place of business of the developer.

(3) In the event of a timely preclosing cancellation, ~~or in the event the plan is one in which timeshare licenses are sold and at any time the accommodations or facilities are no longer available,~~ the developer shall honor the right of any purchaser to cancel the contract which granted the timeshare purchaser rights in and to the plan. Upon such cancellation, the developer shall refund to the purchaser the total amount of all payments made by the purchaser under the contract, reduced by the proportion of any contract benefits the purchaser has actually received under the contract prior to the effective date of the cancellation, as required by s. 721.06 ~~which exceed the proportionate amount of benefits made available under the plan, using the number of years of the plan as portrayed in the timeshare instrument as the base for plans of specific and limited duration, or using the fair market rental value of such benefits for plans without specific or limited duration~~. Such refund shall be made within 20 days of demand therefor by the purchaser or within 5 days after receipt of funds from the purchaser's cleared check, whichever is later. ~~For purposes of this subsection, the term "benefits made available under the plan" shall not include public offering statements or other documentation or materials that must be furnished to a purchaser pursuant to statute or rule.~~

Section 17. Section 721.11, Florida Statutes, is amended to read:

721.11 Advertising materials; oral statements.—

(1)(a) All ~~Any~~ advertising material must ~~relating to a timeshare plan, including prize and gift promotional offers, shall~~ be filed with the division by the developer ~~10 days~~ prior to use. At the request of the developer, the division shall review the advertising material and notify the developer of any deficiencies within 10 days after the filing. If the developer corrects the

deficiencies or if there are no deficiencies, the division shall notify the developer of its approval of the advertising materials. Notwithstanding anything to the contrary contained in this subsection, so long as the developer uses advertising materials approved by the division, following the developer's request for a review, the developer shall not be liable for any violation of this section or s. 721.111 with respect to such advertising materials.

(b) All ~~such~~ advertising materials must be substantially in compliance with this chapter and in full compliance with the mandatory provisions of this chapter. In the event that any such material is not in substantial compliance with this chapter, the division may file administrative charges and an injunction against the developer and exact such penalties or remedies as provided in s. 721.26, or may require the developer to correct any ~~the~~ deficiency in the materials by notifying the developer of the deficiency.~~; and,~~ If the developer fails to correct the deficiency after such notification, the division may file administrative charges against the developer and exact such penalties or remedies as provided in s. 721.26.

~~(b) The director of the division shall have the discretion to accept other assurances from the developer to assure the developer will comply with the provisions of this chapter regarding all advertising materials, including prize and gift promotional offers, used by the developer. Such assurances shall include, but not be limited to, a surety bond issued by a company authorized and licensed to do business in this state as surety or an irrevocable letter of credit in the amount of $10,000. Upon the acceptance by the director of such assurances from the developer, the developer shall be entitled to file and use advertising materials, including prize and gift promotional offers, in accordance with paragraph (c). In the event the developer intends to file and use any lodging or vacation certificates as advertising material pursuant to paragraph (c), the director shall have the discretion to increase the assurances to an amount deemed sufficient by the director to fully secure the performance of the certificate promoter, or to provide refunds to certificateholders in the event of nonperformance by the certificate promoter. The purpose of such other assurances, if accepted by the director, shall be to provide the division with a source of funds to secure the developer's promise in any prize and gift promotional offer to deliver the prize or gift represented in such offer to any prospective purchaser not receiving the represented prize or gift.~~

~~(c) A developer from whom other assurances have been accepted by the director of the division pursuant to paragraph (b) shall file all advertising material, including prize and gift promotional offers with the division at the time of use. All such advertising materials must be substantially in compliance with this chapter and in full compliance with the mandatory provisions of this chapter. In the event that any such material is not in compliance with this chapter, the division may require the developer to correct the deficiency by notifying the developer of the deficiency; and, if the developer fails to correct the deficiency after receiving such notice, the division may file administrative charges against the developer and exact such penalties or remedies as provided in s. 721.26. So long as the developer prepares and disseminates the advertising material in good faith, the division shall not penalize the developer for any deficiencies which the division determines to exist in~~

~~any advertising material which the developer uses prior to receipt of a notice of deficiency from the division regarding the advertising material. For purposes of this section, "good faith" shall mean that the developer has reasonably attempted to comply with the provisions of this chapter relating to advertising material, and that any deficiency determined to exist by the division is not material and adverse to a prospective purchaser.~~

(2) The term "advertising material" includes:

(a) Any promotional brochure, pamphlet, advertisement, or other material to be disseminated to the public in connection with the sale of a timeshare plan.

(b) ~~A transcript of~~ Any radio or television advertisement.

(c) Any lodging or vacation certificate.

(d) ~~A transcript of~~ Any standard oral sales presentation.

(e) Any billboard or other sign posted on or off the premises, except that such billboard or sign shall not be required to contain the disclosure set forth in paragraph (5)(a) or paragraph (5)(b), unless it relates to a prize and gift promotional offer. For purposes of this section, a "sign" shall mean advertising which is affixed to real or personal property and which is not disseminated by other than visual means to prospective purchasers.

(f) Any photograph, drawing, or artist's representation of accommodations or facilities of a timeshare plan which exists or which will or may exist.

(g) Any paid publication relating to a timeshare plan which exists or which will or may exist.

(h) Any other promotional device <u>used,</u> or statement related to a timeshare plan, including any prize and gift promotional offer as described in s. 721.111.

(3) The term "advertising material" does not include:

(a) Any stockholder communication such as an annual report or interim financial report, proxy material, registration statement, securities prospectus, registration, property report, or other material required to be delivered to a prospective purchaser by an agency of any other state or the Federal Government.

(b) Any communication addressed to and relating to the account of any person who has previously executed a contract for the sale and purchase of a timeshare <u>interest</u> ~~period~~ in the timeshare plan to which the communication relates, except when directed to the sale of <u>timeshare interests in a different timeshare plan or in a different component site of a multisite timeshare plan subject to part II</u> ~~additional timeshare periods~~.

(c) Any audio, written, or visual publication or material relating to an exchange company or exchange program.

(d) Any audio, written, or visual publication or material relating to the promotion of the availability of any accommodations or facilities, or both, for transient rental, including any arrangement governed by part XI of chapter 559, so long as a mandatory tour of a timeshare plan or attendance at a mandatory sales presentation is not a term or condition of the availability of such accommodations or facilities, or both, and so long as the failure of any transient renter to take a tour of a timeshare plan or attend a sales presentation does not result in the transient renter receiving less than what was promised to the transient renter in such materials ~~any reduction in the level of services which would otherwise be available to such transient renter~~.

(e) Any oral or written statement disseminated by a developer to broadcast or print media, other than paid advertising or promotional material, regarding plans for the acquisition or development of timeshare property, including possible accommodations or facilities of a timeshare plan pursuant to subsection (7) or subsection (8), or possible component sites of a multisite timeshare plan pursuant to subsection (9) ~~s. 721.553(1)~~. However, any rebroadcast or any other dissemination of such oral statements to a prospective purchaser by a seller in any manner, or any distribution of copies of newspaper or magazine articles, press releases, or any other dissemination of such written statements to a prospective purchaser by a seller in any manner, shall constitute advertising material.

(f) Any promotional materials relating to a timeshare plan that are not directed specifically at residents of this state, regardless of whether such materials relate to accommodations or facilities located in this state, provided that such materials do not contain any statements that would be in violation of subsection (4). For purposes of this paragraph, a rebuttable presumption shall exist that promotional materials are not directed specifically at residents of this state if the materials include a disclaimer in substantially the following form:

This offer is not directed to residents in any state [or the offer is void in any states] in which a registration of the timeshare plan is required but in which registration requirements have not yet been met.

(g) Any materials delivered to a purchaser after the purchase contract is executed that are not delivered for the purpose of soliciting the sale of a timeshare interest in a different timeshare plan or a different component site in a multisite timeshare plan subject to part II, provided that such materials do not contain any statements that would be in violation of subsection (4).

(h) Any materials exclusively shown, displayed, or presented in a sales center or during a sales presentation provided that such materials do not contain any statements that would be in violation of subsection (4) and that any description of any facility that is not required to be built or that has not been completed shall be conspicuously labeled as “NEED NOT BE BUILT,” “PROPOSED,” or “UNDER CONSTRUCTION.” If the facility is labeled “NEED NOT BE BUILT” or “PROPOSED,” the seller may indicate the estimated date that such facility will be made part of the timeshare plan. If the facility is labeled “UNDER CONSTRUCTION,” the estimated date of completion must be included.

(4) No advertising or oral statement made by any seller shall:

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

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

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

(d) Contain any asterisk or other reference symbol as a means of contradicting or substantially changing any previously made statement or as a means of obscuring a material fact.

(e) Describe any facility ~~improvement to the timeshare plan~~ that is not required to be built or that is uncompleted unless the improvement is conspicuously labeled as "NEED NOT BE BUILT," "PROPOSED," or "UNDER CONSTRUCTION." If the facility is labeled "NEED NOT BE BUILT" or "PROPOSED," the seller may indicate the estimated date that such facility will be made part of the timeshare plan. If the facility is labeled "UNDER CONSTRUCTION," the estimated date of completion must be included ~~with the date of promised completion clearly indicated~~.

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

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

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

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

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

(k) Misrepresent the availability of a resale or rental program offered by or on behalf of the developer.

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

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

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

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

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

(5)(a) No written advertising material, including any lodging certificate, gift award, premium, discount, or display booth, may be utilized without each prospective purchaser being provided a disclosure ~~one of the following disclosures~~ in conspicuous type in substantially the following form: This advertising material is being used for the purpose of soliciting sales of timeshare interests ~~periods~~; or This advertising material is being used for the purpose of soliciting sales of a vacation (or vacation membership or vacation ownership) plan. The division shall have the discretion to approve the use of an alternate disclosure. The conspicuous disclosure required in this subsection shall only be required to be given to each prospective purchaser on one piece of advertising for each advertising promotion or marketing campaign, provided that if the promotion or campaign contains terms and conditions, the conspicuous disclosure required in this subsection shall be included on any piece containing such terms and conditions. The conspicuous disclosure required in this subsection shall be provided before the purchaser is required to take any affirmative action pursuant to the promotion. If the advertising material containing the conspicuous disclosure is a display booth, the disclosure required by this subsection must be conspicuously displayed on or within the display booth. ~~If a filing of a timeshare plan containing accommodations and facilities located outside of this state has been approved by the situs jurisdiction and by the division, an alternate disclosure consistent with that required by the situs jurisdiction, or by such other jurisdiction or jurisdictions where the advertising material will be used, may be utilized with the prior approval of the director of the division so long as the alternate disclosure is substantially similar to that required by this paragraph.~~

(b) This subsection does not apply to any advertising material which involves a project or development which includes sales of real estate or other commodities or services in addition to timeshare interests ~~periods~~, including, but not limited to, lot sales, condominium or home sales, or the rental of resort accommodations. However, if the sale of timeshare interests ~~periods~~, as compared with such other sales or rentals, is the primary purpose of the advertising material, a disclosure shall be made in conspicuous type that: This advertising material is being used for the purpose of soliciting the sale of ...(Disclosure shall include timeshare interests ~~periods~~ and may include other types of sales).... Factors which the division may consider in determining whether the primary purpose of the advertising material is the sale of timeshare interests ~~periods~~ include:

1. The retail value of the timeshare interests ~~periods~~ compared to the retail value of the other real estate, commodities, or services being offered in the advertising material.

2. The amount of space devoted to the timeshare portion of the project in the advertising material compared to the amount of space devoted to other portions of the project, including, but not limited to, printed material, photographs, or drawings.

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

(a) A standard form of any agreement relating to the sale of a regulated short-term product may ~~must~~ be filed 10 days prior to use with the division as advertising material under this section. Each seller shall furnish each purchaser of a regulated short-term product with a fully completed and executed copy of the agreement at the time of execution.

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

(c) An agreement for purchase of a regulated short-term product must contain substantially the following statements, given at the time the agreement is made:

1. A statement that if the purchaser of a regulated short-term product cancels the agreement during the 10-day cancellation period, the seller will refund to the prospective purchaser the total amount of all payments made by the prospective purchaser under the agreement, reduced by the proportion of any benefits the prospective purchaser has actually received under the agreement prior to the effective date of the cancellation; and

2. A statement that the specific value for each benefit received by the prospective purchaser under the agreement will be as agreed to between the prospective purchaser and the seller.

(d) An agreement for purchase of a regulated short-term product must contain substantially the following statements in conspicuous type immediately above the space reserved in the agreement for the signature of the prospective purchaser:

You may cancel this agreement without any penalty or obligation within 10 calendar days [or specify a longer time period represented to the purchaser] after the date you sign this agreement. If you decide to cancel this agreement, you must notify the seller in writing of your intent to cancel.

Your notice of cancellation is effective upon the date sent and must be sent to ...(Name of Seller)... at ...(Address of Seller).... Any attempt to obtain a waiver of your cancellation right is unlawful.

If you execute a purchase contract for a timeshare interest ~~period~~, section 721.08, Florida Statutes (escrow accounts), will apply to any funds or other property received from you or on your behalf. Section 721.10, Florida Statutes (cancellation), will apply to the purchase and you will not be entitled to a cancellation refund of the short-term product [or specify an alternate refund policy under these circumstances].

(e) If the seller provides the purchaser with the right to cancel the purchase of a regulated short-term product at any time up to 7 days prior to the purchaser's reserved use of the accommodations, but in no event less than 10 days, and if the seller refunds the total amount of all payments made by the purchaser reduced by the proportion of any benefits the purchaser has actually received prior to the effective date of the cancellation, the specific value of which has been agreed to between the purchaser and the seller, the short-term product offer shall be exempt from the requirements of paragraphs (b), (c), and (d). An agreement relating to the sale of the regulated short-term product made pursuant to this paragraph must contain a statement setting forth the cancellation and refund rights of the prospective purchaser in a manner that is consistent with this section and s. 721.10, including a description of the length of the cancellation right, a statement that the purchaser's intent to cancel must be in writing and sent to the seller at a specified address, a statement that the notice of cancellation is effective upon the date sent, and a statement that any attempt to waive the cancellation right is unlawful. The right of cancellation provided to the purchaser pursuant to this paragraph may not be waived by the prospective purchaser or by any other person on behalf of the prospective purchaser. Notice of cancellation must be given in the same manner prescribed for giving notice of cancellation pursuant to s. 721.10(2). If the prospective purchaser gives a valid notice of cancellation, or is otherwise entitled to cancel the sale, the funds or property received from or on behalf of the prospective purchaser, or the proceeds thereof, shall be returned to the prospective purchaser. Such refund shall be made in the manner prescribed for refunds under s. 721.10.

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

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

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

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

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

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

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

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

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

Section 18. Section 721.111, Florida Statutes, is amended to read:

721.111 Prize and gift promotional offers.—

(1) As used herein, the term "prize and gift promotional offer" means any advertising material wherein a prospective purchaser may receive goods or services other than the timeshare plan itself, either free or at a discount,

including, but not limited to, the use of any prize, gift, award, premium, or lodging or vacation certificate.

(2) A game promotion, such as a contest of chance, gift enterprise, or sweepstakes, in which the elements of chance and prize are present may not be used in connection with the offering or sale of timeshare interests ~~periods~~, except for drawings, as that term is defined in s. 849.0935(1)(a), in which no more than 10 prizes are promoted and in which all promoted prizes are actually awarded. All such drawings must meet all requirements of this chapter and of ss. 849.092 and 849.094(1), (2), and (7).

(3) Any prize, gift, or other item offered pursuant to a prize and gift promotional offer must be delivered to the prospective purchaser on the day she or he appears to claim it, whether or not she or he purchases a timeshare interest ~~period~~.

(4) A separate filing for each prize and gift promotional offer to be used in the sale of timeshare interests ~~periods~~ shall be made with the division pursuant to s. 721.11(1). The developer shall pay a $100 filing fee for each prize and gift promotional offer. One item of each prize or gift, except cash, must be made available for inspection by the division.

(5) Each filing of a prize and gift promotional offer with the division shall include, when applicable:

(a) A copy of all advertising material to be used in connection with the prize and gift promotional offer.

(b) The name, address, and telephone number (including area code) of the supplier or manufacturer from whom each type or variety of prize, gift, or other item is obtained.

(c) The manufacturer's model number or other description of such item.

(d) The information on which the developer relies in determining the verifiable retail value, if the value is in excess of $50.

(e) The name, address, and telephone number (including area code) of the promotional entity responsible for overseeing and operating the prize and gift promotional offer.

(f) The name and address of the registered agent in this state of the promotional entity for service of process purposes.

~~(g) The number of anticipated recipients of each item of advertising material related to the prize and gift promotional offer.~~

(g)~~(h)~~ Full disclosure of all pertinent information concerning the use of lodging or vacation certificates, including the terms and conditions of the campaign and the fact and extent of participation in such campaign by the developer. The developer shall provide to the division, upon the request of the division, an affidavit, certification, or other reasonable evidence ~~division may require reasonable assurances~~ that the obligation incurred by a seller or the seller's agent in a lodging certificate program can be met.

~~(6) Each developer shall pay to the division a fee of $100 for the filing of each prize and gift promotional offer, at the time of filing. Those developers utilizing game promotions in which the elements of chance and prize are present shall pay an additional $400 fee at the time of filing of the prize and gift promotional offer. No additional fee may be charged for the submission of corrected advertising material related to a prize and gift promotional offer or for the submission of additional material related to a prize and gift promotional offer for which a prior filing has been made.~~

(6)~~(7)~~ All advertising material to be distributed in connection with a prize and gift promotional offer shall contain, in addition to the information required pursuant to the provisions of s. 721.11, the following disclosures:

(a) A description of the prize, gift, or other item that the prospective purchaser will actually receive, including, if the price is in excess of $50, the manufacturer's suggested retail price or, if none is available, the verifiable retail value. If the value is $50 or less, the description shall contain a statement of such.

(b) All rules, terms, requirements, and preconditions which must be fulfilled or met before a prospective purchaser may claim any prize, gift, or other item involved in the prize and gift promotional plan, including whether the prospective purchaser is required to attend a sales presentation in order to receive the prize, gift, or other item.

(c) The date upon which the offer expires.

(d) If the number of prizes, gifts, or other items to be awarded is limited, a statement of the number of items that will be awarded.

(e) The method by which prizes, gifts, or other items are to be awarded.

~~(8) All developers shall file with the division by March 1st of each year the following information regarding each prize and gift promotional offer used during the prior calendar year:~~

~~(a) The total number of each prize, gift, or other item actually awarded or given away.~~

~~(b) The name and address of each person who actually received a prize, gift, or other item which had a verifiable retail value or manufacturer's suggested retail price in excess of $200. This regulation does not apply to recipients of lodging or vacation certificates.~~

(7)~~(9)~~ All prizes, gifts, or other items represented by the developer to be awarded in connection with any prize and gift promotional offer shall be awarded by the date referenced in the advertising material used in connection with such offer.

Section 19. Subsection (1) of section 721.12, Florida Statutes, is amended to read:

721.12 Recordkeeping by seller.—Each seller of a timeshare plan shall maintain among its business records the following:

(1) A copy of each contract for the sale of a timeshare interest ~~period~~, which contract has not been canceled. If a timeshare estate is being sold, the seller is required to retain a copy of the contract only until a deed of conveyance, agreement for deed, or lease is recorded in the office of the clerk of the circuit court in the county wherein the plan is located.

Section 20. Section 721.13, Florida Statutes, is amended to read:

721.13 Management.—

(1)(a) For each ~~Before the first sale of a~~ timeshare plan ~~period~~, the developer shall ~~create or~~ provide for a managing entity, which shall be either the developer, a separate manager or management firm, or ~~the board of administration of~~ an owners' association~~, or some combination thereof~~. Any owners' association shall be created prior to the recording of the timeshare instrument.

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

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

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

(c) With respect to any timeshare plan other than one described in paragraph (b), any developer shall be considered the managing entity of the timeshare plan unless and until such developer clearly provides in the timeshare instrument that a different party will serve as managing entity, which party has acknowledged in writing that it has accepted the duties and obligations of serving as managing entity. In the event such other party subsequently resigns or otherwise ceases to perform its duties as managing entity, any developer shall again be considered the managing entity until the developer arranges for a new managing entity pursuant to this paragraph.

(d) In the event no one described in paragraph (b) or paragraph (c) is operating and maintaining the timeshare plan, anyone who operates or maintains the timeshare plan shall be considered the managing entity of the timeshare plan.

(e) Any managing entity performing community association management must comply with part VIII of chapter 468.

(2)(a) The managing entity shall act in the capacity of a fiduciary to the purchasers of the timeshare plan. No penalty imposed by the division pursuant to s. 721.26 against any managing entity for breach of fiduciary duty shall be assessed as a common expense of any timeshare plan.

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

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

(a) Management and maintenance of all accommodations and facilities constituting the timeshare plan.

(b) Collection of all assessments for common expenses.

(c)1. Providing each year to all purchasers an itemized annual budget which shall include all estimated revenues and expenses. The budget shall be in the form required by s. 721.07(5)(u)~~(x)~~ and shall be the final budget adopted by the managing entity for the current fiscal year. The budget shall contain, as a footnote or otherwise, any related party transaction disclosures or notes which appear in the audited financial statements of the managing entity for the previous budget year as required by paragraph (e). A copy of the final budget shall be filed with the division within 30 days after the beginning of each fiscal year ~~its adoption by the managing entity~~ together with a statement of the number of periods of 7-day annual use availability that exist within the timeshare plan, including those periods filed for sale by the developer but not yet committed to the timeshare plan, for which annual fees are required to be paid to the division under s. 721.27.

2. Notwithstanding anything contained in chapter 718 or chapter 719 to the contrary, the board of administration of an owners' association which serves as the managing entity may from time to time reallocate reserves for deferred maintenance and capital expenditures required by s. 721.07(5)(u)~~(x)~~3.a.(XI) from any deferred maintenance or capital expenditure reserve account to any other deferred maintenance or capital expenditure reserve account or accounts in its discretion without the consent of purchasers of the timeshare plan. Funds in any deferred maintenance or capital expenditure reserve account may not be transferred to any operating account without the consent of a majority of the purchasers of the timeshare plan. The managing entity may from time to time transfer excess funds in any operating account to any deferred maintenance or capital expenditure reserve account without the vote or approval of purchasers of the timeshare plan.

(d)1. Maintenance of all books and records concerning the timeshare plan so that all such books and records are reasonably available for inspection by any purchaser or the authorized agent of such purchaser. For purposes of

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

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

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

4. Notwithstanding any provision of chapter 718 or chapter 719 to the contrary, the managing entity may not furnish the name or address of any purchaser to any other purchaser or authorized agent thereof unless the purchaser whose name and address are requested first approves the disclosure in writing.

(e) Arranging for an annual audit of the financial statements of the timeshare plan by a certified public accountant licensed by the Board of Accountancy of the Department of Business and Professional Regulation, in accordance with generally accepted auditing standards as defined by the rules of the Board of Accountancy of the Department of Business and Professional Regulation. The financial statements required by this section must be prepared on an accrual basis using fund accounting, and must be presented in accordance with generally accepted accounting principles. A copy of the audited financial statements must be filed with the division and forwarded to the board of directors and officers of the owners' association, if one exists, no later than 5 calendar months after the end of the timeshare plan's fiscal year. If no owners' association exists, each purchaser must be notified, no later than 5 months after the end of the timeshare plan's fiscal

year, that a copy of the audited financial statements is available upon request to the managing entity. Notwithstanding any requirement of s. 718.111(13) or s. 719.104(4) ~~(14)~~, the audited financial statements required by this section are the only annual financial reporting requirements for timeshare condominiums or timeshare cooperatives.

(f) Making available for inspection by the division any books and records of the timeshare plan upon the request of the division. The division may enforce this paragraph by making direct application to the circuit court.

(g) Scheduling occupancy of the timeshare units, when purchasers are not entitled to use specific timeshare periods, so that all purchasers will be provided the use and possession of the accommodations and facilities of the timeshare plan which they have purchased.

(h) Performing any other functions and duties which are necessary and proper to maintain the accommodations or facilities, as provided in the contract and as advertised.

(i)1. Entering into an ad valorem tax escrow agreement prior to the receipt of any ad valorem tax escrow payments into the ad valorem tax escrow account, as long as an independent escrow agent is required by s. 192.037.

2. Submitting to the division the statement of receipts and disbursements regarding the ad valorem tax escrow account as required by s. 192.037(6)(e). The statement of receipts and disbursements must also include a statement disclosing that all ad valorem taxes have been paid in full to the tax collector through the current assessment year, or, if all such ad valorem taxes have not been paid in full to the tax collector, a statement disclosing those assessment years for which there are outstanding ad valorem taxes due and the total amount of all delinquent taxes, interest, and penalties for each such assessment year as of the date of the statement of receipts and disbursements.

(j) Notwithstanding anything contained in chapter 718 or chapter 719 to the contrary, purchasers shall not have the power to cancel contracts entered into by the managing entity relating to a master or community antenna television system, a franchised cable television service, or any similar paid television programming service or bulk rate services agreement.

(4) The managing entity shall maintain among its records and provide to the division upon request a complete list of the names and addresses of all purchasers and owners of timeshare units in the timeshare plan. The managing entity shall update this list no less frequently than quarterly. Pursuant to paragraph (3)(d), the managing entity may not publish this owner's list or provide a copy of it to any purchaser or to any third party other than the division. However, the managing entity shall ~~initiate a mailing~~ to those persons listed on the owner's list materials provided by any purchaser, upon the written request of that ~~any~~ purchaser, if the purpose of the mailing is to advance legitimate association business, such as a proxy solicitation for any purpose, including the recall of one or more board members elected by the owners or the discharge of the manager or management

firm. The use of any proxies solicited in this manner must comply with the provisions of the timeshare instrument and this chapter. A mailing requested for the purpose of advancing legitimate association business shall occur within 30 days after receipt of a request from a purchaser. The board of administration of the association shall be responsible for determining the appropriateness of any mailing requested pursuant to this subsection~~, and it shall be a violation of this chapter and of part VIII of chapter 468 for the board of administration and/or the manager or management firm to refuse to initiate any mailing requested for the purpose of advancing legitimate association business~~. The purchaser who requests the mailing must reimburse the association in advance for the association's actual costs in performing the mailing. It shall be a violation of this chapter and, if applicable, of pt. VIII of chapter 468, for the board of administration or the manager or management firm to refuse to mail any material requested by the purchaser to be mailed, provided the sole purpose of the materials is to advance legitimate association business. If the purpose of the mailing is a proxy solicitation to recall one or more board members elected by the owners or to discharge the manager or management firm and the managing entity does not mail the materials within 30 days after receipt of a request from a purchaser, the circuit court in the county where the timeshare plan is located may, upon application from the requesting purchaser, summarily order the mailing of the materials solely related to the recall of one or more board members elected by the owners or the discharge of the manager or management firm. The court shall dispose of an application on an expedited basis. In the event of such an order, the court may order the managing entity to pay the purchaser's costs, including attorney's fees reasonably incurred to enforce the purchaser's rights, unless the managing entity can prove it refused the mailing in good faith because of a reasonable basis for doubt about the legitimacy of the mailing.

(5) Any managing entity, or individual officer, director, employee, or agent thereof, who willfully misappropriates the property or funds of a timeshare plan commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or the successor thereof.

(6)(a) The managing entity of any timeshare plan located in this state, including, but not limited to, those plans created with respect to a condominium pursuant to chapter 718 or a cooperative pursuant to chapter 719, may deny the use of the accommodations and facilities of the timeshare plan, including the denial of the right to make a reservation or the cancellation of a confirmed reservation for timeshare periods in a floating reservation timeshare plan, to any purchaser who is delinquent in the payment of any assessments made by the managing entity against such purchaser for common expenses or for ad valorem real estate taxes pursuant to this chapter or pursuant to s. 192.037. Such denial of use shall also extend to those parties claiming under the delinquent purchaser described in paragraphs (b) and (c). For purposes of this subsection, a purchaser shall be considered delinquent in the payment of a given assessment only upon the expiration of 60 days after the date the assessment is billed to the purchaser or upon the expiration of 60 days after the date the assessment is due, whichever is later. For purposes of this subsection, an affiliated exchange program shall be any exchange program which has a contractual relationship with the

creating developer or the managing entity of the timeshare plan, or any exchange program that notifies the managing entity in writing that it has members that are purchasers of the timeshare plan, and the exchange companies operating such affiliated exchange programs shall be affiliated exchange companies. Any denial of use for failure to pay assessments shall be implemented only pursuant to this subsection.

(b) A managing entity desiring to deny the use of the accommodations and facilities of the timeshare plan to a delinquent purchaser and to those claiming under the purchaser, including his or her guests, lessees, and third parties receiving use rights in the timeshare period in question through a nonaffiliated exchange program, shall, no less than 30 days after the date the assessment is due in accordance with the timeshare instrument ~~prior to the first day of the purchaser's use period~~, notify the purchaser in writing of the total amount of any delinquency which then exists ~~or which will exist as of the first day of such use period~~, including any accrued interest and late charges permitted to be imposed under the terms of ~~the public offering statement for~~ the timeshare plan or by law and including a per diem amount, if any, to account for further accrual of interest and late charges between the stated effective date of the notice and the first date of use. The notice shall also clearly state that the purchaser will not be permitted to use his or her timeshare period, that the purchaser will not be permitted to make a reservation in the timeshare plan's reservation system, or that any confirmed reservation may be cancelled, as applicable, until the total amount of such delinquency is satisfied in full or until the purchaser produces satisfactory evidence that the delinquency does not exist. The notice shall be mailed to the purchaser at his or her last known address as recorded in the books and records of the timeshare plan, and the notice shall be effective to bar the use of the purchaser and those claiming use rights under the purchaser, including his or her guests, lessees, and third parties receiving use rights in the timeshare period in question through a nonaffiliated exchange program, until such time as the purchaser is no longer delinquent. The notice shall not be effective to bar the use of third parties receiving use rights in the timeshare period in question through an affiliated exchange program without the additional notice to the affiliated exchange program required by paragraph (c).

(c) In addition to giving notice to the delinquent purchaser as required by paragraph (b), a managing entity desiring to deny the use of the accommodations and facilities of the timeshare plan to third parties receiving use rights in the delinquent purchaser's timeshare period through any affiliated exchange program shall notify the affiliated exchange company in writing of the denial of use. The receipt of such written notice by the affiliated exchange company shall be effective to bar the use of all third parties claiming through the affiliated exchange program, and such notice shall be binding upon the affiliated exchange company and all third parties claiming through the affiliated exchange program until such time as the affiliated exchange company receives notice from the managing entity that the purchaser is no longer delinquent. However, any third party claiming through the affiliated exchange program who has received a confirmed assignment of the delinquent purchaser's use rights from the affiliated exchange company prior to the expiration of 48 hours after the receipt by the affiliated

exchange company of such written notice from the managing entity shall be permitted by the managing entity to use the accommodations and facilities of the timeshare plan to the same extent that he or she would be allowed to use such accommodations and facilities if the delinquent purchaser were not delinquent.

(d) Any costs reasonably incurred by the managing entity in connection with its compliance with the requirements of paragraphs (b) and (c), together with any costs reasonably incurred by an affiliated exchange company in connection with its compliance with the requirements of paragraph (c), may be assessed by the managing entity against the delinquent purchaser and collected in the same manner as if such costs were common expenses of the timeshare plan allocable solely to the delinquent purchaser. The costs incurred by the affiliated exchange company shall be collected by the managing entity as the agent for the affiliated exchange company. In no event shall the total costs to be assessed against the delinquent purchaser pursuant to this paragraph at any one time exceed 5 percent of the total amount of delinquency contained in the notice given to the delinquent purchaser pursuant to paragraph (b) per timeshare period or $15 per timeshare period, whichever is less.

(e) An exchange company may elect to deny exchange privileges to any member whose use of the accommodations and facilities of the member's timeshare plan is denied pursuant to paragraph (b), and no exchange program or exchange company shall be liable to any of its members or third parties on account of any such denial of exchange privileges.

(f)1. Provided that the managing entity has properly and timely given notice to a delinquent purchaser pursuant to paragraph (b) and to any affiliated exchange program pursuant to paragraph (c), the managing entity may give further notice to the delinquent purchaser that it may ~~intends to~~ rent the delinquent purchaser's timeshare period, or any use rights appurtenant thereto, and will ~~to~~ apply the proceeds of such rental, net of any rental commissions, cleaning charges, travel agent commissions, or any other commercially reasonable charges reasonably and usually incurred by the managing entity in securing rentals, to the delinquent purchaser's account. Such further notice of intent to rent must be given at least 30 days prior to the first day of the purchaser's use period, and must be delivered to the purchaser in the manner required for notices under paragraph (b).

2. The notice of intent to rent, which may be included in the notice required by paragraph (b), must state in conspicuous type that:

a. The managing entity's efforts to secure a rental will not commence on a date ~~certain, which date may not be~~ earlier than 10 days after the date of the notice of intent to rent.

b. Unless the purchaser satisfies the delinquency in full, or unless the purchaser produces satisfactory evidence that the delinquency does not exist pursuant to paragraph (b)~~, prior to the date designated in the notice for commencement of rental solicitation by the managing entity~~, the purchaser will be bound by the terms of any rental contract entered into by the manag-

ing entity with respect to the purchaser's timeshare period or appurtenant use rights.

c. The purchaser will remain liable for any difference between the amount of the delinquency and the net amount produced by the rental contract and applied against the delinquency pursuant to this paragraph, and the managing entity shall not be required to provide any further notice to the purchaser regarding any residual delinquency pursuant to this paragraph.

3. In securing a rental pursuant to this paragraph, the managing entity shall not be required to obtain the highest nightly rental rate available, nor any particular rental rate, and the managing entity shall not be required to rent the entire timeshare period; however, the managing entity must use reasonable efforts to secure a rental that is commensurate with other rentals of similar timeshare periods or use rights generally secured at that time.

(g) A managing entity shall have breached its fiduciary duty described in subsection (2) in the event it enforces the denial of use pursuant to paragraph (b) against any one purchaser or group of purchasers without similarly enforcing it against all purchasers, including all developers and owners of the underlying fee; however, a managing entity shall not be required to solicit rentals pursuant to paragraph (f) for every delinquent purchaser. A managing entity shall also have breached its fiduciary duty in the event an error in the books and records of the timeshare plan results in a denial of use pursuant to this subsection of any purchaser who is not, in fact, delinquent. In addition to any remedies otherwise available to purchasers of the timeshare plan arising from such breaches of fiduciary duty, such breach shall also constitute a violation of this chapter. In addition, any purchaser receiving a notice of delinquency pursuant to paragraph (b), or any third party claiming under such purchaser pursuant to paragraph (b), may immediately bring an action for injunctive or declaratory relief against the managing entity seeking to have the notice invalidated on the grounds that the purchaser is not, in fact, delinquent, that the managing entity failed to follow the procedures prescribed by this section, or on any other available grounds. The prevailing party in any such action shall be entitled to recover his or her reasonable attorney's fees from the losing party.

(7) Unless the articles of incorporation, the bylaws, or the provisions of this chapter provide for a higher quorum requirement, the percentage of voting interests required to make decisions and to constitute a quorum at a meeting of the members of a timeshare condominium or owners' association shall be 15 percent of the voting interests. If a quorum is not present at any meeting of the owners' association at which members of the board of administration are to be elected, the meeting may be adjourned and reconvened within 90 days for the sole purpose of electing members of the board of administration, and the quorum for such adjourned meeting shall be 15 percent of the voting interests. This provision shall apply notwithstanding any provision of chapter 718 or chapter 719 to the contrary.

(8) Notwithstanding anything to the contrary in s. 718.110, s. 718.113, s. 718.114, or s. 719.1055, the board of administration of any owners' association that operates a timeshare condominium pursuant to s. 718.111, or a

timeshare cooperative pursuant to s. 719.104, shall have the power to make material alterations or substantial additions to the accommodations or facilities of such timeshare condominium or timeshare cooperative without the approval of the association. However, if the timeshare condominium or timeshare cooperative contains any residential units that are not subject to the timeshare plan, such action by the board of administration must be approved by a majority of the owners of such residential units. Unless otherwise provided in the timeshare instrument as originally recorded, no such amendment may change the configuration or size of any accommodation in any material fashion, or change the proportion or percentage by which a member of the association shares the common expenses, unless the record owners of the affected units or timeshare interests and all record owners of liens on the affected units or timeshare interests join in the execution of the amendment.

~~(9)~~(8) Any failure of the managing entity to faithfully discharge the fiduciary duty to purchasers imposed by this section or to otherwise comply with the provisions of this section shall be a violation of this chapter and of part VIII of chapter 468.

Section 21. Subsection (2) of section 721.14, Florida Statutes, is amended to read:

721.14 Discharge of managing entity.—

(2) In the event the manager or management firm is discharged, the board of administration of the owners' association shall remain responsible for operating and maintaining the timeshare plan pursuant to the timeshare instrument and s. 721.13(1). If the board of administration fails to do so, any timeshare owner may apply to the circuit court within the jurisdiction of which the accommodations and facilities lie for the appointment of a receiver to manage the affairs of the owners' association and the timeshare plan. At least 30 days before applying to the circuit court, the timeshare owner shall mail to the owners' association and post in a conspicuous place on the timeshare property a notice describing the intended action. If a receiver is appointed, the owners' association shall be responsible as a common expense of the timeshare plan, for payment of the salary and expenses of the receiver, relating to the discharge of her or his duties and obligations as receiver, together with the receiver's court costs, and reasonable attorney's fees. The receiver shall have all powers and duties of a duly constituted board of administration and shall serve until discharged by the circuit court.

Section 22. Section 721.15, Florida Statutes, is amended to read:

721.15 Assessments for common expenses.—

(1)(a) Until a managing entity is created or provided pursuant to s. 721.13, the developer shall pay all common expenses. The timeshare instrument shall provide for the allocation of common expenses among all timeshare units or timeshare interests ~~periods~~ on a reasonable basis, including timeshare interests ~~periods~~ owned or not yet sold by the developer. The timeshare instrument may provide that the common expenses allocated may differ between those timeshare units that are part of the timeshare plan and

those units that are not part of the timeshare plan; however, the different proportion of expenses must be based upon reasonable differences in the benefit provided to each. The timeshare instrument shall allocate common expenses to timeshare interests ~~periods~~ owned or not yet sold by the developer on the same basis that common expenses are allocated to similar or equivalent timeshare interests ~~periods~~ sold to purchasers.

(b) Notwithstanding any provision of chapter 718 or chapter 719 to the contrary, the allocation of total common expenses for a condominium or a cooperative timeshare plan may vary on any reasonable basis, including, but not limited to, timeshare unit size, timeshare unit type, timeshare unit location, specific identification, or a combination of these factors, if the percentage interest in the common elements attributable to each timeshare condominium parcel or timeshare cooperative parcel equals the share of the total common expenses allocable to that parcel. The share of a timeshare interest in the common expenses allocable to the timeshare condominium parcel or the timeshare cooperative parcel containing such interest may vary on any reasonable basis if the timeshare interest's share of its parcel's common expense allocation is equal to that timeshare interest's share of the percentage interest in common elements attributable to such parcel.

(2)(a) After the creation or provision of a managing entity, the managing entity shall make an annual assessment against each purchaser for the payment of common expenses, based on the projected annual budget, in the amount specified by the contract between the seller and the purchaser or in the timeshare instrument.

(b) No owner of a timeshare interests ~~period~~ may be excused from the payment of her or his share of the common expenses unless all owners are likewise excused from payment, except that the developer may be excused from the payment of her or his share of the common expenses which would have been assessed against her or his timeshare interests ~~periods~~ during a stated period of time during which the developer has guaranteed to each purchaser in the timeshare instrument, or by agreement between the developer and a majority of the owners of timeshare interests ~~periods~~ other than the developer, that the assessment for common expenses imposed upon the owners would not increase over a stated dollar amount. In the event of such a guarantee, the developer is obligated to pay all common expenses incurred during the guarantee period in excess of the total revenues of the timeshare plan. Notwithstanding this limitation, if a developer-controlled owners' association has maintained all insurance coverages required by s. 721.165, the common expenses incurred during the guarantee period resulting from a natural disaster or an act of God, which are not covered by insurance proceeds from the insurance maintained by the owners' association, may be assessed against all purchasers owning timeshare interests on the date of such natural disaster or act of God, and their successors and assigns, including the developer with respect to timeshare interests owned by the developer. In the event of such an assessment, all timeshare interests shall be assessed in accordance with their ownership interest as required by paragraph (1)(a).

(c) For the purpose of calculating the obligation of a developer under a guarantee pursuant to paragraph (b), depreciation expenses related to real

property shall be excluded from common expenses incurred during the guarantee period.

(d) A guarantee pursuant to paragraph (b) may provide that the developer may extend or increase the guarantee for one or more additional stated periods.

(3) Delinquent assessments may bear interest at the highest rate permitted by law or at some lesser rate established by the managing entity. In addition to such interest, the managing entity may charge an administrative late fee in an amount not to exceed $25 for each delinquent assessment. Provided that a purchaser has been advised in writing at least 60 days prior to turning the matter over to a collection agency that the purchaser may be liable for the fees of the collection agency and a lien may result therefrom, any costs of collection, including reasonable collection agency fees and reasonable attorney's fees, incurred in the collection of a delinquent assessment shall be paid by the purchaser and shall be secured by a lien in favor of the managing entity upon the timeshare interest ~~period~~ with respect to which the delinquent assessment has been incurred.

(4) Unless otherwise specified in the contract between the seller and the purchaser, any common expenses benefiting fewer than all purchasers shall be assessed only against those purchasers benefited.

(5) Any assessments for common expenses which have not been spent for common expenses during the year for which such assessments were made shall be shown as an item on the annual budget.

(6) Notwithstanding any contrary requirements of s. 718.112(2)(g) or s. 719.106(1)(g), for timeshare plans subject to this chapter, assessments against purchasers need not be made more frequently than annually.

(7) A purchaser, regardless of how her or his timeshare estate or timeshare license has been acquired, including a purchaser at a judicial sale, is personally liable for all assessments for common expenses which come due while the purchaser is the owner of such interest. A successor in interest is jointly and severally liable with her or his predecessor in interest for all unpaid assessments against such predecessor up to the time of transfer of the timeshare interest to such successor without prejudice to any right a successor in interest may have to recover from her or his predecessor in interest any amounts assessed against such predecessor and paid by such successor. The predecessor in interest shall provide the managing entity with a copy of the recorded deed of conveyance if the interest is a timeshare estate or a copy of the instrument of transfer if the interest is a timeshare license, containing the name and mailing address of the successor in interest within 15 days after the date of transfer. The managing entity shall not be liable to any person for any inaccuracy in the books and records of the timeshare plan arising from the failure of the predecessor in interest to timely and correctly notify the managing entity of the name and mailing address of the successor in interest. ~~Nothing in this subsection shall be construed to impair the operation of s. 718.116 for timeshare condominiums.~~

(8) Notwithstanding the provisions of subsection (7), a first mortgagee or its successor or assignee who acquires title to a timeshare interest as a result of the foreclosure of the mortgage or by deed in lieu of foreclosure of the mortgage shall be exempt from liability for all unpaid assessments attributable to the timeshare interest or chargeable to the previous owner which came due prior to acquisition of title by the first mortgagee.

(9)~~(8)~~(a) Anything contained in chapter 718 or chapter 719 to the contrary notwithstanding, the managing entity of a timeshare plan shall not commingle operating funds with reserve funds; however, the managing entity may maintain operating and reserve funds within a single account for a period not to exceed 30 days after the date on which the managing entity received payment of such funds.

(b) Anything contained in chapter 718 or chapter 719 to the contrary notwithstanding, a managing entity which serves as managing entity of more than one timeshare plan, or of more than one component site pursuant to part II, shall not commingle the common expense funds of any one timeshare plan or component site with the common expense funds of any other timeshare plan or component site. However, the managing entity may maintain common expense funds of multiple timeshare plans or multiple component sites within a single account for a period not to exceed 30 days after the date on which the managing entity received payment of such funds.

Section 23. Section 721.16, Florida Statutes, is amended to read:

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

(1) The managing entity has a lien on a timeshare interest ~~period~~ for any assessment levied against that timeshare interest ~~period~~ from the date such assessment becomes due. The managing entity also has a lien on a timeshare interest of any purchaser for the cost of any maintenance, repairs, or replacement resulting from an act of such purchaser or purchaser's guest that results in damage to the timeshare property or facilities made available to the purchasers.

(2) The managing entity may bring an action in its name to foreclose a lien under subsection (1) ~~for assessments~~ in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. ~~However, in the case of a timeshare plan in which no interest in real property is conveyed, the managing entity may bring an action under the Uniform Commercial Code.~~

(3) The lien is effective from the date of recording a claim of lien in the public records of the county or counties in which the accommodations and ~~or~~ facilities constituting the timeshare plan are located. The claim of lien shall state the name of the timeshare plan and identify the timeshare interest ~~period~~ for which the lien is effective, state the name of the purchaser, state the assessment amount due, and state the due dates. Notwithstanding any provision of s. 718.116(5)(a) or s. 719.108(4) to the contrary, the lien is effective until satisfied or until 5 years have expired after the date the claim

of lien is recorded unless, within that time, an action to enforce the lien is commenced pursuant to subsection (2). A ~~The~~ claim of lien for assessments may include only assessments which are due when the claim is recorded. A claim of lien shall be signed and acknowledged by an officer or agent of the managing entity. Upon full payment, the person making the payment is entitled to receive a satisfaction of the lien.

(4) A judgment in any action or suit brought under this section shall include costs and reasonable attorney's fees for the prevailing party.

(5) Labor performed on a timeshare unit, or materials furnished to a timeshare unit, shall not be the basis for the filing of a lien pursuant to part I of chapter 713, the Construction Lien Law, against the timeshare unit of any timeshare-period owner not expressly consenting to or requesting the labor or materials.

Section 24. Subsection (1) of section 721.165, Florida Statutes, is amended to read:

721.165 Insurance.—

(1) The seller, initially, and thereafter the managing entity, shall be responsible for obtaining insurance to protect the accommodations and facilities of the timeshare plan in an amount equal to the replacement cost of such accommodations and facilities. Failure to obtain and maintain the insurance required by this subsection during any period of developer control of the managing entity shall constitute a breach of s. 721.13(2)(a) by the managing entity, unless the managing entity can show that, despite such failure, it exercised due diligence to obtain and maintain the insurance required by this subsection.

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

721.17 Transfer of interest.—Except in the case of a timeshare plan subject to the provisions of chapter 718 or chapter 719, no developer or owner of the underlying fee shall sell, lease, assign, mortgage, or otherwise transfer his or her interest in the accommodations and ~~or~~ facilities of the timeshare plan except by an instrument evidencing the transfer recorded in the public records of the county in which such ~~the~~ accommodations and ~~or~~ facilities are located. The instrument shall be executed by both the transferor and transferee and shall state:

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

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

(3) That the transferee will fully honor the rights of the purchasers to occupy and use the accommodations and facilities as provided in their original contracts and the timeshare instruments.

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

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

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

Section 26. Subsection (1) of section 721.18, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

(f) Whether ~~A statement that~~ the purchaser's participation in the exchange program is voluntary.

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

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

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

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

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

(l) The fees or range of fees for participation by purchasers in the exchange program, a statement whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made.

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

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

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

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

(q) The following information, which shall be independently audited by a certified public accountant or accounting firm in accordance with the

standards of the Accounting Standards Board of the American Institute of Certified Public Accountants and reported annually beginning no later than July 1, 1982:

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

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

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

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

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

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

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

721.19 Provisions requiring purchase or lease of timeshare property by owners' association or purchasers ~~unit owners~~; validity.—In any timeshare plan in which timeshare estates are sold, no grant or reservation made by a declaration, lease, or other document, nor any contract made by the developer, managing entity, or owners' association, which requires the owners' association or purchasers ~~unit owners~~ to purchase or lease any portion of the timeshare property shall be valid unless approved by a majority of the purchasers other than the developer, after more than 50 percent of the timeshare periods have been sold.

Section 28. Section 721.20, Florida Statutes, is amended to read:

721.20 Licensing requirements; suspension or revocation of license; exceptions to applicability; collection of advance fees for listings unlawful.—

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

(2) Solicitors ~~licensed under the provisions of paragraph (2)(a)~~ who engage only in the solicitation of prospective purchasers~~, and purchasers engaging in solicitation activities as described in paragraph (2)(e),~~ and any

purchaser who refers no more than 20 people to a developer per year or who otherwise provides testimonials on behalf of a developer are exempt from the provisions of chapter 475.

~~(2)(a) Pursuant to rules adopted by the division, each off-premises solicitor or other person who engages in the solicitation of prospective purchasers of units in a timeshare plan must purchase a timeshare occupational license for a fee of $100. The license shall be issued to the solicitor for a 2-year period and shall expire on the second anniversary of the date of issuance. Sellers of a timeshare plan who are licensed and in good standing under chapter 475 shall be exempt from licensure under this subsection upon filing proof of such licensure and good standing with the division prior to engaging in any solicitation activity. However, the division may deny, suspend, or revoke the exemption of such seller when the license issued under chapter 475 has been suspended or revoked.~~

~~(b) It is unlawful for any person to solicit prospective purchasers of a timeshare plan without first having secured a timeshare occupational license and having paid the occupational license fee; however, an applicant who has completed and filed an application for a timeshare occupational license and who has paid the required occupational license fee may solicit prospective purchasers of a timeshare plan pursuant to this section pending approval or denial of his or her application by the division.~~

~~(c) Prior to issuing an occupational license to an applicant, the division shall receive an application, on forms designed by the division, containing such pertinent background information as is necessary to properly identify the applicant; however, the fingerprinting of applicants is not required.~~

~~(d) The division may deny, suspend, or revoke any occupational license when the applicant or holder thereof~~

(3) A solicitor who has violated the provisions of chapter 468, chapter 718, chapter 719, this chapter, or the rules of the division governing timesharing~~, or when the holder of a license issued pursuant to chapter 475 has had his or her license suspended or revoked. If any occupational license expires by division rule while administrative charges are pending against the license, the proceedings against the license shall continue to conclusion as if the license were still in effect. In addition to those remedies available against the developer, the division may impose against an applicant or licensed solicitor a civil fine of up to $500 in addition to, or in lieu of, a suspension or revocation provided for in this section for violation of the rules of the division.~~

~~(e) Any purchaser who refers no more than 20 people to a developer per year or who otherwise provides testimonials on behalf of a developer shall not~~ shall be subject to ~~licensure under~~ the provisions of ~~paragraph (a).~~ s. 721.26. Any developer or other person who supervises, directs, or engages the services of a solicitor shall be liable for any violation of the provisions of chapter 468, chapter 718, chapter 719, this chapter, or the rules of the division governing timesharing committed by such solicitor.

~~(f) The division may require up to 2 hours of continuing education annually as a condition of renewal of an occupational license.~~

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

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

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

Section 29. Section 721.21, Florida Statutes, is amended to read:

721.21 Purchasers' remedies.—An action for damages or for injunctive or declaratory relief for a violation of this chapter may be brought by any purchaser or owners' association ~~of purchasers~~ against the developer, a seller, an escrow agent, or the managing entity. The prevailing party in any such action, or in any action in which the purchaser claims a right of voidability based upon either a closing before the expiration of the cancellation period or an amendment which materially alters or modifies the offering in a manner adverse to the purchaser, may be entitled to reasonable attorney's fees. Relief under this section does not exclude other remedies provided by law.

Section 30. Paragraph (a) of subsection (1) and subsection (2) of section 721.24, Florida Statutes, are amended to read:

721.24 Firesafety.—

(1) Any:

(a) Facility or accommodation of a timeshare plan, as defined in this chapter, ~~and~~ chapter 718, or chapter 719, which is of three stories or more and for which the construction contract has been let after September 30, 1983, with interior corridors which do not have direct access from the timeshare unit to exterior means of egress, or

shall be equipped with an automatic sprinkler system installed in compliance with the provisions prescribed in the National Fire Protection Association publication NFPA No. 13 (1985), "Standards for the Installation of Sprinkler Systems." The sprinkler installation may be omitted in closets

which are not over 24 square feet in area and in bathrooms which are not over 55 square feet in area, which closets and bathrooms are located in timeshare units. Each timeshare unit shall be equipped with an approved listed single-station smoke detector meeting the minimum requirements of NFPA-74 (1984), "Standards for the Installation, Maintenance and Use of Household Fire Warning Equipment," powered from the building electrical service, notwithstanding the number of stories in the structure, if the contract for construction is let after September 30, 1983. Single-station smoke detection is not required when a timeshare unit's smoke detectors are connected to a central alarm system which also alarms locally.

(2) Any timeshare unit of a timeshare plan, as defined in this chapter, ~~and~~ chapter 718, or chapter 719 which is of three stories or more and for which the construction contract was let before October 1, 1983, shall be equipped with:

(a) A system which complies with subsection (1); or

(b) An approved sprinkler system for all interior corridors, public areas, storage rooms, closets, kitchen areas, and laundry rooms, less individual timeshare units, if the following conditions are met:

1. There is a minimum 1-hour separation between each timeshare unit and between each timeshare unit and a corridor.

2. The building is constructed of noncombustible materials.

3. The egress conditions meet the requirements of s. 5-3 of the Life Safety Code, NFPA 101 (1985).

4. The building has a complete automatic fire detection system which meets the requirements of NFPA-72A (1987) and NFPA-72E (1984), including smoke detectors in each timeshare unit individually annunciating to a panel at a supervised location.

Section 31. Paragraphs (a), (d), and (e) of subsection (5) of section 721.26, Florida Statutes, are amended to read:

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

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

(a)1. "Regulated party," for purposes of this section, means any developer, exchange company, seller, managing entity, association, association director, association officer, manager, management firm, escrow agent,

trustee, any respective assignees or agents, or any other person having duties or obligations pursuant to this chapter.

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

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

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

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

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

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

If, under the circumstances, it appears that the events giving rise to the petition for receivership cannot be reasonably and timely corrected in a cost-effective manner consistent with the timeshare instrument, the receiver may petition the circuit court to implement such amendments or revisions to the timeshare instrument as may be necessary to enable the managing entity to resume effective operation of the timeshare plan, or to enter an order terminating the timeshare plan, or to enter such further orders regarding the disposition of the timeshare property as the court deems appropriate <u>including the disposition and sale of the timeshare property held by the association or the purchasers. In the event of a receiver's sale, all rights, title, and interest held by the association or any purchaser shall be extinguished and title shall vest in the buyer. This provision applies to timeshare estates and timeshare licenses</u>. All reasonable costs and fees of the receiver relating to the receivership shall become common expenses of the timeshare plan upon order of the court.

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

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

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

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

Section 32. Section 721.27, Florida Statutes, is amended to read:

721.27 Annual fee for each timeshare unit ~~period~~ in plan.—On January 1 of each year, each managing entity of a timeshare plan located in this state shall collect as a common expense and pay to the division an annual fee of $2 for each 7 days of ~~equal to the aggregate filing fee calculated pursuant to s. 721.07(4)(a) or s. 721.58, whichever is applicable, based upon the total number of periods of 7-day~~ annual use availability that exist within the timeshare plan at that time, subject to any limitations on the amount of such annual fee pursuant to s. 721.58. ~~Each developer of a phased timeshare plan shall remit to the managing entity that portion of the annual fee that relates to those timeshare units filed for sale by the developer but not yet declared as part of the condominium or cooperative regime or otherwise committed to the timeshare plan before January 1.~~ If any portion of the annual fee is not paid by March 1, the managing entity may be assessed a penalty pursuant to s. 721.26 ~~shall be assessed a late fee of 10 percent of the amount due or $250, whichever is greater~~.

Section 33. Section 721.29, Florida Statutes, is created to read:

721.29 Recording.—If any timeshare plan accommodations or facilities are located in any jurisdiction that does not have recording laws or will not record any document or instrument required to be recorded pursuant to this chapter, the division shall have the discretion to accept an alternative method of protecting purchasers' rights that will be effective under the laws of that other jurisdiction.

Section 34. Section 721.51, Florida Statutes, is amended to read:

721.51 Legislative purpose; scope.—

(1) The purpose of this part is to advance the purposes of this chapter as set forth in s. 721.02 with respect to multisite vacation and timeshare plans, also known as vacation clubs.

(2) All multisite timeshare plans shall be governed by both part I and this part except where otherwise provided in this part. In the event of a conflict between the provisions of part I and this part, the provisions of this part shall prevail.

~~(3)(a) A multisite timeshare plan which includes accommodations located in this state, but which is offered exclusively outside of the jurisdictional limits of the United States shall be exempt from all other requirements of this part if it complies with paragraph (b).~~

~~(b) In order to claim exemption from regulation under this part pursuant to paragraph (a), the person claiming exemption shall register the following minimum information with the division pertaining to the multisite timeshare plan:~~

~~1. The name and address of the multisite timeshare plan;~~

~~2. The name and address of the developer or seller;~~

~~3. The location and a brief description of the accommodations and facilities of the multisite timeshare plan;~~

~~4. The number of timeshare periods to be offered;~~

~~5. The term of the multisite timeshare plan; and~~

~~6. A copy of the form purchase contract to be utilized in offering the multisite timeshare plan, which contract must contain the disclosure required by paragraph (c).~~

~~The division is authorized to adopt rules requiring additional information to be furnished to the division or in the purchase contract in connection with the registration for exemption. The initial exemption registration fee shall be $100; however, the division may provide by rule for an exemption registration fee of up to $500. No person shall be entitled to claim exemption pursuant to paragraph (a) until that person has fully registered pursuant to this paragraph.~~

~~(c) Each purchase contract utilized in offering a multisite timeshare plan for which an exemption is claimed pursuant to this subsection shall contain the following disclosure in conspicuous type immediately above the space provided for the purchaser's signature:~~

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

Section 35. Paragraph (a) of subsection (4) of section 721.52, Florida Statutes, is amended to read:

721.52 Definitions.—As used in this chapter ~~part~~, the term:

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

(a) The contractually specified maximum total financial obligation on the purchaser's part is $3,000 or less, during the entire term of the plan ~~$1,500 or less, excluding the aggregate amount of any common expense assessments and special assessments levied by an owners' association or other person who is not an affiliate of the seller or the developer, provided that any such assessment obligations are fully described as accurately as possible in the purchaser's purchase contract, but including all other amounts paid by such purchaser for any purpose whatsoever, regardless of the term of such use and occupancy rights~~; or

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

Section 36. Paragraph (e) is added to subsection (1) of section 721.53, Florida Statutes, to read:

721.53 Subordination instruments; alternate security arrangements.—

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

(e) The interestholder has transferred the subject accommodation or facility or all use rights therein to a trust that complies with this paragraph. Prior to such transfer, any lien or other encumbrance against such accommodation or facility shall be made subject to a nondisturbance and notice to creditors instrument pursuant to paragraph (a) or a subordination and notice to creditors instrument pursuant to paragraph (b). No transfer pursuant to this paragraph shall become effective until the trust accepts such transfer and the responsibilities set forth herein. A trust established pursuant to this paragraph shall comply with the following provisions:

1. The trustee shall be an individual or a business entity authorized and qualified to conduct trust business in this state. Any corporation authorized to do business in this state may act as trustee in connection with a timeshare plan pursuant to this chapter. The trustee must be independent from any developer or managing entity of the timeshare plan or any interestholder of any accommodation or facility of such plan. The same trustee may hold the accommodations and facilities, or use rights therein, for one or more of the component sites of the timeshare plan.

2. The trust shall be irrevocable so long as any purchaser has a right to occupy any portion of the timeshare property pursuant to the timeshare plan.

3. The trustee shall not convey, hypothecate, mortgage, assign, lease, or otherwise transfer or encumber in any fashion any interests in or portion of the timeshare property with respect to which any purchaser has a right of use or occupancy unless the timeshare plan is terminated pursuant to the timeshare instrument, or the timeshare property held in trust is deleted from a multisite timeshare plan pursuant to s. 721.552(3), or such conveyance, hypothecation, mortgage, assignment, lease, transfer, or encumbrance is approved by vote of two-thirds of all voting interests of the timeshare plan and such decision is declared by a court of competent jurisdiction to be in the best interests of the purchasers of the timeshare plan.

4. All purchasers of the timeshare plan or the owners' association of the timeshare plan shall be express beneficiaries of the trust. The trustee shall act as a fiduciary to the beneficiaries of the trust. The personal liability of the trustee shall be governed by s. 737.306. The agreement establishing the trust shall set forth the duties of the trustee. The trustee shall be required to furnish promptly to the division upon request a copy of the complete list of the names and addresses of the owners in the timeshare plan and a copy of any other books and records of the timeshare plan required to be maintained pursuant to s. 721.13 that are in the possession of the trustee. All expenses reasonably incurred by the trustee in the performance of its duties, together with any reasonable compensation of the trustee, shall be common expenses of the timeshare plan.

5. The trustee shall not resign upon less than 90 days prior written notice to the managing entity and the division. No resignation shall become effective until a substitute trustee, approved by the division, is appointed by the managing entity and accepts the appointment.

6. The documents establishing the trust arrangement shall constitute a part of the timeshare instrument.

7. For trusts holding property in component sites located outside this state, the trust holding such property shall be deemed in compliance with the requirements of this paragraph, if such trust is authorized and qualified to conduct trust business under the laws of such jurisdiction and the agreement or law governing such trust arrangement provides substantially similar protections for the purchaser as are required in this paragraph for trusts holding property in a component site located in this state.

8. The trustee shall have appointed a registered agent in this state for service of process. In the event such a registered agent is not appointed, service of process may be served pursuant to s. 721.265.

Section 37. Section 721.55, Florida Statutes, is amended to read:

721.55 Multisite timeshare plan public offering statement.—Each registered public offering statement ~~filed with the division~~ for a multisite timeshare plan shall contain the information required by this section and shall

comply with the provisions of s. 721.07, except as otherwise provided therein. The division is authorized to provide by rule the method by which a developer must provide such information to the division. Each multisite timeshare plan registered public offering statement shall contain the following information and disclosures:

(1) A cover page containing:

(a) The name of the multisite timeshare plan.

(b) The following statement in conspicuous type:

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

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

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

(4) A text, which shall include, where applicable, the information and disclosures set forth in paragraphs (a)-(l) ~~below together with cross-references to the location in the public offering statement of each exhibit, if applicable~~.

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

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

(c)1. A description of the manner in which the reservation system operates. The description shall include a disclosure in compliance with the demand balancing standard set forth in s. 721.56(6) and shall describe the developer's efforts to comply with same in creating the reservation system.

The description shall also include a summary of the rules and regulations governing access to and use of the reservation system.

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

~~3. For each component site for which occupancy information is available, the developer shall disclose the average level of occupancy calculated by category of quarter or season for the calendar year including the date 2 years prior to the date on which the multisite timeshare plan is first offered. Every 2 years such averages must be revised and updated. In lieu of providing such information in the public offering statement text, the developer may provide the information in a public offering statement exhibit, together with a cross-reference in the public offering statement text to such exhibit.~~

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

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

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

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

1. Additions.—

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

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

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

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

2. Substitutions.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. A statement that the developer will pay all common expenses incurred in excess of the total revenues of the multisite timeshare plan, if the devel-

oper is to be excused from the payment of assessments during the guarantee period.

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

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

a. Any limitation upon annual increases in common expenses;

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

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

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

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

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

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

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

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

1. The name and address of each component site.

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

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

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

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

~~b. The capacity of the facility in terms of the number of people who can use it at any one time.~~

~~c. If the facility is a swimming pool, a statement as to whether or not the pool is heated.~~

b.~~d.~~ Any user fees associated with a purchaser's use of the facility.

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

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

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

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

(a) The timeshare instrument.

(b) The reservation system rules and regulations.

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

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

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

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

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

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

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

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

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

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

2. If the purchaser will receive a timeshare estate pursuant to s. 721.57 or a specific timeshare license as defined in s. 721.552(4) in a component site located outside of this state but which is offered in this state, the information required by s. 721.07(5) pertaining to that component site provided, however, that the provisions of s. 721.07(5)(u) shall only require disclosure of information related to the estimated budget for the timeshare plan and purchaser's expenses as required by the jurisdiction in which the component site is located.

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

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

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

Section 38. Subsection (2) of section 721.551, Florida Statutes, is amended to read:

721.551 Delivery of multisite timeshare plan purchaser public offering statement.—

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

(a) A copy of the approved multisite timeshare plan public offering statement text ~~filed with the division~~ containing the information required by s. 721.55(1)-(6).

(b) A receipt for multisite timeshare plan documents and a list describing any exhibit to the registered public offering statement ~~filed with the division~~ which is not delivered to the purchaser. The division is authorized to prescribe by rule the form of the receipt for multisite timeshare plan documents

and the description of exhibits list that must be furnished to the purchaser pursuant to this section.

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

(d) Any other exhibit that the developer elects to include as part of the purchaser public offering statement ~~to be furnished to purchasers~~, provided that the developer first files the exhibit with the division.

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

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

Section 39. Paragraph (a) of subsection (3) of section 721.552, Florida Statutes, is amended to read:

721.552 Additions, substitutions, or deletions of component site accommodations or facilities; purchaser remedies for violations.—Additions, substitutions, or deletions of component site accommodations or facilities may be made only in accordance with the following:

(3) DELETIONS.—

(a) Deletion by casualty.—

1. Pursuant to s. 721.165, the timeshare instrument creating the multisite timeshare plan must provide for casualty insurance for the accommodations and facilities of the multisite timeshare plan in an amount equal to the replacement cost of such ~~the~~ accommodations or facilities. The timeshare instrument must also provide that in the event of a casualty that results in accommodations or facilities being unavailable for use by purchasers, the managing entity shall notify all affected purchasers of such unavailability of use within 30 days after the event of casualty.

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

3. If the timeshare instrument does not provide for business interruption insurance, or if it is unavailable, or if the instrument permits the developer, the managing entity, or the purchasers to elect not to reconstruct after casualty under certain circumstances or to secure replacement accommoda-

tions or facilities in lieu of reconstruction, purchasers of the plan may temporarily compete for available accommodations on a greater than one-to-one purchaser to accommodation ratio. The decision whether or not to reconstruct shall be made as promptly as possible under the circumstances.

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

Section 40. Section 721.553, Florida Statutes, is repealed.

Section 41. Subsection (2) and paragraphs (a) and (c) of subsection (5) of section 721.56, Florida Statutes, are amended to read:

721.56 Management of multisite timeshare plans; reservation systems; demand balancing.—

(2) In the event that the developer files an affidavit or other evidence with the division pursuant to subsection (1) and subsequently determines that the status of the component site has materially changed such that any portion of the affidavit or other evidence is consequently materially changed, the developer shall immediately notify the division of the change. ~~In any event, the affidavit required by subsection (1) shall be renewed at least annually.~~

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

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

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

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

2. The names and addresses of all purchasers of timeshare interests ~~periods~~ at that component site.

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

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

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

Section 42. Subsection (3) of section 721.81, Florida Statutes, is amended to read:

721.81 Legislative purpose.—The purposes of this part are to:

(3) Recognize the need to assist ~~vacation ownership resort~~ owners' associations and mortgagees by simplifying and expediting the process of foreclosure of assessment liens and mortgage liens against timeshare estates.

Section 43. Paragraph (a) of subsection (1) of section 721.82, Florida Statutes, is amended to read:

721.82 Definitions.—As used in this part, the term:

(1) "Assessment lien" means:

(a) A lien for delinquent assessments as provided in ss. 721.16, ~~and~~ 718.116, and 719.108 as to timeshare condominiums; or

Section 44. Paragraph (b) of subsection (5) of section 721.84, Florida Statutes, is amended to read:

721.84 Appointment of a registered agent; duties.—

(5) A registered agent may resign his or her agency appointment for any obligor for which he or she serves as registered agent, provided that:

(b) A successor registered agent is appointed and such successor registered agent executes an acceptance of appointment as successor registered agent and satisfies all of the requirements of subsection (1). The resigning registered agent may designate the successor registered agent; however, if the resigning registered agent fails to designate a successor registered agent or the designated successor registered agent fails to accept, the successor registered agent for the affected obligors may be designated by the mortga-

gee as to the mortgage lien and by the owners' association ~~of the timeshare plan~~ as to the assessment lien; and

Section 45. Subsection (2) of section 721.85, Florida Statutes, is amended to read:

721.85 Service to notice address or on registered agent.—

(2) The current owner and the mortgagor of a timeshare estate must promptly notify the owners' association ~~of the timeshare plan~~ and the mortgagee of any change of address.

Section 46. Subsection (1) of section 721.86, Florida Statutes, is amended to read:

721.86 Miscellaneous provisions.—

(1) The procedures in this part must be given effect in the context of any foreclosure proceedings against timeshare estates governed by this chapter, chapter 702, ~~or~~ chapter 718, or chapter 719.

Section 47. Subsection (3) is added to section 617.3075, Florida Statutes, to read:

617.3075 Prohibited clauses in homeowners' association documents.—

(3) Homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, may not preclude the display of one United States flag by property owners. However, the flag must be displayed in a respectful way and may be subject to reasonable standards for size, placement, and safety, as adopted by the homeowners' association, consistent with Title 36 U.S.C. Chapter 10 and any local ordinances.

Section 48. Section 718.103, Florida Statutes, is amended to read:

718.103 Definitions.—As used in this chapter, the term:

(1) "Assessment" means a share of the funds which are required for the payment of common expenses, which from time to time is assessed against the unit owner.

(2) "Association" means, in addition to any entity ~~those entities~~ responsible for the operation of common elements owned in undivided shares by unit owners, any entity which operates or maintains other real property in which ~~condominium~~ unit owners have use rights, where ~~unit owner~~ membership in the entity is composed exclusively of ~~condominium~~ unit owners or their elected or appointed representatives~~,~~ and ~~where membership in the entity~~ is a required condition of unit ownership.

(3) "Association property" means that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to, the association for the use and benefit of its members.

(4) "Board of administration" or "board" means the board of directors or other representative body which is responsible for administration of the association.

(5) "Buyer" means a person who purchases a condominium unit. The term "purchaser" may be used interchangeably with the term "buyer."

(6) "Bylaws" means the bylaws of the association as they are amended ~~exist~~ from time to time.

(7) "Committee" means a group of board members, unit owners, or board members and unit owners appointed by the board or a member of the board to make recommendations to the board regarding the proposed annual ~~association~~ budget or to take action on behalf of the board.

(8) "Common elements" means the portions of the condominium property ~~which are~~ not included in the units.

(9) "Common expenses" means all expenses ~~and assessments which are~~ properly incurred by the association in the performance of its duties, including expenses specified in s. 718.115 ~~for the condominium~~.

(10) "Common surplus" means the amount ~~excess~~ of all receipts or revenues, ~~of the association collected on behalf of a condominium (~~including~~, but not limited to,~~ assessments, rents, or profits, collected by a condominium association which exceeds~~, and revenues on account of the common elements) over the~~ common expenses.

(11) "Condominium" means that form of ownership of real property ~~which is~~ created pursuant to ~~the provisions of~~ this chapter, which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.

(12) "Condominium parcel" means a unit, together with the undivided share in the common elements ~~which is~~ appurtenant to the unit.

(13) "Condominium property" means the lands, leaseholds, and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(14) "Conspicuous type" means bold type in capital letters no smaller than the largest type, exclusive of headings, on the page on which it appears and, in all cases, at least 10-point type. Where conspicuous type is required, it must be separated on all sides from other type and print. Conspicuous type may be used in a contract ~~contracts~~ for purchase and sale of a unit, a lease of a unit for more than 5 years, or a prospectus or offering circular ~~public offering statements~~ only where required by law.

(15) "Declaration" or "declaration of condominium" means the instrument or instruments by which a condominium is created, as they are from time to time amended.

(16) "Developer" means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a condominium or cooperative unit

who has acquired the unit for his or her own occupancy, nor does it include a cooperative association which creates a condominium by conversion of an existing residential cooperative after control of the association has been transferred to the unit owners if, following the conversion, the unit owners will be the same persons who were unit owners of the cooperative and no units are offered for sale or lease to the public as part of the plan of conversion.

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

(18) "Land" means~~, unless otherwise defined in the declaration as hereinafter provided,~~ the surface of a legally described parcel of real property and includes, unless otherwise specified in the declaration and whether separate from or including such surface, airspace lying above and subterranean space lying below such surface. However, if so defined in the declaration, the term "land" may mean all or any portion of the airspace or subterranean space between two legally identifiable elevations and may exclude the surface of a parcel of real property and may mean any combination of the foregoing, whether or not contiguous.

(19) "Limited common elements" means those common elements which are reserved for the use of a certain ~~condominium~~ unit or units to the exclusion of all other units, as specified in the declaration ~~of condominium~~.

(20) "Multicondominium" means a real estate development containing two or more condominiums all of which are operated by the same association.

(21)~~(20)~~ "Operation" or "operation of the condominium" includes the administration and management of the condominium property.

(22)~~(21)~~ "Rental agreement" means any written agreement, or oral agreement if for less duration than 1 year, providing for use and occupancy of premises.

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

condominium. A condominium which contains both commercial and residential units is a mixed-use condominium and is subject to the requirements of s. 718.404.

(24)(~~23~~) "Special assessment" means any assessment levied against a unit owner ~~owners~~ other than the assessment required by a budget adopted annually.

(25)(~~24~~) "Timeshare estate" means any interest in a unit under which the exclusive right of use, possession, or occupancy of the unit circulates among the various purchasers of a timeshare plan pursuant to chapter 721 on a recurring basis for a period of time.

(26)(~~25~~) "Timeshare unit" means a unit in which timeshare estates have been created.

(27)(~~26~~) "Unit" means a part of the condominium property which is subject to exclusive ownership. A unit may be in improvements, land, or land and improvements together, as specified in the declaration.

(28)(~~27~~) "Unit owner" or "owner of a unit" means a record owner of legal title to a condominium parcel.

(29)(~~28~~) "Voting certificate" means a document which designates one of the record title owners, or the corporate, partnership, or entity representative, who is authorized to vote on behalf of a condominium unit that is owned by more than one owner or by any entity.

(30)(~~29~~) "Voting interests ~~interest~~" means the voting rights distributed to the association members pursuant to s. 718.104(4)(i). In a multicondominium association, the voting interests of the association are the voting rights distributed to the unit owners in all condominiums operated by the association. On matters related to a specific condominium in a multicondominium association, the voting interests of the condominium are the voting rights distributed to the unit owners in that condominium.

Section 49. Subsection (2) and paragraphs (f) and (g) of subsection (4) of section 718.104, Florida Statutes, are amended, and paragraph (h) is added to subsection (4), to read:

718.104 Creation of condominiums; contents of declaration.—Every condominium created in this state shall be created pursuant to this chapter.

(2) A condominium is created by recording a declaration in the public records of the county where the land is located, executed and acknowledged with the requirements for a deed. All persons who have record title to the interest in the land being submitted to condominium ownership, or their lawfully authorized agents, must join in the execution of the declaration. Upon the recording of the declaration, or an amendment adding a phase to the condominium under s. 718.403(6), all units described in the declaration or phase amendment as being located in or on the land then being submitted to condominium ownership shall come into existence, regardless of the state of completion of planned improvements in which the units may be located.

Upon recording the declaration of condominium pursuant to this section, the developer shall file the recording information with the division within 120 calendar ~~30 business~~ days on a form prescribed by the division.

(4) The declaration must contain or provide for the following matters:

(f) The undivided share of ownership of ~~in~~ the common elements and common surplus of the condominium that is appurtenant to each unit stated as a percentage or a fraction of ~~percentages or fractions, which, in the aggregate, must equal~~ the whole. In the declaration of condominium for residential condominiums created after April 1, 1992, the ownership share of the common elements assigned to each residential unit shall be based either upon the total square footage of each residential unit in uniform relationship to the total square footage of each other residential unit in the condominium or on an equal fractional basis.

(g) The percentage or fractional shares of liability for ~~proportions or percentages of and manner of sharing~~ common expenses of the condominium ~~and owning common surplus~~, which, for all ~~a~~ residential units ~~condominium~~, must be the same as the undivided shares of ownership of ~~in~~ the common elements and common surplus appurtenant to each unit as provided for in paragraph (f).

(h) If a developer reserves the right, in a declaration recorded on or after July 1, 2000, to create a multicondominium, the declaration must state, or provide a specific formula for determining, the fractional or percentage shares of liability for the common expenses of the association and of ownership of the common surplus of the association to be allocated to the units in each condominium to be operated by the association. If the declaration as originally recorded fails to so provide, the share of liability for the common expenses of the association and of ownership of the common surplus of the association allocated to each unit in each condominium operated by the association shall be a fraction of the whole, the numerator of which is the number "one" and the denominator of which is the total number of units in all condominiums operated by the association.

Section 50. Subsection (2) of section 718.106, Florida Statutes, is amended to read:

718.106 Condominium parcels; appurtenances; possession and enjoyment.—

(2) There shall pass with a unit, as appurtenances thereto:

(a) An undivided share in the common elements and common surplus.

(b) The exclusive right to use such portion of the common elements as may be provided by the declaration, including the right to transfer such right to other units or unit owners to the extent authorized by the declaration as originally recorded, or amendments to the declaration adopted under s. 718.110(2).

(c) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered

or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

(d) Membership in the association designated in the declaration, with the full voting rights appertaining thereto.

(e) Other appurtenances as may be provided in the declaration.

Section 51. Subsections (4) and (9) of section 718.110, Florida Statutes, are amended, and subsection (12) is added to that section, to read:

718.110 Amendment of declaration; correction of error or omission in declaration by circuit court.—

(4) Unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any ~~condominium~~ unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner ~~of the parcel~~ shares the common expenses of the condominium and owns the common surplus of the condominium unless the record owner of the unit and all record owners of liens on the unit ~~it~~ join in the execution of the amendment and unless all the record owners of all other units in the same condominium approve the amendment. The acquisition of property by the association, and material alterations or substantial additions to such property or the common elements by the association in accordance with s. 718.111(7) or s. 718.113, shall not be deemed to constitute a material alteration or modification of the appurtenances to the units. A declaration recorded after April 1, 1992, may not require the approval of less than a majority of total voting interests of the condominium for amendments under this subsection, unless otherwise required by a ~~any~~ governmental entity.

(9) If there is an omission or error in a declaration ~~of condominium~~, or in any other document required by law to establish the condominium, the association may correct the error or omission by an amendment to the declaration or to the other document required to create a condominium in the manner provided in the declaration to amend the declaration or, if none is provided, by vote of a majority of the voting interests of the condominium. The amendment is effective when passed and approved and a certificate of ~~the~~ amendment is executed and recorded as provided in subsections (2) and (3) ~~s. 718.104~~. This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of unit owners, unless the affected unit owners consent in writing. This subsection does not restrict the powers of the association to otherwise amend the declaration, or other documentation, but authorizes a simple process of amendment requiring a lesser vote for the purpose of curing defects, errors, or omissions when the property rights of unit owners are not materially or adversely affected.

(12)(a) With respect to an existing multicondominium association, any amendment to change the fractional or percentage share of liability for the common expenses of the association and ownership of the common surplus of the association must be approved by at least a majority of the total voting

interests of each condominium operated by the association unless the declarations of all condominiums operated by the association uniformly require approval by a greater percentage of the voting interests of each condominium.

(b) Unless approval by a greater percentage of the voting interests of an existing multicondominium association is expressly required in the declaration of an existing condominium, the declaration may be amended upon approval of at least a majority of the total voting interests of each condominium operated by the multicondominium association for the purpose of:

1. Setting forth in the declaration the formula currently utilized, but not previously stated in the declaration, for determining the percentage or fractional shares of liability for the common expenses of the multicondominium association and ownership of the common surplus of the multicondominium association.

2. Providing for the creation or enlargement of a multicondominium association by the merger or consolidation of two or more associations and changing the name of the association, as appropriate.

Section 52. Paragraphs (a) and (c) of subsection (12) and subsections (13), (14), and (15) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, when applicable, which shall constitute the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer pursuant to s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and of each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and of each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and of each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books which contain the minutes of all meetings of the association, of the board of directors, and of unit owners, which minutes shall be retained for a period of not less than 7 years.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium which the association operates~~, according to good accounting practices~~. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year.

12. Ballots, sign-in sheets, voting proxies, and all other papers relating to voting by unit owners, which shall be maintained for a period of 1 year from the date of the election, vote, or meeting to which the document relates.

13. All rental records, when the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described by s. 718.504.

15. All other records of the association not specifically included in the foregoing which are related to the operation of the association.

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request shall create a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this

paragraph. The minimum damages shall be $50 per calendar day up to 10 days, the calculation to begin on the 11th working day after receipt of the written request. The failure to permit inspection of the association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records for inspection. The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet provided for in s. 718.504 and year-end financial information required in this section on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. Notwithstanding the provisions of this paragraph, the following records shall not be accessible to unit owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502, and any record protected by the work-product privilege including any ~~A~~ record ~~which was~~ prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

3. Medical records of unit owners.

(13) FINANCIAL REPORTING ~~REPORTS~~.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or cause to be prepared and completed by a third party, a financial report for the preceding fiscal year. Within 21 days after the financial report is completed or received by the association from the third party, the association shall mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and shall adopt rules addressing financial reporting requirements for multicondominium associations. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare or cause to be prepared a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements shall be based upon the association's total annual revenues, as follows:

1. An association with total annual revenues of $100,000 or more, but less than $200,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least $200,000, but less than $400,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of $400,000 or more shall prepare audited financial statements.

(b)1. An association with total annual revenues of less than $100,000 shall prepare a report of cash receipts and expenditures.

2. An association which operates less than 50 units, regardless of the association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a).

3. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures, deferred maintenance, and any other category for which the association maintains reserves.

(c) An association may prepare or cause to be prepared, without a meeting of or approval by the unit owners:

1. Compiled, reviewed, or audited financial statements, if the association is required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the association is required to prepare compiled financial statements; or

3. Audited financial statements if the association is required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare or cause to be prepared:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. With respect to an association to which the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of financial reports for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the declaration is recorded. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer. ~~Within 60 days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the association, the board of administration of the association shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous 12 months, or a complete set of financial statements for the preceding fiscal year prepared in accordance with generally accepted accounting principles. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:~~

~~(a) Costs for security;~~

~~(b) Professional and management fees and expenses;~~

~~(c) Taxes;~~

~~(d) Costs for recreation facilities;~~

~~(e) Expenses for refuse collection and utility services;~~

~~(f) Expenses for lawn care;~~

~~(g) Costs for building maintenance and repair;~~

~~(h) Insurance costs;~~

~~(i) Administrative and salary expenses; and~~

~~(j) Reserves for capital expenditures, deferred maintenance, and any other category for which the association maintains a reserve account or accounts.~~

~~(14) The division shall adopt rules which may require that the association deliver to the unit owners, in lieu of the financial report required by subsection (13), a complete set of financial statements for the preceding fiscal year. The financial statements shall be delivered within 90 days following the end of the previous fiscal year or annually on such other date as provided by the bylaws. The rules of the division may require that the financial statements be compiled, reviewed, or audited, and the rules shall take into consideration the criteria set forth in s. 718.501(1)(j). The requirement to have the financial statements compiled, reviewed, or audited does not apply to associations when a majority of the voting interests of the association present at a duly called meeting of the association have determined for a fiscal year to waive this requirement. In an association in which~~

~~turnover of control by the developer has not occurred, the developer may vote to waive the audit requirement for the first 2 years of the operation of the association, after which time waiver of an applicable audit requirement shall be by a majority of voting interests other than the developer. The meeting shall be held prior to the end of the fiscal year, and the waiver shall be effective for only 1 fiscal year. This subsection does not apply to a condominium which consists of 50 or fewer units.~~

(14)~~(15)~~ COMMINGLING.—All funds collected by an association shall be maintained separately in the association's name. For investment purposes only, reserve funds may be commingled with operating funds of the association. Commingled operating and reserve funds shall be accounted for separately and a commingled account shall not, at any time, be less than the amount identified as reserve funds. This subsection does not prohibit a multicondominium association from commingling the operating funds of separate condominiums or the reserve funds of separate condominiums. Furthermore, for investment purposes only, a multicondominium association may commingle the operating funds of separate condominiums with the reserve funds of separate condominiums. A manager or business entity required to be licensed or registered under s. 468.432, or an agent, employee, officer, or director of an association, shall not commingle any association funds with his or her funds or with the funds of any other condominium association or the funds of a community association as defined in s. 468.431. ~~All funds shall be maintained separately in the association's name. Reserve and operating funds of the association shall not be commingled unless combined for investment purposes. This subsection is not meant to prohibit prudent investment of association funds even if combined with operating or other reserve funds of the same association, but such funds must be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds in the combined account. No manager or business entity required to be licensed or registered under s. 468.432, and no agent, employee, officer, or director of a condominium association shall commingle any association funds with his or her funds or with the funds of any other condominium association or community association as defined in s. 468.431.~~

Section 53. Paragraphs (d), (e), and (f) of subsection (2) of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(d) Unit owner meetings.—

1. There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, a vacancy on the board ~~of administration~~ caused by the expiration of a director's term shall be filled by electing a new board member, and the election shall be by secret ballot; however, if the number of vacancies equals or exceeds the number of candidates, no election is required. If there is no provision in the bylaws for terms of the members of

the board ~~of administration~~, the terms of all members of the board ~~of administration~~ shall expire upon the election of their successors at the annual meeting. Any unit owner desiring to be a candidate for board membership shall comply with subparagraph 3. ~~In order to be eligible for board membership, a person must meet the requirements set forth in the declaration.~~ A person who has been convicted of any felony by any court of record in the United States and who has not had his or her right to vote restored pursuant to law in the jurisdiction of his or her residence is not eligible for board membership. The validity of an action by the board is not affected if it is later determined that a member of the board is ineligible for board membership due to having been convicted of a felony.

2. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice, which notice must include an agenda, shall be mailed or hand delivered to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted; however, if there is no condominium property or association property upon which notices can be posted, this requirement does not apply. Unless a unit owner waives in writing the right to receive notice of the annual meeting ~~by mail~~, such ~~the~~ notice ~~of the annual meeting~~ shall be hand delivered or mailed ~~sent by mail~~ to each unit owner. Notice for meetings and notice for all other purposes shall be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if ~~Where~~ a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision~~, to each unit owner at the address last furnished to the association~~.

3. The members of the board ~~of administration~~ shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the board ~~of administration~~, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. Not less than 60 days before a scheduled election, the association shall mail or deliver, whether by separate association mailing or included in another association mailing or delivery including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board ~~of administration~~ must give written notice to the association not less than 40 days before a scheduled election. Together with

the written notice and agenda as set forth in subparagraph 2., the association shall mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing or delivery and copying to be borne by the association. ~~However,~~ The association is not liable ~~has no liability~~ for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with the provisions contained herein, including rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board ~~of administration~~. No unit owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed invalid, provided any unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. ~~Any unit owner violating this provision may be fined by the association in accordance with s. 718.303.~~ The regular election shall occur on the date of the annual meeting. The provisions of this subparagraph shall not apply to timeshare condominium associations. Notwithstanding the provisions of this subparagraph, an election is ~~and balloting are~~ not required unless more candidates file notices of intent to run or are nominated than board vacancies exist ~~on the board~~.

4. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any statute that provides for such action.

5. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any statute.

6. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

7. Any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

8. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote

of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 3. unless the association has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division.

Notwithstanding subparagraphs (b)2. and (d)3., an association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(e) Budget meeting.—

1. Any meeting at which a proposed annual budget of an association will be considered by the board or unit owners shall be open to all unit owners. At least 14 days prior to such a meeting, the board shall hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the association by the unit owner, a notice of such meeting and a copy of the proposed annual budget. An officer or manager of the association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement and such affidavit shall be filed among the official records of the association.

2.a. If a board adopts in any fiscal year an annual budget which requires assessments against unit owners which exceed 115 percent of assessments for the preceding fiscal year, the board shall conduct a special meeting of the unit owners to consider a substitute budget if the board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all voting interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the board shall hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the association, a notice of the meeting. An officer or manager of the association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement and such affidavit shall be filed among the official records of the association. Unit owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests unless the bylaws require adoption by a greater percentage of voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the board shall take effect as scheduled.

b. Any determination of whether assessments exceed 115 percent of assessments for the prior fiscal year shall exclude any authorized provision for

reasonable reserves for repair or replacement of the condominium property, anticipated expenses of the association which the board does not expect to be incurred on a regular or annual basis, or assessments for betterments to the condominium property.

c. If the developer controls the board, assessments shall not exceed 115 percent of assessments for the prior fiscal year unless approved by a majority of all voting interests. ~~The board of administration shall hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the association, a meeting notice and copies of the proposed annual budget of common expenses not less than 14 days prior to the meeting of the unit owners or the board of administration at which the budget will be considered. Evidence of compliance with this 14-day notice must be made by an affidavit executed by an officer of the association or the manager or other person providing notice of the meeting and filed among the official records of the association. The meeting must be open to the unit owners. If an adopted budget requires assessments against the unit owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, the board, upon written application of 10 percent of the voting interests to the board, shall call a special meeting of the unit owners within 30 days upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget. Unless the bylaws require a larger vote, the adoption of the budget requires a vote of not less than a majority vote of all the voting interests. The board of administration may propose a budget to the unit owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interests in writing, the budget is adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, the budget adopted by the board of directors goes into effect as scheduled. In determining whether assessments exceed 115 percent of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, anticipated expenses by the condominium association which are not anticipated to be incurred on a regular or annual basis, or assessments for betterments to the condominium property must be excluded from the computation. However, as long as the developer is in control of the board of administration, the board may not impose an assessment for any year greater than 115 percent of the prior fiscal or calendar year's assessment without approval of a majority of all the voting interests.~~

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(21) ~~s. 718.504(20)~~. A multicondominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule

attached thereto shall show amounts budgeted therefor. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) ~~s. 718.504(20)~~ are not applicable, they need not be listed.

2. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget ~~budgets~~ in which the members of an association have determined, by a majority vote at a duly called meeting of the association, ~~and voting determined for a fiscal year~~ to provide no reserves or less reserves ~~less adequate~~ than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 fiscal years of the association's operation ~~of the association~~, beginning with the fiscal year in which the initial declaration is recorded, after which time reserves may be waived or reduced only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of ~~to provide no reserves or~~ reserves ~~less adequate than required~~, and no such result is achieved ~~not attained~~ or a quorum is not attained, the reserves as included in the budget shall go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

4. In a multicondominium association, the only voting interests which are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question.

Section 54. Subsection (2) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters.—

(2)(a) Except as otherwise provided in this section, there shall be no material alteration or substantial additions to the common elements or to real property which is association property, except in a manner provided in the declaration. If the declaration does not specify the procedure for approval of material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions.

(b) There shall not be any material alteration of, or substantial addition to, the common elements of any condominium operated by a multicondominium association unless approved in the manner provided in the declaration of the affected condominium or condominiums. If a declaration does not specify a procedure for approving such an alteration or addition, the approval of 75 percent of the total voting interests of each affected condominium is required. This subsection does not prohibit a provision in any declaration, articles of incorporation, or bylaws requiring the approval of unit owners in any condominium operated by the same association or requiring board approval before a material alteration or substantial addition to the common elements is permitted.

(c) There shall not be any material alteration or substantial addition made to association real property operated by a multicondominium association, except as provided in the declaration, articles of incorporation, or bylaws. If the declaration, articles of incorporation, or bylaws do not specify the procedure for approving an alteration or addition to association real property, the approval of 75 percent of the total voting interests of the association is required.

Section 55. Section 718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.—

(1)(a) Common expenses include the expenses of the operation, maintenance, repair, replacement, or protection of the common elements and association property, costs of carrying out the powers and duties of the association, and any other expense, whether or not included in the foregoing, designated as common expense by this chapter, the declaration, the documents creating the association, or the bylaws. Common expenses also include reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, in-house communications, and security services, which are reasonably related to the general benefit of the unit owners even if such expenses do not attach to the common elements or property of the condominium. However, such common expenses must either have been services or items provided on or after ~~from~~ the date ~~the~~ control ~~of the board of administration~~ of the association is ~~was~~ transferred from the developer to the unit owners or must be services or items provided for in the condominium documents or bylaws.

(b) The common expenses of a condominium within a multicondominium are the common expenses directly attributable to the operation of that con-

dominium. The common expenses of a multicondominium association do not include the common expenses directly attributable to the operation of any specific condominium or condominiums within the multicondominium.

(c) The common expenses of a multicondominium association may include categories of expenses related to the property or common elements within a specific condominium in the multicondominium if such property or common elements are areas in which all members of the multicondominium association have use rights or from which all members receive tangible economic benefits. Such common expenses of the association shall be identified in the declaration or bylaws of each condominium within the multicondominium association.

(d)~~(b)~~ If so provided in the declaration, the cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall be deemed a common expense. If the declaration does not provide for the cost of a master antenna television system or duly franchised cable television service obtained under a bulk contract as a common expense, the board ~~of administration~~ may enter into such a contract, and the cost of the service will be a common expense but allocated on a per-unit basis rather than a percentage basis if the declaration provides for other than an equal sharing of common expenses, and any contract entered into before July 1, 1998, in which the cost of the service is not equally divided among all unit owners, may be changed by vote of a majority of the voting interests present at a regular or special meeting of the association, to allocate the cost equally among all units. The contract shall be for a term of not less than 2 years.

1. Any contract made by the board after the effective date hereof for a community antenna system or duly franchised cable television service may be canceled by a majority of the voting interests present at the next regular or special meeting of the association. Any member may make a motion to cancel said contract, but if no motion is made or if such motion fails to obtain the required majority at the next regular or special meeting, whichever is sooner, following the making of the contract, then such contract shall be deemed ratified for the term therein expressed.

2. Any such contract shall provide, and shall be deemed to provide if not expressly set forth, that any hearing impaired or legally blind unit owner who does not occupy the unit with a non-hearing-impaired or sighted person, or any unit owner receiving supplemental security income under Title XVI of the Social Security Act or food stamps as administered by the Department of Children and Family Services pursuant to s. 414.31, may discontinue the service without incurring disconnect fees, penalties, or subsequent service charges, and as to such units, the owners shall not be required to pay any common expenses charge related to such service. If less than all members of an association share the expenses of cable television, the expense shall be shared equally by all participating unit owners. The association may use the provisions of s. 718.116 to enforce payment of the shares of such costs by the unit owners receiving cable television.

(e)~~(c)~~ The expense of installation, replacement, operation, repair, and maintenance of hurricane shutters by the board pursuant to s. 718.113(5)

shall constitute a common expense as defined herein and shall be collected as provided in this section. Notwithstanding the provisions of s. 718.116(9), a unit owner who has previously installed hurricane shutters in accordance with s. 718.113(5) or laminated glass architecturally designed to function as hurricane protection which complies with the applicable building code shall receive a credit equal to the pro rata portion of the assessed installation cost assigned to each unit. However, such unit owner shall remain responsible for the pro rata share of expenses for hurricane shutters installed on common elements and association property by the board pursuant to s. 718.113(5), and shall remain responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such shutters.

(f)~~(d)~~ If any unpaid share of common expenses or assessments is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of common expenses or assessments are common expenses collectible from all the unit owners in the condominium in which the unit is located.

(2) Except as otherwise provided by this chapter, funds for ~~the~~ payment of the common expenses of a condominium shall be collected by assessments against the units in that condominium ~~unit owners~~ in the proportions or percentages provided in that condominium's ~~the~~ declaration. In a residential condominium, or mixed-use condominium created after January 1, 1996, each unit's share ~~unit owners' shares~~ of the common expenses of the condominium and common surplus of the condominium shall be the same as the unit's appurtenant ~~in the same proportions as their~~ ownership interest in the common elements.

(3) Common surplus is owned by unit owners in the same shares as their ownership interest in the common elements.

(4)(a) Funds for payment of the common expenses of a condominium within a multicondominium shall be collected as provided in subsection (2). Common expenses of a multicondominium association shall be funded by assessments against all unit owners in the association in the proportion or percentage set forth in the declaration as required by s. 718.104(4)(h) or s. 718.110(12), as applicable.

(b) In a multicondominium association, the total common surplus owned by a unit owner consists of that owner's share of the common surplus of the association plus that owner's share of the common surplus of the condominium in which the owner's unit is located, in the proportion or percentage set forth in the declaration as required by s. 718.104(4)(h) or s. 718.110(12), as applicable.

Section 56. Subsection (9) of section 718.116, Florida Statutes, is amended to read:

(Substantial rewording of subsection. See
s. 718.116(9), F.S., for present text.)

718.116 Assessments; liability; lien and priority; interest; collection.—

(9)(a) A unit owner may not be excused from payment of the unit owner's share of common expenses unless all other unit owners are likewise proportionately excluded from payment, except as provided in subsection (1) and in the following cases:

1. If authorized by the declaration, a developer who is offering units for sale may elect to be excused from payment of assessments against those unsold units for a stated period of time after the declaration is recorded. However, the developer must pay common expenses incurred during such period which exceed regular periodic assessments against other unit owners in the same condominium. The stated period must terminate no later than the first day of the fourth calendar month following the month in which the first closing occurs of a purchase contract for a unit in that condominium. If a developer-controlled association has maintained all insurance coverage required by s. 718.111(11)(a), common expenses incurred during the stated period resulting from a natural disaster or an act of God occurring during the stated period, which are not covered by proceeds from insurance maintained by the association, may be assessed against all unit owners owning units on the date of such natural disaster or act of God, and their respective successors and assigns, including the developer with respect to units owned by the developer. In the event of such an assessment, all units shall be assessed in accordance with s. 718.115(2).

2. A developer who owns condominium units, and who is offering the units for sale, may be excused from payment of assessments against those unsold units for the period of time the developer has guaranteed to all purchasers or other unit owners in the same condominium that assessments will not exceed a stated dollar amount and that the developer will pay any common expenses that exceed the guaranteed amount. Such guarantee may be stated in the purchase contract, declaration, prospectus, or written agreement between the developer and a majority of the unit owners other than the developer and may provide that after the initial guarantee period, the developer may extend the guarantee for one or more stated periods. If a developer-controlled association has maintained all insurance coverage required by s. 718.111(11)(a), common expenses incurred during a guarantee period, as a result of a natural disaster or an act of God occurring during the same guarantee period, which are not covered by the proceeds from such insurance, may be assessed against all unit owners owning units on the date of such natural disaster or act of God, and their successors and assigns, including the developer with respect to units owned by the developer. Any such assessment shall be in accordance with s. 718.115(2) or (4), as applicable.

(b) If the purchase contract, declaration, prospectus, or written agreement between the developer and a majority of unit owners other than the developer, provides for the developer to be excused from payment of assessments under paragraph (a), only regular periodic assessments for common expenses as provided for in the declaration and prospectus and disclosed in the estimated operating budget shall be used for payment of common expenses during any period in which the developer is excused. Accordingly, no funds which are receivable from unit purchasers or unit owners and payable to the association, including capital contributions or startup funds collected

from unit purchasers at closing, may be used for payment of such common expenses.

(c) If a developer of a multicondominium is excused from payment of assessments under paragraph (a), the developer's financial obligation to the multicondominium association during any period in which the developer is excused from payment of assessments is as follows:

1. The developer shall pay the common expenses of a condominium affected by a guarantee, including the funding of reserves as provided in the adopted annual budget of that condominium, which exceed the regular periodic assessments at the guaranteed level against all other unit owners within that condominium.

2. The developer shall pay the common expenses of a multicondominium association, including the funding of reserves as provided in the adopted annual budget of the association, which are allocated to units within a condominium affected by a guarantee and which exceed the regular periodic assessments against all other unit owners within that condominium.

Section 57. Subsection (11) is added to section 718.117, Florida Statutes, to read:

718.117 Termination.—

(11) This section does not apply to the termination of a condominium incident to a merger of that condominium with one or more other condominiums under s. 718.110(7).

Section 58. Subsection (8) of section 718.403, Florida Statutes, is amended to read:

718.403 Phase condominiums.—

(8) Upon recording the declaration of condominium or amendments adding phases pursuant to this section, the developer shall file the recording information with the division within 120 Calendar ~~30 working~~ days on a form prescribed by the division.

Section 59. Section 718.405, Florida Statutes, is created to read:

718.405 Multicondominiums; multicondominium associations.—

(1) An association may operate more than one condominium if the declaration for each condominium to be operated by that association provides for participation in a multicondominium, in conformity with this section, and discloses or describes:

(a) The manner or formula by which the assets, liabilities, common surplus, and common expenses of the association will be apportioned among the units within the condominiums operated by the association, in accordance with s. 718.104(4)(g) or (h), as applicable.

(b) Whether unit owners in any other condominium, or any other persons, will or may have the right to use recreational areas or any other

facilities or amenities that are common elements of the condominium, and, if so, the specific formula by which the other users will share the common expenses related to those facilities or amenities.

(c) Recreational and other commonly used facilities or amenities which the developer has committed to provide that will be owned, leased by, or dedicated by a recorded plat to the association but which are not included within any condominium operated by the association. The developer may reserve the right to add additional facilities or amenities if the declaration and prospectus for each condominium to be operated by the association contains the following statement in conspicuous type and in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

(d) The voting rights of the unit owners in the election of directors and in other multicondominium association affairs when a vote of the owners is taken, including, but not limited to, a statement as to whether each unit owner will have a right to personally cast his or her own vote in all matters voted upon.

(2) If any declaration requires a developer to convey additional lands or facilities to a multicondominium association and the developer fails to do so within the time specified, or within a reasonable time if none is specified in the declaration, any unit owner or the association may enforce that obligation against the developer or bring an action against the developer for specific performance or for damages that result from the developer's failure or refusal to convey the additional lands or facilities.

(3) The declaration for each condominium to be operated by a multicondominium association may not, at the time of the initial recording of the declaration, contain any provision with respect to allocation of the association's assets, liabilities, common surplus, or common expenses which is inconsistent with this chapter or the provisions of a declaration for any other condominium then being operated by the multicondominium association.

(4) This section does not prevent or restrict the formation of a multicondominium by the merger or consolidation of two or more condominium associations. Mergers or consolidations of associations shall be accomplished in accordance with this chapter, the declarations of the condominiums being merged or consolidated, and chapter 617. Section 718.110(4) does not apply to amendments to declarations necessary to effect a merger or consolidation.

Section 60. Section 718.5019, Florida Statutes, is repealed.

Section 61. Present subsections (15) through (27) of section 718.504, Florida Statutes, are redesignated as subsections (16) through (28), respectively, and a new subsection (15) is added to that section, to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential

units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales, Condominiums, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which shall be in accordance with a format approved by the division and a copy of the financial information required by s. 718.111. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(15) If the condominium is or may become part of a multicondominium, the following information must be provided:

(a) A statement in conspicuous type in substantially the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following this statement, the location in the prospectus or offering circular and its exhibits where the multicondominium aspects of the offering are described must be stated.

(b) A summary of the provisions in the declaration, articles of incorporation, and bylaws which establish and provide for the operation of the multicondominium, including a statement as to whether unit owners in the condominium will have the right to use recreational or other facilities located or planned to be located in other condominiums operated by the same association, and the manner of sharing the common expenses related to such facilities.

(c) A statement of the minimum and maximum number of condominiums, and the minimum and maximum number of units in each of those condominiums, which will or may be operated by the association, and the latest date by which the exact number will be finally determined.

(d) A statement as to whether any of the condominiums in the multicondominium may include units intended to be used for nonresidential purposes and the purpose or purposes permitted for such use.

(e) A general description of the location and approximate acreage of any land on which any additional condominiums to be operated by the association may be located.

Section 62. Paragraph (j) of subsection (1) of section 718.501, Florida Statutes, is repealed.

Section 63. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 64. This act shall take effect upon becoming a law; however, all documents filed and approved in accordance with chapter 721, Florida Statutes, prior to the effective date of this act, or any amendments to such documents made subsequent to the date this act becomes a law that are otherwise in compliance with chapter 721, Florida Statutes, prior to the effective date of this act, shall be deemed to be in compliance with the filing requirements of chapter 721, Florida Statutes.

Approved by the Governor June 15, 2000.

Filed in Office Secretary of State June 15, 2000.