

The Florida Statutes
Title XL REAL AND PERSONAL PROPERTY
Chapter 721 VACATION AND TIMESHARE PLANS

721.07 Public offering statement. -

- (5) Every filed 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).

The Florida Statutes
Title XL REAL AND PERSONAL PROPERTY
Chapter 721 VACATION AND TIMESHARE PLANS

721.13 Management. -

(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)(t). The budget 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.

Florida Administration Code (F.A.C.)

Rule 61B-40.004 Budgets

- (1) Required elements for estimated operating budgets. The proposed and adopted budget for each timeshare plan shall:
 - (a) Be stated on an annual basis;
 - (b) Disclose the fiscal year for which the budget will be in effect;
 - (c) Show the total assessment for each use availability period or ownership interest according to its proportionate share of ownership or as allocated by the timeshare instrument, as applicable;
 - (d) Include a good faith estimate of all revenues of the timeshare plan. Revenue classifications, such as interest, assessments, and other categories shall be shown separately. If applicable, the following items shall be included in the estimated revenues section of the budget:
 1. Estimated non-assessment revenues; and
 2. Estimated common surplus as of the beginning of the period for which the budget will be in effect.
 - (e) Include a good faith estimate of all common expenses or expenditures of the timeshare plan including the categories set forth in Section 721.07(5)(t)3., F.S. The following minimum reserve disclosures for proposed budgets are required:
 1. Reserves for capital expenditures and deferred maintenance as required by Section 721.07(5)(u)3., F.S., shall be included in the proposed annual budget, or as a separate reserve budget, stating each such reserve category for capital expenditures and deferred maintenance as a separate line item and with the following minimum disclosures:
 - a. The total estimated useful life of the asset;
 - b. The estimated remaining useful life of the asset;
 - c. The estimated replacement cost or deferred maintenance expense of the asset;
 - d. The estimated fund balance of the asset as of the beginning of the period for which the budget will be in effect; and
 - e. The developer's total funding obligation, as if all timeshare periods are sold, for each converter reserve account established pursuant to Section 721.03(3)(e), F.S., if applicable.
 2. Categories of expense that are restricted as to use shall be stated in the reserve portion of the budget. Categories of expense that are not restricted as to use shall be stated in the operating portion of the budget.
 - (f) Include estimated common deficits as of the beginning of the period for which the budget will be in effect as a separate line item of the budget.
- (2) Condominium associations operating both timeshared units and non-timeshared units. The budget for an association operating both whole condominium units and timeshared condominium units shall provide separate schedules, conforming to the requirements for budgets as stated in this rule, of all estimated common expenses related to the underlying condominium units and all of the estimated common expenses related to the timeshare plan, including any applicable reserves for deferred maintenance and capital expenditures.
- (3) Non-condominium timeshare plans with units to be used on a non-timeshared basis. The budget for a non-condominium timeshare plan consisting of timeshared units and non-timeshared units shall provide separate schedules, conforming to the requirements for budgets as stated in this rule, of all estimated common expenses related to the non-timeshared units and all of the estimated common expenses related to the timeshared units, including any applicable reserves for deferred maintenance and capital expenditures.
- (4) Condominium timeshare plans with limited common elements. If a condominium association maintains limited common elements at the expense of only those purchasers entitled to use the limited common elements pursuant to Section 718.113(1), F.S., the budget shall include a separate schedule, or schedules, conforming to the requirements for budgets as stated in this rule, of all estimated expenses specific to each of the limited common elements, including any applicable reserves for deferred maintenance and capital expenditures. The schedule or schedules may aggregate the maintenance expense of any limited common

elements for which the declaration provides that the maintenance expense is to be shared by a group of purchasers.

- (5) Non-condominium timeshare plans that allocate common expenses to certain purchasers based on exclusive use rights. If a non-condominium timeshare plan maintains facilities of the timeshare plan at the expense of only those purchasers entitled to use those facilities the budget shall include a separate schedule, or schedules, conforming to the requirements for budgets as stated in this rule, of all estimated expenses specific to each of the facilities, including any applicable reserves for deferred maintenance and capital expenditures. The schedule or schedules may aggregate the maintenance expense of any facilities for which the timeshare instrument provides that the maintenance expense is to be shared by a group of purchasers.
- (6) Multicondominium timeshare plans. The managing entity of a multicondominium timeshare plan shall:
 - (a) Provide a separate schedule of estimated expenses specific to each condominium such as the maintenance, deferred maintenance, repair or replacement of the common elements of that condominium;
 - (b) Provide a separate schedule of estimated expenses of the association that are not specific to a condominium such as the maintenance, deferred maintenance, repair or replacement of the property serving more than one condominium;
 - (c) Multicondominium associations, created after June 30, 2000, or multicondominium associations that have created separate ownership interests of the common surplus of the association for each purchaser as provided in Sections 718.104(4)(h) and 718.110(12), F.S., shall include the estimated common surplus of the association and the condominium as a line item in the revenue section of the respective budgets; and
 - (d) Multicondominium associations created after June 30, 2000, or multicondominium associations that have created separate ownership interests of the common surplus of the association for each purchaser as provided in Sections 718.104(4)(h) and 718.110(12), F.S., shall include each purchaser's share of the estimated expenses of the association, referred to in subsection (b) of this rule, which shall be shown on the individual condominium budgets. Multicondominium associations created prior to July 1, 2000, that have not created separate ownership interests of the common surplus of the association for each purchaser as provided in Sections 718.104(4)(h) and 718.110(12), F.S., shall disclose each condominium's share of the estimated expenses of the association, as referenced in subsection (b) of this rule.
- (7) Phase condominium timeshare plans. By operation of law, the annual budget of a phase condominium created pursuant to Section 718.403, F.S., shall automatically be adjusted when phases are added to a condominium to incorporate the change in proportionate ownership of the common elements by the purchasers and to incorporate any other changes related to the addition of phases in accordance with the declaration of condominium. The adjusted annual budget shall be effective on the date that the amendment to the declaration adding a phase to a phase condominium is recorded in the official records of the county in which the condominium is located. Notwithstanding the requirements of subsection (8) of this rule, the board shall not be required to follow the provisions of Section 718.112(2)(e), F.S., unless, as a result of the budget adjustment, the assessment per use availability period or ownership interest has changed.
- (8) Budget amendments for condominium timeshare plans. The association of a condominium timeshare plan may amend a previously approved annual budget. In order to do so the board of administration shall follow the provisions of Section 718.112(2)(e), F.S. For example, the board shall mail a meeting notice and copies of the proposed amended annual budget to the purchasers not less than 14 days prior to the meeting at which the budget amendment will be considered.
- (9) Authorized level of assessments. Assessments charged to a purchaser pursuant to an annual budget shall be based on the adopted budget and the purchaser's proportional obligation for sharing common expenses as stated in the timeshare instrument.

F.A.C. Rule 61B-40.004 Budgets

- (10) Budgets are a part of the official records. A copy of the proposed and adopted budgets shall be maintained as part of the books and financial records of the timeshare plan.

Rulemaking Authority 718.501(1)(f), 721.03(2), 721.13(3)(d)3., 721.26(6) FS. Law Implemented 718.111(6), 718.112(2)(e), (f), 718.113(1), 718.115(2), 718.403(6)(e), 721.03(3), 721.07(5)(u)3., 721.13(2)(a), 721.15(2), (5) FS. History—New 2-5-96, Amended 12-18-01.