

1987

## Session Law 87-343

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1987	Session Law No. 87-343	LOF Cite	#pp
Prime Bill# SB. 1269	Sponsor	Comp./Sim. Bills HB. 1386	
JIMC Hist. Leg. Cites	Senate pp.#s 191	House pp.#s 388	#pp 2
Committee of Ref.	Senate ECCA Commerce House Judiciary	Previous versions?	

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
S	Commerce	1987			
S	ECCA	1987	Bill file: SB 1269	18/1541	7
"	"	"	Meeting file	18/1542	
H	Judic	1987	Bill file: HB 1386	19/1603	2
"	"	"	Meeting file	19/1604	

Senate/House Journals

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HJ. 748							

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

By the Committee on Judiciary and Representative Simon

1                                   A bill to be entitled  
 2                   An act relating to time-share plans; amending  
 3                   s. 721.08, F.S., to clarify the scope of the  
 4                   fiduciary duty owed by escrow agents to  
 5                   purchasers; amending s. 721.11, F.S., and s.  
 6                   721.111, F.S., to clarify advertising filing  
 7                   procedures and to clarify what constitutes  
 8                   advertising; amending s. 721.13, F.S., to  
 9                   require managing entities to maintain owner  
 10                  lists for inspection by the division upon  
 11                  request; amending s. 721.15, F.S., to create  
 12                  personal liability for time-share assessments;  
 13                  amending s. 721.20, F.S., to exempt owner  
 14                  referrals from solicitor or real estate  
 15                  licensure requirements; providing an effective  
 16                  date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20                   Section 1. Subsection (1) of section 721.08, Florida  
 21 Statutes, is amended to read:

22                   721.08 Escrow accounts; nondisturbance instruments;  
 23 alternate security arrangements.--

24                   (1) Prior to the filing of the public offering  
 25 statement with the division, the developer shall establish an  
 26 escrow account with an escrow agent for the purpose of  
 27 protecting the deposits of purchasers. All escrow agents  
 28 shall be independent of the developer and seller; and no  
 29 developer or seller, nor any officer, director, affiliate,  
 30 subsidiary, or employee thereof, may serve as escrow agent.  
 31 An escrow agent shall maintain the accounts called for in this

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1	section only in such a manner as to be under the direct	1.21
2	supervision and control of the escrow agent. <u>The escrow agent</u>	1:1us
3	<u>shall have a fiduciary duty to each purchaser to maintain the</u>	
4	<u>escrow accounts in accordance with good accounting principles</u>	1.23
5	<u>and to release the purchaser's funds or other property from</u>	1.24
6	<u>escrow only in accordance with this chapter. A-fiduciary</u>	1:1os
7	<del>relationship-shall-exist-between-the-escrow-agent-and-the</del>	
8	<del>purchaser.</del> The escrow agent shall retain all affidavits	1.28
9	received pursuant to this section for a period of 5 years.	1.30
10	Should the escrow agent receive conflicting demands for the	1.31
11	escrowed funds or property, the escrow agent shall immediately	1.32
12	either, with the consent of all parties, submit the matter to	
13	arbitration or, by interpleader or otherwise, seek an	1.33
14	adjudication of the matter by court.	
15	Section 2. Section (1) and paragraph (e) of subsection	1.34
16	(2) of section 721.11, Florida Statutes, are amended, and	1.35
17	paragraph (d) is added to subsection (3) of said section, to	
18	read:	1.36
19	721.11 Advertising materials; oral statements.--	1.37
20	(1)(a) <u>Any advertising material relating to a time-</u>	1.41
21	<u>share plan, including prize and gift promotional offers,</u> shall	1.42
22	be filed with the division by the developer 10 days prior to	1.46
23	use. All such advertising materials must be substantially in	1.47
24	compliance with this chapter and in full compliance with the	1.48
25	mandatory provisions of this chapter. In the event that any	1.49
26	such material is not in compliance <u>with this chapter,</u> the	
27	division may require the developer to correct the deficiency	1.51
28	<u>by notifying the developer of the deficiency;</u> and, if the	
29	developer fails to correct the deficiency, the division may	1.53
30	file administrative charges against the developer <u>using-such</u>	
31		

1	<del>material</del> and exact such penalties <u>or remedies</u> as provided in	1.55
2	s. 721.26.	
3	<u>(b) The director of the division shall have the</u>	1.56
4	<u>discretion to accept other assurances from the developer to</u>	1.57
5	<u>assure the developer will comply with the provisions of this</u>	
6	<u>chapter regarding all advertising materials, including prize</u>	1.58
7	<u>and gift promotional offers, used by the developer. Such</u>	1.60
8	<u>assurances shall include, but not be limited to, a surety bond</u>	
9	<u>issued by a company authorized and licensed to do business in</u>	1.61
10	<u>this state as surety or an irrevocable letter of credit in the</u>	
11	<u>amount of \$10,000. Upon the acceptance by the director of</u>	1.63
12	<u>such assurances from the developer, the developer shall be</u>	
13	<u>entitled to file and use advertising materials, including</u>	1.64
14	<u>prize and gift promotional offers, in accordance with</u>	1.65
15	<u>paragraph (c). In the event the developer intends to file and</u>	1.66
16	<u>use any lodging or vacation certificates as advertising</u>	1.67
17	<u>material pursuant to paragraph (c), the director shall have</u>	1.68
18	<u>the discretion to increase the assurances to an amount deemed</u>	1.69
19	<u>sufficient by the director to fully secure the performance of</u>	1.70
20	<u>the certificate promoter, or to provide refunds to certificate</u>	1.71
21	<u>holders in the event of nonperformance by the certificate</u>	1.72
22	<u>promoter. The purpose of such other assurances, if accepted</u>	1.74
23	<u>by the director, shall be to provide the division with a</u>	1.76
24	<u>source of funds to secure the developer's promise in any prize</u>	
25	<u>and gift promotional offer to deliver the prize or gift</u>	1.77
26	<u>represented in such offer to any prospective purchaser not</u>	
27	<u>receiving the represented prize or gift.</u>	1.78
28	<u>(c) A developer from whom other assurances have been</u>	1.79
29	<u>accepted by the director of the division pursuant to paragraph</u>	
30	<u>(b) shall file all advertising material, including prize and</u>	1.80
31	<u>gift promotional offers with the division at the time of use.</u>	1.81

1	<u>All such advertising materials must be substantially in</u>	1.82
2	<u>compliance with this chapter and in full compliance with the</u>	1.83
3	<u>mandatory provisions of this chapter. In the event that any</u>	1.84
4	<u>such material is not in compliance with this chapter, the</u>	2.1
5	<u>division may require the developer to correct the deficiency</u>	2.2
6	<u>by notifying the developer of the deficiency; and, if the</u>	2.3
7	<u>developer fails to correct the deficiency after receiving such</u>	2.4
8	<u>notice, the division may file administrative charges against</u>	2.5
9	<u>the developer and exact such penalties or remedies as provided</u>	2.6
10	<u>in s. 721.26. So long as the developer prepares and</u>	2.7
11	<u>disseminates the advertising material in good faith, the</u>	2.8
12	<u>division shall not penalize the developer for any deficiencies</u>	2.9
13	<u>which the division determines to exist in any advertising</u>	2.10
14	<u>material which the developer uses prior to receipt of a notice</u>	2.11
15	<u>of deficiency from the division regarding the advertising</u>	2.12
16	<u>material. For purposes of this section, "good faith" shall</u>	2.13
17	<u>mean that the developer has reasonably attempted to comply</u>	2.14
18	<u>with the provisions of this chapter relating to advertising</u>	2.15
19	<u>material, and that any deficiency determined to exist by the</u>	2.16
20	<u>division is not material and adverse to a prospective</u>	2.17
21	<u>purchaser.</u>	2.18
22	(2) The term "advertising material" includes:	2.19
23	(e) Any billboard or other sign posted on or off the	2.19
24	<u>premises, except that such billboard or sign shall not be</u>	2.19
25	<u>required to contain the disclosure set forth in paragraphs</u>	2.19
26	<u>(5)(a) or (5)(b), unless it relates to a prize and gift</u>	2.19
27	<u>promotional offer. For purposes of this section, a "sign"</u>	2.19
28	<u>shall mean advertising which is affixed to real or personal</u>	2.19
29	<u>property and which is not disseminated by other than visual</u>	2.19
30	<u>means to prospective purchasers.</u>	2.19
31		

1	(3) The term "advertising material" does not include	2.21
2	<u>(d) Any audio, written or visual publication or</u>	1:1us
3	<u>material relating to the promotion of the availability of any</u>	2.23
4	<u>accommodations and/or facilities for transient rental, so long</u>	
5	<u>as a mandatory tour of a time-share plan or attendance at a</u>	2.24
6	<u>mandatory sales presentation is not a term or condition of the</u>	
7	<u>availability of such accommodations and/or facilities, and so</u>	2.25
8	<u>long as the failure of any transient renter to take a tour of</u>	
9	<u>a time-share plan or attend a sales presentation does not</u>	2.26
10	<u>result in any reduction in the level of services which would</u>	
11	<u>otherwise be available to such transient renter.</u>	2.27
12	Section 3. Subsection (4) of section 721.111, Florida	2.28
13	Statutes, is amended to read:	2.29
14	721.111 Prize and gift promotional offers.--	2.31
15	(4) A separate filing for each prize and gift	2.34
16	promotional offer to be used in the sale of time-share periods	
17	shall be made with the division pursuant to s. <u>721.11(1)</u> at	2.36
18	<del>least 18 days prior to the use of such offer by the developer.</del>	2.37
19	<del>No advertising material related to a prize and gift</del>	1:1os
20	<del>promotional offer may be distributed unless it is first filed</del>	2.40
21	<del>with the division with</del> One item of each prize or gift, except	
22	cash, <u>must be</u> being made available for inspection by the	2.43
23	division. <del>If the division determines that any prize or gift</del>	1:1os
24	<del>has been misrepresented, and if upon notification thereof the</del>	2.46
25	<del>developer fails to correct such misrepresentation, the</del>	
26	<del>division may file administrative charges against the developer</del>	2.48
27	<del>using such prize and gift promotional offers and exact such</del>	
28	<del>penalties as provided in s. 721.26.</del>	2.49
29	Section 4. Subsection (4) of section 721.13, Florida	2.50
30	Statutes, is amended to read:	2.51
31	721.13 Management.--	2.51

1	(4) The managing entity shall <u>maintain among its</u>	2.52
2	<u>records and provide to the division upon request; together</u>	2.53
3	<del>with the payment of the annual fee; provide to the division a</del>	2.54
4	complete list of the names and addresses of all purchasers and	2.55
5	owners of time-share units in the time-share plan. <u>The</u>	1:1us
6	<u>managing entity shall update this list no less frequently than</u>	
7	<u>quarterly.</u>	2.57
8	Section 5. Subsection (7) is added to section 721.15,	2.57
9	Florida Statutes, to read:	2.60
10	721.15 Assessments for common expenses.--	2.62
11	<u>(7) A purchaser, regardless of how his time-share</u>	1:1us
12	<u>estate or time-share license has been acquired, including a</u>	2.64
13	<u>purchaser at a judicial sale, is personally liable for all</u>	
14	<u>assessments for common expenses which come due while he is the</u>	2.65
15	<u>owner of such interest. A successor in interest is jointly</u>	2.66
16	<u>and severally liable with his predecessor in interest for all</u>	
17	<u>unpaid assessments against such predecessor up to the time of</u>	2.67
18	<u>transfer of the time-share interest to such successor, without</u>	2.68
19	<u>prejudice to any right a successor in interest may have to</u>	
20	<u>recover from his predecessor in interest any amounts assessed</u>	2.69
21	<u>against such predecessor and paid by such successor. Nothing</u>	2.71
22	<u>in this subsection shall be construed to impair the operation</u>	
23	<u>of s. 718.116(6) for time-share condominiums.</u>	2.72
24	Section 6. Subsection (1) and paragraph (a) of	2.73
25	subsection (2) of section 721.20, Florida Statutes, are	2.74
26	amended, and paragraph (e) is added to subsection (2) of said	2.75
27	section, to read:	
28	721.20 Licensing requirements; suspension or	2.76
29	revocation of license.--	
30	(1) Any seller of a time-share plan must be a licensed	2.77
31	real estate salesman, broker, or broker-salesman as defined in	2.78



1 s. 475 01, except as provided in s. 475.011. Solicitors 2.80  
 2 licensed under the provisions of paragraph (2)(a) who engage  
 3 only in the solicitation of prospective purchasers, and 2.81  
 4 purchasers engaging in solicitation activities as described in  
 5 paragraph (2)(e), are exempt from the provisions of chapter 2.82  
 6 475.

7 (2)(a) Pursuant to rules adopted by the division, each 2.83  
 8 off-premises solicitor or other person who engages in the  
 9 solicitation of prospective purchasers of units in a time- 2.84  
 10 share plan must purchase annually a time-share occupational 3.1  
 11 license for a fee of \$25. The license shall expire on July 1 3.2  
 12 of each year. The division may deny a license to any 1:1us  
 13 individual whom the division finds not to be of good moral 3.4  
 14 character, in addition to, or in lieu of, a suspension or 3.6  
 15 revocation provided for in this section for violation of the 3.7  
 16 rules of the division.

17 (e) Any purchaser who refers no more than twenty 1:1us  
 18 people to a developer per year or who otherwise provides 3.9  
 19 testimonials on behalf of a developer shall not be subject to  
 20 licensure under the provisions of paragraph (2)(a). 3.10

21 Section 7. This act shall take effect upon becoming a 3.11  
 22 law.

23 HOUSE SUMMARY

- 24 Revises state law governing real estate time-share plans  
 to:
- 25 1. Clarify the scope of the fiduciary duty owed by
  - 26 2. Clarify advertising filing procedures and to
  - 27 3. Require managing entities to maintain owner lists
  - 28 for inspection by the Division of Florida Land Sales,
  - 29 Condominiums and Mobile Homes of the Department of Business
  - 30 Regulation, upon request.
  - 31 4. Create personal liability for time-share
  - assessments.
  5. Exempt owner referrals from solicitor or real
  - estate licensure requirements.

See bill for details.

Date: April 4, 1987

Revised: April 28, 1987

Final: \_\_\_\_\_

AS REPORTED TO CLERK

HOUSE OF REPRESENTATIVES  
COMMITTEE ON JUDICIARY  
STAFF ANALYSIS

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BILL #: PCB JUD 87-17

*HB 1386*

RELATING TO: Time-share plans

SPONSOR(S): Committee on Judiciary

EFFECTIVE DATE: July 1, 1987

COMPANION BILL(S): \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_

(2) \_\_\_\_\_

\*\*\*\*\*

I. SUMMARY:

A. Present Situation

Chapter 721, Florida Statutes, the Florida Real Estate Time-Sharing Act, is a comprehensive program under the jurisdiction of the Division of Florida Land Sales, Condominiums and Mobile Homes, which includes provisions strictly regulating the handling of time-share purchasers' funds and advertising, management, and sales of time-share plans.

B. Effect of Proposed Changes:

Section 1. Section 721.08, F.S., presently establishes a fiduciary relationship between the escrow agent handling purchasers' funds and the purchasers. This section is amended to clarify that the fiduciary relationship exists only as to maintenance of the escrow accounts and release of the funds.

Section 2. Section 721.11, F.S., requires that all advertising materials must be filed with the Division at least 10 days before they are used. The bill creates an exception to this policy where a surety bond, letter of credit, or other assurance of \$10,000 is accepted by the Division to secure the developer's promises as represented in the advertising. With regard to vacation and lodging certificates, the division may require assurances in any greater amount it deems is necessary to assure compliance with the advertising promotion. In either a case, the developer may use the advertising simultaneously with its filing.

All time-share advertising is required to contain a disclosure that it is being used for the purpose of soliciting sales of time-share periods. Section 721.11(2), F.S., is amended to excuse this

disclosure from billboards and signs. Further, advertising which relates to the promotion of accommodations and/or facilities for transient rental are excepted from the term "advertising material" if a mandatory tour of a time-share plan is not a condition of the use of the accommodations or facilities.

Section 3. Provides technical amendments to conform to previous amendments.

Section 4. Section 721.13, F.S., requires the managing entity of a time-share plan to provide to the Division a complete list of the names and addresses of all purchasers. This section is amended to require provision of this information only when requested by the Division.

Section 5. Section 721.15, F.S., is amended to provide that a purchaser of a time-share period is liable for all assessments which come due while he owns the period, and that a subsequent owner is jointly and severally liable with the predecessor for all unpaid assessments up to the time of transfer.

Section 6. Section 721.20, F.S., requires that sellers of time-share plans must be registered under Ch. 475, F.S., the real estate licensure law. Solicitors who engage only in the solicitation of prospective purchasers must be licensed as such by the Division. This section is amended to provide that purchasers who refer no more than 20 people a year need not be licensed.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

None.

III. STATE COMPREHENSIVE PLAN IMPACT:

None.

IV. COMMENTS:

None.

V. AMENDMENTS:

VI. PREPARED BY: Debby Kearney *dk*

VII. STAFF DIRECTOR: Richard Hixson *rh*

By Senator Margolis

1 A bill to be entitled  
2 An act relating to real estate time-sharing;  
3 amending s. 721.08, F.S.; providing that an  
4 escrow agent who holds a purchaser's deposit  
5 owes the purchaser certain fiduciary duties;  
6 amending s. 721.11, F.S.; requiring a developer  
7 of a time-share plan to file prize and gift  
8 promotional offers with the Division of Florida  
9 Land Sales, Condominiums, and Mobile Homes of  
10 the Department of Business Regulation;  
11 authorizing the director of the division to  
12 accept surety bonds or letters of credit or  
13 other assurances to secure prize or gift  
14 promotional offers; providing an exception from  
15 penalties to certain developers whose  
16 advertisements are not in compliance with the  
17 time-sharing act; exempting signs, billboards,  
18 and advertisements for certain rental  
19 facilities from disclosure requirements;  
20 amending s. 721.111, F.S.; revising provisions  
21 relating to prize and gift promotional offers;  
22 amending s. 721.13, F.S.; requiring managing  
23 entities of time-share plans to maintain and  
24 update a list of the names and addresses of  
25 purchasers of time-share interests; amending s.  
26 721.15, F.S.; specifying the liability of  
27 certain purchasers for common expenses;  
28 amending s. 721.20, F.S.; exempting certain  
29 purchasers who engage in soliciting activities  
30 on behalf of a time-share plan from  
31 occupational licensing under that section or

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1 from licensing under ch. 475, F.S.; providing  
2 an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Subsection (1) of section 721.08, Florida  
7 Statutes, is amended to read:

8 721.08 Escrow accounts; nondisturbance instruments;  
9 alternate security arrangements.--

10 (1) Prior to the filing of the public offering  
11 statement with the division, the developer shall establish an  
12 escrow account with an escrow agent for the purpose of  
13 protecting the deposits of purchasers. All escrow agents  
14 shall be independent of the developer and seller; and no  
15 developer or seller, nor any officer, director, affiliate,  
16 subsidiary, or employee thereof, may serve as escrow agent.  
17 An escrow agent shall maintain the accounts called for in this  
18 section only in such a manner as to be under the direct  
19 supervision and control of the escrow agent. An escrow agent  
20 owes a fiduciary duty to each purchaser to maintain the escrow  
21 accounts in accordance with good accounting principles and to  
22 release a purchaser's deposit from escrow only in accordance  
23 with this chapter. ~~A fiduciary relationship shall exist~~  
24 ~~between the escrow agent and the purchaser.~~ The escrow agent  
25 shall retain all affidavits received pursuant to this section  
26 for a period of 5 years. Should the escrow agent receive  
27 conflicting demands for the escrowed funds or property, the  
28 escrow agent shall immediately either, with the consent of all  
29 parties, submit the matter to arbitration or, by interpleader  
30 or otherwise, seek an adjudication of the matter by court.

1 Section 2. Subsection (1), paragraph (e) of subsection  
2 (2), and subsection (5) of section 721.11, Florida Statutes,  
3 are amended, and paragraph (d) is added to subsection (3) of  
4 said section, to read:

5 721.11 Advertising materials; oral statements.--

6 (1)(a) Any advertising material relating to a time-  
7 share plan, including prize and gift promotional offers  
8 described in s. 721.111, must ~~shall~~ be filed with the division  
9 by the developer 10 days prior to use. All such advertising  
10 materials must be substantially in compliance with this  
11 chapter and in full compliance with the mandatory provisions  
12 of this chapter. In the event that any such material is not  
13 in compliance ~~with this chapter~~, the division may notify the  
14 developer of the deficiency and require the developer to  
15 correct the deficiency; and, if the developer fails to correct  
16 the deficiency, the division may file administrative charges  
17 against the developer ~~using such material~~ and exact such  
18 penalties and remedies as provided in s. 721.26.

19 (b) The director of the division may accept assurances  
20 from a developer that he will comply with the provisions of  
21 this chapter regarding advertising materials, including prize  
22 and gift promotional offers, used by the developer. Such  
23 assurances may include, but are not limited to, a surety bond  
24 issued by a company authorized and licensed to do business in  
25 this state as surety or an irrevocable letter of credit in the  
26 amount of \$10,000. If such assurances are accepted by the  
27 director, the developer shall file and may use advertising  
28 materials, including prize and gift promotional offers, in  
29 accordance with paragraph (c). The purpose of such assurances  
30 is to provide the division with funds to secure the  
31 developer's promise in any prize and gift promotional offer to

1 deliver the prize or gift represented in a promotional offer  
2 to any prospective purchaser who is entitled to receive such  
3 prize or gift.

4 (c) A developer whose assurances are accepted by the  
5 director of the division pursuant to paragraph (b) shall file  
6 all advertising material, including prize and gift promotional  
7 offers described in s. 721.111, with the division at the time  
8 of use. All such advertising materials must be substantially  
9 in compliance with this chapter and in full compliance with  
10 the mandatory provisions of this chapter. In the event that  
11 any such material is not in compliance with this chapter, the  
12 division may notify the developer of the deficiency and may  
13 require the developer to correct the deficiency. If the  
14 developer fails to correct the deficiency after receiving such  
15 notice, the division may file administrative charges against  
16 the developer and exact such penalties or remedies as provided  
17 in s. 721.26. If the developer prepares and disseminates  
18 advertising material in good faith, the division may not  
19 penalize the developer for any deficiencies that the division  
20 determines to exist in such advertising material published  
21 prior to receipt of a notice of deficiency from the division  
22 regarding the advertising material. For purposes of this  
23 paragraph, the term "good faith" means that the developer has  
24 reasonably attempted to comply with the provisions of this  
25 chapter relating to advertising material and that any  
26 deficiency determined to exist by the division is not material  
27 and adverse to a prospective purchaser.

28 (2) The term "advertising material" includes:

29 (e) Any billboard or other sign posted on or off the  
30 premises. For purposes of this section, the term "sign" means  
31

1 advertising that is affixed to real or personal property and  
2 that disseminates information by visual means only.

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

4 (d) Any audio, written, or visual publication or  
5 material relating to the promotion of any accommodations or  
6 facilities for transient rental, so long as a mandatory tour  
7 of a time-share plan is not a term or condition of the  
8 availability of such accommodations or facilities.

9 (5)(a) No written advertising material, including any  
10 lodging certificate, gift award, premium, discount, or display  
11 booth, may be utilized without a disclosure in conspicuous  
12 type that: THIS ADVERTISING MATERIAL IS BEING USED FOR THE  
13 PURPOSE OF SOLICITING SALES OF TIME-SHARE PERIODS.

14 (b) This subsection does not apply to any advertising  
15 material which involves a project or development which  
16 includes sales of real estate or other commodities or services  
17 in addition to time-share periods, including, but not limited  
18 to, lot sales, condominium or home sales, or the rental of  
19 resort accommodations. This subsection does not apply to any  
20 advertising that is posted on a billboard or a sign. However,  
21 if the sale of time-share periods, as compared with such other  
22 sales or rentals, is the primary purpose of any the  
23 advertising material except a billboard or sign, a disclosure  
24 shall be made in conspicuous type that: THIS ADVERTISING  
25 MATERIAL IS BEING USED FOR THE PURPOSE OF SOLICITING THE SALE  
26 OF ...(Disclosure shall include time-share periods and may  
27 include other types of sales)... Factors which the division  
28 may consider in determining whether the primary purpose of the  
29 advertising material is the sale of time-share periods  
30 include:  
31



1           1. The retail value of the time-share periods compared  
2 to the retail value of the other real estate, commodities, or  
3 services being offered in the advertising material.

4           2. The amount of space devoted to the time-share  
5 portion of the project in the advertising material compared to  
6 the amount of space devoted to other portions of the project,  
7 including, but not limited to, printed material, photographs,  
8 or drawings.

9           Section 3. Subsection (4) of section 721.111, Florida  
10 Statutes, is amended to read:

11           721.111 Prize and gift promotional offers.--

12           (4) A separate filing for each prize and gift  
13 promotional offer to be used in the sale of time-share periods  
14 shall be made with the division pursuant to s. 721.11 ~~at least~~  
15 ~~10 days prior to the use of such offer by the developer. No~~  
16 ~~advertising material related to a prize and gift promotional~~  
17 ~~offer may be distributed unless it is first filed with the~~  
18 ~~division with~~ One item of each prize or gift, except cash,  
19 must be being made available for inspection by the division.  
20 ~~if the division determines that any prize or gift has been~~  
21 ~~misrepresented, and if upon notification thereof the developer~~  
22 ~~fails to correct such misrepresentation, the division may file~~  
23 ~~administrative charges against the developer using such prize~~  
24 ~~and gift promotional offers and exact such penalties as~~  
25 ~~provided in s. 721.26.~~

26           Section 4. Subsection (4) of section 721.13, Florida  
27 Statutes, is amended to read:

28           721.13 Management.--

29           (4) The managing entity shall maintain within its  
30 records and, together with the payment of the annual fee,  
31 provide to the division upon request a complete list of the

1 names and addresses of all purchasers and owners of time-share  
2 units in the time-share plan. The managing entity shall  
3 update this list no less frequently than quarterly.

4 Section 5. Subsection (7) is added to section 721.15,  
5 Florida Statutes, to read:

6 721.15 Assessments for common expenses.--

7 (7) A purchaser, regardless of how his time-share  
8 estate or time-share license is acquired, including a  
9 purchaser at a judicial sale, is personally liable for all  
10 assessments for common expenses that come due while he is the  
11 owner of such interest. A successor in interest is jointly  
12 and severally liable with his predecessor in interest for all  
13 assessments that came due while such predecessor owned the  
14 interest, without prejudice to any right a successor in  
15 interest has to recover from his predecessor in interest any  
16 amounts assessed against such predecessor and paid by such  
17 successor. This subsection does not affect the application of  
18 s. 718.116(6) with respect to time-share condominiums.

19 Section 6. Subsections (1) and (2) of section 721.20,  
20 Florida Statutes, are amended to read:

21 721.20 Licensing requirements; suspension or  
22 revocation of license.--

23 (1) Any seller of a time-share plan must be a licensed  
24 real estate salesman, broker, or broker-salesman as defined in  
25 s. 475.01, except as provided in s. 475.011. Solicitors  
26 licensed under the provisions of paragraph (2)(a) who engage  
27 only in the solicitation of prospective purchasers and  
28 purchasers who engage in solicitation activity described in  
29 paragraph (2)(e) are exempt from the provisions of chapter  
30 475.  
31

1           (2)(a) Pursuant to rules adopted by the division, each  
2 off-premises solicitor or other person who engages in the  
3 solicitation of prospective purchasers of units in a time-  
4 share plan must purchase annually a time-share occupational  
5 license for a fee of \$25. The license shall expire on July 1  
6 of each year.

7           (b) It is unlawful for any person to solicit  
8 prospective purchasers of a time-share plan without first  
9 having secured a time-share occupational license and paid the  
10 occupational license fee.

11           (c) Prior to issuing an occupational license, the  
12 division shall receive an application, on forms designed by  
13 the division, containing such pertinent background information  
14 as is necessary to properly identify the applicant; however,  
15 the fingerprinting of applicants is not required. The  
16 division may deny a license to any individual whom the  
17 division finds not to be of good moral character.

18           (d) The division may deny, suspend, or revoke any  
19 occupational license when the holder thereof has violated the  
20 provisions of this chapter or the rules and regulations of the  
21 division governing time-sharing. If any occupational license  
22 expires by division rule while administrative charges are  
23 pending against the license, the proceedings against the  
24 license shall continue to conclusion as if the license were  
25 still in effect. The division may impose a civil fine of up  
26 to \$500 in addition to, or in lieu of, a suspension or  
27 revocation provided for in this section for violation of the  
28 rules of the division.

29           (e) A purchaser who refers no more than 20 people to a  
30 developer per year or who provides testimonials on behalf of a  
31 developer is not subject to this subsection.

Section 7. This act shall take effect October 1, 1987.

\*\*\*\*\*

SENATE SUMMARY

With regard to real estate time-sharing, provides that an escrow agent who holds a deposit of a purchaser of a time-share interest owes such purchaser a fiduciary duty to maintain the escrow account in accordance with good accounting principals. Requires a time-share plan developer to file prize and gift promotional offers with the Division of Florida Land Sales, Condominiums, and Mobile Homes, of the Department of Business Regulation. Authorizes the director of the division to accept assurances to secure such prize or gift offers. Exempts signs, billboards, and advertisements for certain rental facilities from disclosure requirements. Requires managing entities of time-share plans to maintain a list of the names and addresses of purchasers of time-share interests and to update such list no less frequently than quarterly. Provides that the owner of a time-share interest and the previous owner of that interest are jointly and severally liable for common expenses that came due when the previous owner held the interest. Exempts certain purchasers who engage in soliciting activities on behalf of a time-share developer from occupational licensing under ch. 721, F.S., and from licensing under ch. 475, F.S.

By the Committee on Economic, Community and Consumer Affairs and  
Senator Margolis

1 A bill to be entitled  
2 An act relating to time-share plans; amending  
3 s. 721.08, F.S., to clarify the scope of the  
4 fiduciary duty owed by escrow agents to  
5 purchasers; amending s. 721.11, F.S., and s.  
6 721.111, F.S., to clarify advertising filing  
7 procedures and to clarify what constitutes  
8 advertising; amending s. 721.13, F.S., to  
9 require managing entities to maintain owner  
10 lists for inspection by the division upon  
11 request; amending s. 721.15, F.S., to create  
12 personal liability for time-share assessments;  
13 amending s. 721.20, F.S., to exempt owner  
14 referrals from solicitor or real estate  
15 licensure requirements; providing an effective  
16 date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Subsection (1) of section 721.08, Florida  
21 Statutes, is amended to read:

22 721.08 Escrow accounts; nondisturbance instruments;  
23 alternate security arrangements.--

24 (1) Prior to the filing of the public offering  
25 statement with the division, the developer shall establish an  
26 escrow account with an escrow agent for the purpose of  
27 protecting the deposits of purchasers. All escrow agents  
28 shall be independent of the developer and seller; and no  
29 developer or seller, nor any officer, director, affiliate,  
30 subsidiary, or employee thereof, may serve as escrow agent.

31 An escrow agent shall maintain the accounts called for in this

1 section only in such a manner as to be under the direct  
2 supervision and control of the escrow agent. The escrow agent  
3 shall have a fiduciary duty to each purchaser to maintain the  
4 escrow accounts in accordance with good accounting principles  
5 and to release the purchaser's funds or other property from  
6 escrow only in accordance with this chapter. ~~A-fiduciary~~  
7 ~~relationship-shall-exist-between-the-escrow-agent-and-the~~  
8 ~~purchaser:~~ The escrow agent shall retain all affidavits  
9 received pursuant to this section for a period of 5 years.  
10 Should the escrow agent receive conflicting demands for the  
11 escrowed funds or property, the escrow agent shall immediately  
12 either, with the consent of all parties, submit the matter to  
13 arbitration or, by interpleader or otherwise, seek an  
14 adjudication of the matter by court.

15 Section 2. Section (1) and paragraph (e) of subsection  
16 (2) of section 721.11, Florida Statutes, are amended, and  
17 paragraph (d) is added to subsection (3) of said section, to  
18 read:

19 721.11 Advertising materials; oral statements.--

20 (1)(a) Any advertising material relating to a time-  
21 share plan, including prize and gift promotional offers, shall  
22 be filed with the division by the developer 10 days prior to  
23 use. All such advertising materials must be substantially in  
24 compliance with this chapter and in full compliance with the  
25 mandatory provisions of this chapter. In the event that any  
26 such material is not in compliance with this chapter, the  
27 division may require the developer to correct the deficiency  
28 by notifying the developer of the deficiency; and, if the  
29 developer fails to correct the deficiency, the division may  
30 file administrative charges against the developer using such  
31

1 ~~material~~ and exact such penalties or remedies as provided in  
2 s. 721.26.

3 (b) The director of the division shall have the  
4 discretion to accept other assurances from the developer to  
5 assure the developer will comply with the provisions of this  
6 chapter regarding all advertising materials, including prize  
7 and gift promotional offers, used by the developer. Such  
8 assurances shall include, but not be limited to, a surety bond  
9 issued by a company authorized and licensed to do business in  
10 this state as surety or an irrevocable letter of credit in the  
11 amount of \$10,000. Upon the acceptance by the director of  
12 such assurances from the developer, the developer shall be  
13 entitled to file and use advertising materials, including  
14 prize and gift promotional offers, in accordance with  
15 paragraph (c). In the event the developer intends to file and  
16 use any lodging or vacation certificates as advertising  
17 material pursuant to paragraph (c), the director shall have  
18 the discretion to increase the assurances to an amount deemed  
19 sufficient by the director to fully secure the performance of  
20 the certificate promoter, or to provide refunds to certificate  
21 holders in the event of nonperformance by the certificate  
22 promoter. The purpose of such other assurances, if accepted  
23 by the director, shall be to provide the division with a  
24 source of funds to secure the developer's promise in any prize  
25 and gift promotional offer to deliver the prize or gift  
26 represented in such offer to any prospective purchaser not  
27 receiving the represented prize or gift.

28 (c) A developer from whom other assurances have been  
29 accepted by the director of the division pursuant to paragraph  
30 (b) shall file all advertising material, including prize and  
31 gift promotional offers with the division at the time of use.

1 All such advertising materials must be substantially in  
2 compliance with this chapter and in full compliance with the  
3 mandatory provisions of this chapter. In the event that any  
4 such material is not in compliance with this chapter, the  
5 division may require the developer to correct the deficiency  
6 by notifying the developer of the deficiency; and, if the  
7 developer fails to correct the deficiency after receiving such  
8 notice, the division may file administrative charges against  
9 the developer and exact such penalties or remedies as provided  
10 in s. 721.26. So long as the developer prepares and  
11 disseminates the advertising material in good faith, the  
12 division shall not penalize the developer for any deficiencies  
13 which the division determines to exist in any advertising  
14 material which the developer uses prior to receipt of a notice  
15 of deficiency from the division regarding the advertising  
16 material. For purposes of this section, "good faith" shall  
17 mean that the developer has reasonably attempted to comply  
18 with the provisions of this chapter relating to advertising  
19 material, and that any deficiency determined to exist by the  
20 division is not material and adverse to a prospective  
21 purchaser.

22 (2) The term "advertising material" includes:

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

31



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

2 (d) Any audio, written or visual publication or  
 3 material relating to the promotion of the availability of any  
 4 accommodations and/or facilities for transient rental, so long  
 5 as a mandatory tour of a time-share plan or attendance at a  
 6 mandatory sales presentation is not a term or condition of the  
 7 availability of such accommodations and/or facilities, and so  
 8 long as the failure of any transient renter to take a tour of  
 9 a time-share plan or attend a sales presentation does not  
 10 result in any reduction in the level of services which would  
 11 otherwise be available to such transient renter.

12 Section 3. Subsection (4) of section 721.111, Florida  
 13 Statutes, is amended to read:

14 721.111 Prize and gift promotional offers.--

15 (4) A separate filing for each prize and gift  
 16 promotional offer to be used in the sale of time-share periods  
 17 shall be made with the division pursuant to s. 721.11(1) at  
 18 ~~least 10 days prior to the use of such offer by the developer.~~  
 19 ~~No advertising material related to a prize and gift~~  
 20 ~~promotional offer may be distributed unless it is first filed~~  
 21 ~~with the division with~~ One item of each prize or gift, except  
 22 cash, must be being made available for inspection by the  
 23 division. ~~If the division determines that any prize or gift~~  
 24 ~~has been misrepresented, and if upon notification thereof the~~  
 25 ~~developer fails to correct such misrepresentation, the~~  
 26 ~~division may file administrative charges against the developer~~  
 27 ~~using such prize and gift promotional offers and exact such~~  
 28 ~~penalties as provided in s. 721.26.~~

29 Section 4. Subsection (4) of section 721.13, Florida  
 30 Statutes, is amended to read:

31 721.13 Management.--

1           (4) The managing entity shall maintain among its  
2 records and provide to the division upon request,~~together~~  
3 ~~with the payment of the annual fee,~~provide to the division a  
4 complete list of the names and addresses of all purchasers and  
5 owners of time-share units in the time-share plan. The  
6 managing entity shall update this list no less frequently than  
7 quarterly.

8           Section 5. Subsection (7) is added to section 721.15,  
9 Florida Statutes, to read:

10           721.15 Assessments for common expenses.--

11           (7) A purchaser, regardless of how his time-share  
12 estate or time-share license has been acquired, including a  
13 purchaser at a judicial sale, is personally liable for all  
14 assessments for common expenses which come due while he is the  
15 owner of such interest. A successor in interest is jointly  
16 and severally liable with his predecessor in interest for all  
17 unpaid assessments against such predecessor up to the time of  
18 transfer of the time-share interest to such successor, without  
19 prejudice to any right a successor in interest may have to  
20 recover from his predecessor in interest any amounts assessed  
21 against such predecessor and paid by such successor. Nothing  
22 in this subsection shall be construed to impair the operation  
23 of s. 718.116(6) for time-share condominiums.

24           Section 6. Subsection (1) and paragraph (a) of  
25 subsection (2) of section 721.20, Florida Statutes, are  
26 amended, and paragraph (e) is added to subsection (2) of said  
27 section, to read:

28           721.20 Licensing requirements; suspension or  
29 revocation of license.--

30           (1) Any seller of a time-share plan must be a licensed  
31 real estate salesman, broker, or broker-salesman as defined in

1 s. 475.01, except as provided in s. 475.011. Solicitors  
 2 licensed under the provisions of paragraph (2)(a) who engage  
 3 only in the solicitation of prospective purchasers, and  
 4 purchasers engaging in solicitation activities as described in  
 5 paragraph (2)(e), are exempt from the provisions of chapter  
 6 475.

7 (2)(a) Pursuant to rules adopted by the division, each  
 8 off-premises solicitor or other person who engages in the  
 9 solicitation of prospective purchasers of units in a time-  
 10 share plan must purchase annually a time-share occupational  
 11 license for a fee of \$25. The license shall expire on July 1  
 12 of each year. The division may deny a license to any  
 13 individual whom the division finds not to be of good moral  
 14 character, in addition to, or in lieu of, a suspension or  
 15 revocation provided for in this section for violation of the  
 16 rules of the division.

17 (e) Any purchaser who refers no more than twenty  
 18 people to a developer per year or who otherwise provides  
 19 testimonials on behalf of a developer shall not be subject to  
 20 licensure under the provisions of paragraph (2)(a).

21 Section 7. This act shall take effect upon becoming a  
 22 law.

23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
 24 COMMITTEE SUBSTITUTE FOR  
Senate Bill 1269

25 Authorizes the division director to increase the assurances  
 26 required of the developer as necessary to fully secure  
 developer performance when the developer intends to use  
 lodging or vacation certificates as advertising material.

27 Exempts billboards and signs from the disclosure requirement  
 28 contained in s.721.11(5), F.S., only if the billboard or sign  
 does not relate to a prize and gift promotional offer.

29 Adds two conditions for the exclusion from the definition of  
 30 "advertising material" of the promotion of accommodations or  
 facilities for transient rental: attendance at a sales  
 31 meeting may not be required and failure of a transient renter  
 to take a tour of a time-share plan or attend a sales  
 presentation may not result in a reduction in services

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

18/1541

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Bradley ARB</u>	<u>Buck DB</u>	1. <u>ECCA</u>	_____
2. _____	_____	2. <u>COM</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Real Estate Time-Sharing

BILL NO. AND SPONSOR:

SB 1269 by  
Senator Margolis

I. SUMMARY:

A. Present Situation:

Chapter 721, F.S., the Florida Real Estate Time-Sharing Act, provides for the regulation of real property time-share plans by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation. Among the specific provisions of the chapter are those relating to escrow accounts, advertising, prize and gift promotional offers, management of time-share properties, assessments for common expenses, and licensing requirements pertaining to sellers of time-share plans.

Section 721.08, F.S., establishes a fiduciary relationship between the escrow agent handling purchasers' deposits and the purchasers and establishes requirements for escrow agreements.

Section 721.11, F.S., establishes requirements pertaining to advertising of time-share plans, including the requirement that all advertising materials be filed with the division at least 10 days prior to their use.

Section 721.111, F.S., provides for the use of prize and gift promotional offers and requires such offers to be filed with the division at least 10 days prior to their use by the developer.

Section 721.13, F.S., establishes the duties of the managing entity of a time-share plan, including the provision to the division on an annual basis of a complete list of the names and addresses of all purchasers and owners of time-share units in the time-share plan.

Section 721.15, F.S., provides for an annual assessment against each purchaser in a time-share plan for payment of common expenses.

Section 721.20, F.S., requires sellers of time-share plans, except for solicitors licensed by the division, to be licensed real estate salesmen, brokers, or broker-salesmen pursuant to chapter 475, F.S..

B. Effect of Proposed Changes:

Section 721.08, F.S., is amended to specify that an escrow agent owes a fiduciary duty to each purchaser to maintain escrow accounts according to sound accounting principles and to release deposits only in accordance with provisions of the chapter.

Section 721.11, F.S., is amended to specify that advertising materials which must be filed with the division 10 days prior to use include prize and gift promotional offers as described

in s.721.111, F.S. The division director is authorized to accept assurances from a developer, in lieu of a surety bond or letter of credit, that he will comply with the provisions of the chapter pertaining to advertising materials. Such assurances are intended to provide the division with funds to secure the developer's promise on any prize or gift promotional offer to deliver the advertised prize or gift. Developers whose assurances are accepted by the division director may file all advertising material at the time of its use. Any such advertising material which is not in compliance with the chapter must, upon notification by the division, be brought into compliance.

The definition of "advertising material" is amended to clarify that "sign" means advertising affixed to real or personal property and which presents only visual information. The term "advertising material" is amended to exclude advertising relating to the promotion of accommodations or facilities for transient rental, provided that a mandatory tour of a time-share plan is not a condition for the use of the accommodations or facilities. Finally, time-share advertising on billboards and signs is excepted from the requirement that all time-share advertising contain a disclosure that it is being used for the purpose of soliciting sales of time-share periods.

Section 721.111, F.S., is amended to require the filing of prize and gift promotional offers pursuant to s.721.11, F.S., which delineates filing requirements for advertising materials in general. Language rendered superfluous by the above amendment is deleted.

Section 721.13, F.S., is amended to require the managing entity of a time-share plan to maintain, update on a quarterly basis, and provide to the division upon request a complete list of the names and addresses of all purchasers and owners of time-share units in the time-share plan.

Section 721.15, F.S., is amended to provide that a purchaser of a time-share estate or license is liable for all assessments for common expenses that come due while he is the owner. A subsequent owner is jointly and severally liable with his predecessor for all assessments which came due while the predecessor owned the interest.

Section 721.20, F.S., is amended to exempt purchasers who engage in solicitation activity, referring no more than 20 people per year or providing testimonials on behalf of a developer, from licensure under ch.475, F.S., or annual occupational licensure by the division.

## II. ECONOMIC IMPACT AND FISCAL NOTE:

### A. Public:

To the extent that assurances relating to prize and gift promotional offers ensure the delivery of prizes and gifts, recipients will benefit. To the extent that assurances relating to prize and gift promotional offers require a commitment of funds, developers will incur costs. To the extent that purchasers are liable for assessments unpaid by predecessors, purchasers may incur costs.

### B. Government:

To the extent that revised regulatory requirements result in increased administrative oversight, the division will incur costs.

REVISED: \_\_\_\_\_

BILL NO. SB 1269

DATE: May 5, 1987

Page 3

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III. COMMENTS:

None.

IV. AMENDMENTS:

None.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR
1. <u>Bradley</u> <i>AB</i>	<u>Buck</u> <i>CB</i>
2. _____	_____
3. _____	_____
4. _____	_____

REFERENCE	ACTION
1. <u>ECCA</u>	<u>Fav/CS</u>
2. <u>COM</u>	_____
3. _____	_____
4. _____	_____

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FLORIDA STATE ARCHIVES  
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P. A. GRAY BUILDING

SUBJECT:

Real Estate Time-Sharing

BILL NO. AND SPONSOR:

CS/SB 1269 by the Senate  
Economic, Community and  
Consumer Affairs Committee  
and Senator Margolis  
Tallahassee, FL 32399-0250  
#80-18 Carton 1541

I. SUMMARY:

A. Present Situation:

Chapter 721, F.S., the Florida Real Estate Time-Sharing Act, provides for the regulation of real property time-share plans by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation. Among the specific provisions of the chapter are those relating to escrow accounts, advertising, prize and gift promotional offers, management of time-share properties, assessments for common expenses, and licensing requirements pertaining to sellers of time-share plans.

Section 721.08, F.S., establishes a fiduciary relationship between the escrow agent handling purchasers' deposits and the purchasers and establishes requirements for escrow agreements.

Section 721.11, F.S., establishes requirements pertaining to advertising of time-share plans, including the requirement that all advertising materials be filed with the division at least 10 days prior to their use.

Section 721.111, F.S., provides for the use of prize and gift promotional offers and requires such offers to be filed with the division at least 10 days prior to their use by the developer.

Section 721.13, F.S., establishes the duties of the managing entity of a time-share plan, including the provision to the division on an annual basis of a complete list of the names and addresses of all purchasers and owners of time-share units in the time-share plan.

Section 721.15, F.S., provides for an annual assessment against each purchaser in a time-share plan for payment of common expenses.

Section 721.20, F.S., requires sellers of time-share plans, except for solicitors licensed by the division, to be licensed real estate salesmen, brokers, or broker-salesmen pursuant to chapter 475, F.S..

B. Effect of Proposed Changes:

Section 721.08, F.S., is amended to specify that an escrow agent owes a fiduciary duty to each purchaser to maintain escrow accounts according to sound accounting principles and to release deposits only in accordance with provisions of the chapter.

Section 721.11, F.S., is amended to specify that advertising materials which must be filed with the division 10 days prior to use include prize and gift promotional offers as described in s.721.111, F.S. The division director is authorized to accept assurances from a developer, including a surety bond or letter of credit, that he will comply with the provisions of the chapter pertaining to advertising materials. Such assurances are intended to provide the division with funds to secure the developer's promise in any prize or gift promotional offer to deliver the advertised prize or gift. When the developer intends to use lodging or vacation certificates as advertising material, the division director may increase the assurances required as necessary to fully secure developer performance. Developers whose assurances are accepted by the division director may file all advertising material at the time of its use. Any such advertising material which is not in compliance with the chapter must, upon notification by the division, be brought into compliance.

The definition of "advertising material" is amended to clarify that "sign" means advertising affixed to real or personal property and which presents only visual information. The term "advertising material" is amended to exclude advertising relating to the promotion of accommodations or facilities for transient rental, provided that a mandatory tour of a time-share plan or attendance at a sales presentation is not a condition for the use of the accommodations or facilities and that failure of a transient renter to tour a time-share plan or attend a sales presentation does not result in a reduction in the level of services provided. Finally, time-share advertising on billboards and signs which does not relate to prize and gift promotional offers is excepted from the requirement that all time-share advertising contain a disclosure that it is being used for the purpose of soliciting sales of time-share periods.

Section 721.111, F.S., is amended to require the filing of prize and gift promotional offers pursuant to s.721.11, F.S., which delineates filing requirements for advertising materials in general. Language rendered superfluous by the above amendment is deleted.

Section 721.13, F.S., is amended to require the managing entity of a time-share plan to maintain, update on a quarterly basis, and provide to the division upon request a complete list of the names and addresses of all purchasers and owners of time-share units in the time-share plan.

Section 721.15, F.S., is amended to provide that a purchaser of a time-share estate or license is liable for all assessments for common expenses that come due while he is the owner. A subsequent owner is jointly and severally liable with his predecessor for all assessments which came due while the predecessor owned the interest.

Section 721.20, F.S., is amended to exempt purchasers who engage in solicitation activity, referring no more than 20 people per year or providing testimonials on behalf of a developer, from licensure under ch.475, F.S., or annual occupational licensure by the division.

## II. ECONOMIC IMPACT AND FISCAL NOTE:

### A. Public:

To the extent that assurances relating to prize and gift promotional offers ensure the delivery of prizes and gifts, recipients will benefit. To the extent that assurances relating to prize and gift promotional offers require a commitment of funds, developers will incur costs. To the



extent that purchasers are liable for assessments unpaid by predecessors, purchasers may incur costs.

B. Government:

To the extent that revised regulatory requirements result in increased administrative oversight, the division will incur costs.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

18/1541

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1269

Authorizes the division director to increase the assurances required of the developer as necessary to fully secure developer performance when the developer intends to use lodging or vacation certificates as advertising material.

Exempts billboards and signs from the disclosure requirement contained in s.721.11(5), F.S., only if the billboard or sign does not relate to a prize and gift promotional offer.

Adds two conditions for the exclusion from the definition of "advertising material" of the promotion of accommodations or facilities for transient rental: attendance at a sales meeting may not be required and failure of a transient renter to take a tour of a time-share plan or attend a sales presentation may not result in a reduction in services.

Economic, Community and  
Committee on Consumer Affairs

  
Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)