

Committee Substitute for Senate Bill No. 1208

An act relating to timeshare plans; amending s. 721.02, F.S.; revising language with respect to legislative purpose under the Florida Vacation Plan and Timesharing Act; amending s. 721.03, F.S.; revising language with respect to the scope of the act to include reference to personal property timeshare plans; amending s. 721.05, F.S.; providing definitions; amending s. 721.06, F.S.; revising language with respect to contracts for purchase of timeshare interests to include provisions with respect to personal property timeshare interests; amending s. 721.065, F.S.; revising language with respect to resale purchase agreements to include reference to certain real property and personal property timeshare plans; amending s. 721.07, F.S.; revising language with respect to public offering statements; amending s. 721.075, F.S.; revising language with respect to incidental benefits; requiring purchasers to execute a statement indicating the source of the benefit; amending s. 721.08, F.S.; revising language with respect to escrow accounts; amending s. 721.09, F.S.; revising language with respect to reservation agreements; amending s. 721.11, F.S.; revising language with respect to advertising materials; correcting cross-references; amending s. 721.12, F.S.; providing for required recordkeeping by the seller of a personal property timeshare plan; amending s. 721.13, F.S.; revising language with respect to management; correcting a cross-reference; amending s. 721.14, F.S.; providing that a section of law governing the discharge of the managing entity shall not apply with respect to personal property timeshare plans; amending s. 721.15, F.S.; revising language with respect to assessments for common expenses; amending s. 721.16, F.S.; providing that a section of law governing certain liens does not apply to personal property timeshare plans; amending s. 721.17, F.S.; revising language with respect to transfer of interest; amending s. 721.18, F.S.; revising language with respect to exchange programs; amending s. 721.19, F.S.; including reference to personal property timeshare interests; amending s. 721.20, F.S., relating to licensing requirements; providing for the application of certain provisions to personal property timeshare plans; amending s. 721.24, F.S.; exempting accommodations and facilities of personal property timeshare plans from a provision of law governing firesafety; amending s. 721.26, F.S.; revising language with respect to regulation by the division; amending s. 721.52, F.S.; redefining the term "multisite timeshare plan" and defining the terms "nonspecific multisite timeshare plan" and "specific multisite timeshare plan"; amending s. 721.53, F.S.; revising language with respect to subordination instruments; amending s. 721.54, F.S.; correcting a cross-reference; amending s. 721.55, F.S.; providing reference to filed rather than registered public offering statements; providing reference to multisite timeshare plans; amending s. 721.551, F.S.; providing for reference to filed rather than registered public offering statements; amending s. 721.552, F.S.; providing reference to multistate timeshare plans; amending s. 721.56, F.S.; providing reference to

personal property timeshare plans; amending s. 721.57, F.S.; revising language with respect to timeshare estates in multisite timeshare plans; amending s. 721.84, F.S.; revising language with respect to appointment of a registered agent; amending ss. 721.96 and 721.97, F.S.; including reference to personal property timeshare interests; including a possession, territory, or commonwealth of the United States that is located outside the 50 states in the areas where the Governor may appoint a timeshare commissioner of deeds; amending ss. 475.011 and 718.103, F.S.; correcting cross-references; providing for applicability; providing an effective date.

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

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

721.02 Purposes.—The purposes of this chapter are to:

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

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

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

721.03 Scope of chapter.—

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

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

(b) The division shall have the authority to adopt rules interpreting and implementing the provisions of this chapter as they apply to any personal property timeshare plan or any such accommodation or facility that is part

of a personal property timeshare plan offered in this state, or as the provisions of this chapter they apply to any other laws of this state, of the several states, or of the United States, or of any other jurisdiction, with respect to any personal property timeshare plan or any such accommodation or facility that is part of a personal property timeshare plan offered in this state.

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

Section 3. 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, cruise ship cabin, houseboat or other vessel, recreational or other motor vehicle, or any or other private or commercial structure which is situated on real or personal property and designed for overnight 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) “Agreement for transfer” means any written contract utilized in the sale of personal property timeshare interests which provides that legal title will not be transferred 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.

~~(4)~~(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.

~~(5)~~(4) “Closing” means:

(a) For any plan selling timeshare estates, conveyance of the legal or beneficial title to a timeshare estate 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 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 or personal property timeshare interests, 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.

~~(6)~~(5) “Common expenses” means:

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

(b) Any other expenses, fees, or taxes 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.

~~(7)~~(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; or

3. With respect to personal property timeshare plans, that all accommodations have been manufactured or built and acquired or leased by the developer, owners’ association, managing entity, trustee, or other person for the use of purchasers as set forth in the timeshare instrument; 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 filed registered public offering statements.

~~(8)~~(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, 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.

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

(10)~~(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 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 in the ordinary course of business.

(d) The term “developer” does not include:

1. An owner of a timeshare interest who has acquired the timeshare interest 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 did not acquire them for his or her own use and occupancy;

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

3. A person who owns or is conveyed, assigned, or transferred more than seven timeshare interests and who subsequently conveys, assigns, or transfers all acquired timeshare interests 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.

~~(11)~~~~(10)~~ “Division” means the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation.

~~(12)~~~~(11)~~ “Enrolled” means paid membership in an exchange program or membership in an exchange program evidenced by written acceptance or confirmation of membership.

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

~~(14)~~~~(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;

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

(d) A title insurance agent that is licensed pursuant to s. 626.8417, 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.

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

~~(16)~~~~(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.

~~(17)~~~~(16)~~ “Facility” means any amenity, including any structure, furnishing, fixture, equipment, service, improvement, or real or personal property, improved or unimproved, other than an ~~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.

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

~~(19)~~(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 ~~(16)~~ (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.

~~(20)~~(18) “Independent,” for purposes of determining eligibility of escrow agents and trustees pursuant to s. 721.03(7), 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.

~~(21)~~(19) “Interestholder” means a developer, an owner of the underlying fee or owner of the underlying personal property, 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.

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

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

~~(24)~~(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.

~~(25)~~(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).

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

~~(27)~~(25) “Owners’ association” means an ~~the~~ association made up of all owners of timeshare interests in a timeshare plan, including developers and purchasers of such a timeshare plan who have purchased timeshare estates.

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

~~(29)~~(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 filed registered public offering statement and a purchaser public offering statement.

(30)~~(27)~~ “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.

(31)~~(28)~~ “Purchaser public offering statement” means that portion of the filed ~~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.~~

(32)~~(30)~~ “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.

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

(a) An owner of a timeshare interest who has acquired the timeshare interest 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 did not acquire them for his or her own use and occupancy;

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

(c) A person who owns or is conveyed, assigned, or transferred more than seven timeshare interests and who subsequently conveys, assigns, or transfers all acquired timeshare interests 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.

~~(34)~~⁽³²⁾ “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)~~4,3~~, provided that the trust does not contain any personal property timeshare interests. A timeshare estate is a parcel of real property under the laws of this state.

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

~~(36)~~⁽³⁴⁾ “Timeshare interest” means a timeshare estate, a personal property timeshare interest, or a timeshare license.

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

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

~~(39)~~⁽³⁷⁾ “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. The term “timeshare plan” includes:

(a) A “personal property timeshare plan,” which means a timeshare plan in which the accommodations are comprised of personal property that is not permanently affixed to real property; and

(b) A “real property timeshare plan,” which means a timeshare plan in which the accommodations of the timeshare plan are comprised of or permanently affixed to real property.

~~(40)~~⁽³⁸⁾ “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.

~~(41)~~⁽³⁹⁾ “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) “Vacation ownership plan” means any timeshare plan consisting exclusively of timeshare estates.~~

~~(41) “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 4. Section 721.06, Florida Statutes, is amended to read:

721.06 Contracts for purchase of timeshare interests.—

(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 and the timeshare plan.

(c) 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)1. For real property timeshare plans, an estimate of any anticipated annual assessment stated on an annually recurring basis for any use charges, fees, charge and the next year’s estimated annual assessment for common expenses, or and for ad valorem taxes or, if an estimate for next year’s assessment is unavailable, the current year’s actual annual assessment for any use charges, fees, common expenses, or and for ad valorem taxes.

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

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

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

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

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

3. You may cancel this contract without any penalty or obligation within 10 calendar days after the date you sign this contract or the date on which you receive the last of all documents required to be given to you pursuant to section 721.07(6), Florida Statutes, whichever is later. 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 ...(Name of Seller)... at ...(Address of Seller).... 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.

(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 is being sold pursuant to an agreement for deed or an agreement for transfer, a statement that the signing of the agreement for deed or agreement for transfer does not entitle the purchaser to receive the conveyance or transfer of his or her timeshare estate or personal property timeshare interest ~~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, and claims of other interestholders,~~ a statement that the developer is not the sole owner of the underlying fee or owner of the underlying personal property or that the such accommodations or facilities are subject to ~~without~~ liens or encumbrances, which statement shall include:

1. The names and addresses of all ~~other interestholders 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.

(1) If the purchaser will receive an interest in a multisite timeshare plan pursuant to part II, a 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 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 filed with the division, to be maintained by the managing entity for inspection as part of the books and records of the plan.

(m) 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)(a) 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. A form copy of such instrument must be filed with the division for review pursuant to s. 721.07.

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

(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.

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

721.065 Resale purchase agreements.—

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

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

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

The current year's assessment for common expenses allocable to the timeshare interest 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 you are purchasing is \$.....) (If there are any delinquent assessments for common expenses or ad valorem taxes outstanding with respect to the timeshare interest 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 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, including the declaration of condominium or covenants and restrictions; the owners' 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.

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

The current year's assessment for any common expenses, use charges, fees, or taxes allocable to the timeshare interest 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 (If there are any delinquent assessments for common expenses, use charges, fees, or taxes outstanding with respect to the timeshare interest in question, the following statement must be included: A delinquency in the amount of \$.... for unpaid common expenses, use charges, fees, or taxes currently exists with respect to the timeshare interest you are purchasing, together with a per diem charge of \$.... for interest and late charges.) 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, including any owners' 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.

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

721.07 Public offering statement.—Prior to offering any timeshare plan, the developer must submit a ~~filed registered~~ public offering statement to 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 timeshare plan is subject to cancellation voidable by the purchaser pursuant to s. 721.10.

(1) The division shall, upon receiving a ~~filed 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 ~~filed 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 ~~filed 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 ~~filed 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 the date on which you receive the last of all documents required to be given to you pursuant to section 721.07(6), Florida Statutes, or 10 calendar days after you receive revisions required to be delivered to you, if any, whichever is later. 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 (Name of Seller) at (Address of Seller). 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.

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].

(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 be delivered to purchasers who do not receive a timeshare estate or an interest in a specific multisite timeshare plan 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 the purchaser or lessee will have a 10-day voidability period.

(4)(a) Upon the filing of a ~~filed~~ 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.

(b) Upon the filing of an amendment to an approved filed 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 filed registered public offering statement for a timeshare plan which is not a multisite 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. The statements contained in this public offering statement are only summary in nature. A prospective purchaser should refer to all references, accompanying exhibits, 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 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).

(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. If the plan is a plan in which timeshare estates or personal property timeshare interests 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. If the plan is a personal property timeshare plan, a description of the material terms of the arrangement for the ownership or use of the personal property 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.

4. If ownership or use of the timeshare plan is based on a point system, a statement indicating the circumstances by which the point values may

change, the extent of such changes, and the person or entity responsible for the changes.

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

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

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

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.

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

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

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

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

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

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

3. A statement as to whether the facilities will 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 any portion of the maintenance and expenses of such facilities.

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

timeshare plan; or, There is a club membership associated with one or more facilities of the timeshare plan.

2. If it is mandatory that purchasers pay fees, rent, dues, or other charges under a 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 facilities club is mandatory for purchasers;
- b. Purchasers or the owners' association(s) are required, as a condition of ownership, to be lessees under the facilities lease;
- c. Purchasers or the owners' association(s) are required to pay their share of the rent or costs and expenses of maintenance, management, upkeep, and replacement under the 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.

3. If the purchasers are required to pay a use 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 owners' association(s) must pay use fees for one or more facilities. Immediately following this statement, a description of the use fees shall be included.

4. If any person other than the owners' association has the right to a lien on the timeshare interests 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 to secure the payment of rent and other exactions under the facilities 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 to secure the payment of assessments or other exactions coming due for the use, maintenance, upkeep, or repair of one or more 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.

(i) If the developer or any other person has the right to increase or add to the facilities at any time after the establishment of the timeshare plan,

without the consent of the purchasers or owners' association being required, a statement in conspicuous type in substantially the following form: Facilities may be expanded or added without consent of the purchasers or the owners' association(s). Immediately following this statement, a description of such reserved rights shall be included.

(j)1. For a real property timeshare plan, 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.

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

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

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

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

(o) 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. In the case of a personal

property timeshare plan in which the accommodations or facilities are located on or in a documented vessel or foreign vessel as provided in s. 721.08(2)(c)3.e., a statement shall be included that describes the trustee's or owners' association's access to the certificates of classification and that the certificate of classification will be made available to purchasers on request.

(p) If any person other than the purchasers has the right to retain control of the board of administration of the owners' association, if any, for a period of time which may exceed 1 year after the closing of the sale of a majority of the timeshare interests 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 owners' association, a statement in conspicuous type in substantially the following form: The developer (or other person) has the right to retain control of the owners' association after a majority of the timeshare interests have been sold. Immediately following this statement, a description of the applicable transfer of control provisions of the timeshare plan shall be included.

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

2. The following statement in conspicuous type in substantially the following form: The purchase of a timeshare interest 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 may be resold.

(r) 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 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) A description of the material restrictions, if any, to be imposed on timeshare interests 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 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) If there is any land or personal property that is offered by the developer for use by the purchasers and which is neither owned by them nor leased to them, the owners' association, or any entity controlled by the purchasers, a statement describing the land or personal property, how it will serve the timeshare plan, and the nature and term of service.

(u) An estimated operating budget for the timeshare plan and a schedule of the purchaser's expenses 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, 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 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, including:-

(A) Reserves for deferred maintenance or capital expenditures of accommodations and facilities of a real property timeshare plan, if any. All reserves for any accommodations and facilities of real property timeshare plans 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 of real property timeshare plans 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.

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

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

- (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 lease for the use of facilities, which use and payment is a mandatory condition of ownership and is not included in the common expenses or assessments for common maintenance paid by the purchasers to the managing entity.

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) A schedule of estimated closing expenses to be paid by a purchaser or lessee of a timeshare interest 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) 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.

(x) 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) 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) A statement of the purchaser's right of cancellation of the purchase contract.

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

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

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

1. The declaration of condominium.
2. The cooperative documents.
3. The declaration of covenants and restrictions.
4. The articles of incorporation creating the owners' association.
5. The bylaws of the owners' association.
6. Any ~~The~~ ground lease or other underlying lease of the real property associated with ~~on which~~ the timeshare plan ~~is situated~~. In the case of a personal property timeshare plan, any lease of the personal property associated with the personal property timeshare plan.
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.
11. A declaration of servitude of properties serving the accommodations and facilities, but not owned by purchasers or leased to them or the owners' association.
12. Any documents required by s. 721.03(3)(e) as the result of the inclusion of a timeshare plan in the conversion of the building to condominium or cooperative ownership.
13. The form of agreement for sale or lease of timeshare interests.
14. 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, if any, to be made into an ad valorem tax escrow account pursuant to s. 192.037(6).
15. The documents containing any restrictions on use of the property required by paragraph (s).
16. A letter from the escrow agent or filing attorney confirming that the escrow agent and its officers, directors, or other partners are independent pursuant to the requirements of this chapter.

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

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

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

20.16. Any other documents or instruments creating the timeshare plan.

(gg) 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). 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) Notwithstanding the provisions of this subsection, the filed 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 filed 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 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)1., 2., 4., 5., 8., and 20. 16.

(c) A receipt for timeshare plan documents and a list describing any exhibit to the filed 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 filed registered public offering statement

pursuant to this section. The developer shall be required to provide the managing entity with a copy of the approved ~~filed~~ ~~registered~~ public offering statement 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.

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

Section 7. Paragraph (g) of subsection (1) of section 721.075, Florida Statutes, is amended and paragraph (e) is added to subsection (2) of that section, 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 which would otherwise apply to such accommodations or facilities if and only if:

(g) The incidental benefit is filed with the division for review 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:

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

Section 8. 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 other 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 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 other 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 other 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 after 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 other 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 seller sells the timeshare interest, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or other 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. Timeshare licenses.—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 other property to or on the order of the developer 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:

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

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

b. A certified copy of each ~~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 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 subparagraph 4. ~~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. Timeshare estates.—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 other property to or on the order of the developer 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 each accommodation and facility:

(I) 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;

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

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

- d. Evidence that the timeshare estate:

(I) 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

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

3. Personal property timeshare interests.—If the timeshare plan is one in which personal property timeshare interests 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 other property to or on the order of the developer 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. If the personal property timeshare interest is sold by agreement for transfer, evidence that the agreement for transfer complies fully with s. 721.06 and this section.

c. Evidence that one of the following has occurred:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Trust.—

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

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 pursuant to subsection (3) as described in this section. No transfer pursuant to this ~~subparagraph~~ sub-subparagraph shall become effective until the trustee accepts such transfer and the responsibilities set forth herein. A trust established pursuant to this ~~subparagraph~~ 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 after 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 and trustee holding such property shall be deemed in compliance with the requirements of this subparagraph if such trust and trustee are 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.

5. Owners' association.—

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

b. Prior to the transfer by each interestholder of the subject accommodations and facilities, or all use rights therein, to an owners' association, 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 pursuant to subsection (3). No transfer pursuant to this subparagraph shall become effective until the owners' association accepts such transfer and the responsibilities set forth herein. An owners' association established pursuant to this subparagraph shall comply with the following provisions:

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

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

(III) The owners' association 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 unless such conveyance, hypothecation, mortgage, assignment, lease, transfer, or encumbrance is approved by a vote of two-thirds of all voting interests of the association 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 owners' association shall notify the division in writing within 10 days after 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 shall be members of the owners' association and shall be entitled to vote on matters requiring a vote of the owners' association as provided in this chapter or the timeshare instrument. The owners' association shall act as a fiduciary to the purchasers of the timeshare plan. The articles of incorporation establishing the owners' association shall set forth the duties of the owners' association. All expenses reasonably incurred by the owners' association in the performance of its duties, together with any reasonable compensation of the officers or directors of the owners' association, shall be common expenses of the timeshare plan.

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

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

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

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

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

7.4. If the developer has previously provided a certified copy of any document required by this paragraph, 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.

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

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

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

(a) The instrument shall state that:

1.(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;

2.(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

3.(c) So long as a purchaser remains in good standing with respect to her or his obligations under the timeshare instrument, including making all payments to the managing entity required by the timeshare instrument with respect to the annual common expenses of the timeshare the interestholder has any interest in the accommodations, facilities, or plan, then the interestholder will fully honor all the rights of such purchaser relating to the subject accommodation or facility as reflected timeshare purchasers in and to the timeshare instrument 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.

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

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

(d) A copy of the recorded or filed 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.

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

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

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

(10)(a) 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.

(b) Any developer, interestholder, trustee, or officer or director of an owners' association who intentionally fails to comply with the provisions of this section concerning the establishment of a trust or owners' association, conveyances of property into the trust or owners' association, and conveyances or encumbrances of trust or owners' association property 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 a trust or owners' association, or to transfer property into the trust or owners' association, or the failure of a trustee or officer or director of an owners' association to comply with the trust agreement, articles of incorporation, or bylaws with respect to conveyances or encumbrances of trust or owners' association property, as required by this section, is prima facie evidence of an intentional and purposeful violation of this section.

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

721.09 Reservation agreements; escrows.—

(1)(a) Prior to filing the ~~filed~~ 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.

(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 filed 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:

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

(3)

(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 other property.

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

721.11 Advertising materials; oral statements.—

(1)(a) A developer may file All advertising material ~~must be filed~~ with the division ~~for review by the developer prior to use. At the request of the developer,~~ The division shall review any the advertising material filed for review by the developer 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.

(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:

(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 other 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.

(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 other 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(7)(~~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(7)(~~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(7)(~~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 11. 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, 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. If a personal property timeshare plan is being sold, the seller is required to retain a copy of the contract only until a certificate of transfer, agreement for transfer, lease, or other instrument of transfer that fully complies with s. 721.08 is delivered to the purchaser.

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

721.13 Management.—

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

2. During any period of time in which such owners' 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.

(2)

(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~~(20)~~(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:

(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). The budget and shall be the final budget adopted by the managing entity for the current fiscal year. The final adopted budget is not required to be delivered if the managing entity has previously delivered a proposed annual budget for the current fiscal year to purchasers in accordance with chapter 718 or chapter 719 and the managing entity includes a description of any changes in the adopted budget with the assessment notice and a disclosure regarding the purchasers' right to receive a copy of the adopted budget, if desired. 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 for review within 30 days after the beginning of each fiscal year 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)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. In the event any amount of reserves for accommodations and facilities of a timeshare plan containing timeshare licenses or personal property timeshare interests exists at the end of the term of the timeshare plan, such reserves shall be refunded to purchasers on a pro rata basis.

(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 after 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 after 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, address, or electronic mail address of any purchaser to any other purchaser or authorized agent thereof unless the purchaser whose name, ~~and~~ address, or electronic mail address is ~~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 for review 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), the audited financial statements required by this section are the only annual financial reporting requirements for timeshare condominiums or timeshare cooperatives.

(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 to those persons

listed on the owner's list materials provided by any purchaser, upon the written request of that purchaser, if the purpose of the mailing is to advance legitimate owners' 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 owners' association business shall occur within 30 days after receipt of a request from a purchaser. The board of administration of the owners' association shall be responsible for determining the appropriateness of any mailing requested pursuant to this subsection. The purchaser who requests the mailing must reimburse the owners' association in advance for the owners' association's actual costs in performing the mailing. It shall be a violation of this chapter and, if applicable, of part 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 owners' 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.

(6)

(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 or underlying personal property; 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.

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

~~(10)~~(9) 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.

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

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

721.14 Discharge of managing entity.—

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

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

721.15 Assessments for common expenses.—

(2)

(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, except that for real property that is used for the production of fees, revenues, or other income, depreciation expenses shall be excluded only to the extent that they exceed the net income from the production of such fees, revenues, or other income.

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

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

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

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

Section 16. 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, or owner of the underlying personal property shall sell, lease, assign, mortgage, or otherwise transfer his or her interest in the accommodations and facilities of the timeshare plan except by an instrument evidencing the transfer recorded in the public records of the county in which such accommodations and facilities are located or, with respect to personal property timeshare plans, in full compliance with s. 721.08. 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 so long as a purchaser remains in good standing with respect to her or his obligations under the timeshare instrument, including making all payments to the managing entity required by the timeshare instrument with respect to the annual common expenses of the timeshare plan, the transferee shall will fully honor all the rights of such purchaser relating to the subject accommodation or facility as reflected the purchasers to occupy and use the accommodations and facilities as provided in their original contracts and the timeshare instrument 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, ~~the~~ or owner of the underlying fee, or the owner of the underlying property 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 after ~~of~~ the transfer unless such transfer does not affect the purchaser's rights in or use of the timeshare plan. Persons who hold mortgages or liens on the property constituting a timeshare plan before the filed ~~registered~~ public offering statement of such plan is approved by the division shall not be considered transferees for the purposes of this section.

Section 17. 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) A statement that Whether the purchaser's participation in the exchange program is voluntary. This statement is not required to be given by the seller or managing entity of a multisite timeshare plan to purchasers in the multisite timeshare plan.

(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 membership or participation by purchasers in the exchange program by purchasers, including any conversion or other fees payable to third parties, 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 plan~~ 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 written 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.

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

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

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

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

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

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

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

721.19 Provisions requiring purchase or lease of timeshare property by owners' association or purchasers; validity.—In any timeshare plan in which timeshare estates or personal property timeshare interests 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 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 19. 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 broker, broker associate, or sales associate as defined in s. 475.01, except as provided in s. 475.011.

(2) Solicitors who engage only in the solicitation of prospective purchasers 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.

(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 shall be subject to the provisions of 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.

(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) This section does not apply to those individuals who offer for sale only timeshare interests 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) Notwithstanding the provisions of s. 475.452, it is unlawful for any real estate broker, broker associate, or sales associate to collect any advance fee for the listing of any timeshare estate or timeshare license.

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

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

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

721.24 Firesafety.—

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

Section 21. 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, owners’ association, owners’ association director, owners’ 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, including the disposition and sale of the timeshare property held by the owners' association or the purchasers. In the event of a receiver's sale, all rights, title, and interest held by the owners' association or any purchaser shall be extinguished and title shall vest in the buyer. This provision applies to timeshare estates, personal property timeshare interests, and timeshare licenses. 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 Chief Financial Officer 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 owners' association or managing entity fails to pay a civil penalty, the division may pursue enforcement in a court of competent jurisdiction.

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

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

(1) “Applicable law” means the law of the jurisdiction where the accommodations and facilities referred to are located.

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

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

(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; or

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

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.

(5) “Nonspecific multisite timeshare plan” means a multisite timeshare plan containing timeshare licenses or personal property timeshare interests, with respect to which a purchaser receives a right to use all of the accommodations and facilities, if any, of the multisite timeshare plan through the reservation system, but no specific right to use any particular accommodations and facilities for the remaining term of the multisite timeshare plan in the event that the reservation system is terminated for any reason prior to the expiration of the term of the multisite timeshare plan.

(6)(5) “Reservation system” means the method, arrangement, or procedure by which a purchaser, in order to reserve the use and occupancy of any accommodation or facility of the multisite timeshare plan for one or more use periods, is required to compete with other purchasers in the same multisite

timeshare plan regardless of whether such reservation system is operated and maintained by the multisite timeshare plan managing entity, an exchange company, or any other person. In the event that a purchaser is required to use an exchange program as the purchaser's principal means of obtaining the right to use and occupy a multisite timeshare plan's accommodations and facilities, such arrangement shall be deemed a reservation system. When an exchange company utilizes a mechanism for the exchange of use of timeshare periods among members of an exchange program, such utilization is not a reservation system of a multisite timeshare plan.

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

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

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

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

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

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

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

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

721.55 Multisite timeshare plan public offering statement.—Each ~~filed~~ registered public offering statement 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 filed ~~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, 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)-(1).

- (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 and for ~~or a specific multisite timeshare plans~~ 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.

(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 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 an interest in a nonspecific multisite timeshare plan 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).

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 developer 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 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. 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). 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 filed ~~registered~~ public offering statement, 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 an interest in a specific multisite timeshare plan, 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 esti-

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

721.551 Delivery of multisite timeshare plan purchaser public offering statement.—

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

(b) A receipt for multisite timeshare plan documents and a list describing any exhibit to the filed registered public offering statement 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 an interest in a specific multisite timeshare plan, 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 interest in a specific multisite timeshare plan license.

(f) The developer shall be required to provide the managing entity of the multisite timeshare plan with a copy of the approved filed registered public offering statement 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 27. Paragraph (a) of subsection (2), paragraph (c) of subsection (3), and subsections (4) and (5) of section 721.552, Florida Statutes, are 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:

(2) SUBSTITUTIONS.—

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

(3) DELETIONS.—

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

~~(4) SPECIFIC AND NONSPECIFIC TIMESHARE LICENSES.—For purposes of this chapter, a specific timeshare license means one with respect to which a purchaser receives a specific right to use accommodations and facilities, if any, at one component site of a multisite timeshare plan, together with use rights in the other accommodations and facilities of the multisite timeshare plan created by or acquired through the reservation system. For purposes of this chapter, a nonspecific timeshare license means one with respect to which a purchaser receives a right to use all of the accommodations and facilities, if any, of a multisite timeshare plan through the reservation system, but no specific right to use any particular accommodations and facilities for the remaining term of the multisite timeshare plan in the event that the reservation system is terminated for any reason prior to the expiration of the term of the multisite timeshare plan.~~

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

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

721.56 Management of multisite timeshare plans; reservation systems; demand balancing.—

(4) The managing entity of a multisite timeshare plan shall comply fully with the requirements of s. 721.13, subject to the provisions of s. 721.13(11) for personal property timeshare plans; however, with respect to a given component site, the managing entity of the multisite timeshare plan shall not be responsible for compliance as the managing entity of that component

site unless the managing entity of the multisite timeshare plan is also the managing entity of that component site. Unless the timeshare instrument provides otherwise, the operator of the reservation system is the managing entity of a multisite timeshare plan.

(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 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 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.

(b) In the event of a termination of a managing entity of a nonspecific ~~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, establish a trust meeting the criteria set forth in this paragraph. It is the intent of the Legislature that this trust arrangement provide for an adequate period of continued operation of the reservation system of the multisite timeshare plan, during which period the new managing entity shall make provision for the acquisition of a substitute reservation system.

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

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

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

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

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

721.57 Offering of timeshare estates in multisite timeshare plans; required provisions in the timeshare instrument.—

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

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

available to the purchaser through the reservation system pursuant to the timeshare instrument.

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

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

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

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

721.84 Appointment of a registered agent; duties.—

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

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

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

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

721.97 Timeshare commissioner of deeds.—

(1) The Governor may appoint commissioners of deeds to take acknowledgments, proofs of execution, or oaths in any foreign country or any possession, territory, or commonwealth of the United States outside the 50 states. The term of office is 4 years. Commissioners of deeds shall have authority to take acknowledgments, proofs of execution, and oaths in connection with the execution of any deed, mortgage, deed of trust, contract, power of attor-

ney, or any other writing to be used or recorded in connection with a timeshare estate, personal property timeshare interest, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state; provided such instrument or writing is executed outside the United States. Such acknowledgments, proofs of execution, and oaths must be taken or made in the manner directed by the laws of this state, including but not limited to s. 117.05(4), (5)(a), and (6), Florida Statutes 1997, and certified by a commissioner of deeds. The certification must be endorsed on or annexed to the instrument or writing aforesaid and has the same effect as if made or taken by a notary public licensed in this state.

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

475.011 Exemptions.—This part does not apply to:

(8)

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

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

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

(23) “Residential condominium” means a condominium consisting of two or more 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(35)(33) 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.

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

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

Approved by the Governor June 10, 2004.

Filed in Office Secretary of State June 10, 2004.