

1-1 By: Fraser S.B. No. 1105
1-2 (In the Senate - Filed March 11, 2003; March 17, 2003, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 3, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 3, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1105 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to amendments to the Texas Timeshare Act.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 221.002, Property Code, is amended to
1-13 read as follows:

1-14 Sec. 221.002. DEFINITIONS. As used in this chapter:

1-15 (1) "Accommodation" means any apartment, condominium
1-16 or cooperative unit, ~~[or]~~ hotel or motel room, cabin, lodge, or
1-17 other private commercial structure designed for occupancy or use by
1-18 one or more individuals and ~~[in a building or commercial structure]~~
1-19 that is part of ~~[situated on]~~ a timeshare plan ~~[property and subject~~
1-20 ~~to a timeshare regime]~~.

1-21 (2) "Advertisement ~~[Advertising]~~" means any written,
1-22 oral, or electronic communication that is directed to or targeted
1-23 at individuals in this state and contains a promotion, ~~[direct or~~
1-24 ~~indirect solicitation or]~~ inducement, or offer to sell a timeshare
1-25 interest, including a promotion, inducement, or offer to sell:

1-26 (A) contained in a brochure, pamphlet, or radio
1-27 or television transcript;

1-28 (B) communicated by ~~[to purchase and includes a~~
1-29 ~~solicitation or inducement made by print or]~~ electronic media or
1-30 telephone; or

1-31 (C) solicited ~~[r]~~ through direct ~~[the]~~ mail ~~[, or~~
1-32 ~~by personal contact]~~.

1-33 (3) "Amenities" means all common areas and includes
1-34 recreational and maintenance facilities of the timeshare plan
1-35 ~~[property]~~.

1-36 (4) "Assessment" means an amount assessed against or
1-37 collected from a purchaser by an association or its managing entity
1-38 in a fiscal year, regardless of the frequency with which the amount
1-39 is assessed or collected, to cover expenditures, charges, reserves,
1-40 or liabilities related to the operation of a timeshare plan or
1-41 timeshare properties managed by the same managing entity.

1-42 (5) "Association" means a council or association
1-43 composed of all persons who have purchased a timeshare interest.

1-44 (6) "Commission" means the Texas Real Estate
1-45 Commission.

1-46 (7) "Component site" means a specific geographic
1-47 location where accommodations that are part of a multisite
1-48 timeshare plan are located. Separate phases of a single timeshare
1-49 property in a specific geographic location and under common
1-50 management are a single component site ~~[(5) "Council of~~
1-51 ~~purchasers" means a council or association composed of all persons~~
1-52 ~~who have purchased a timeshare estate]~~.

1-53 (8) ~~[(6)]~~ "Developer" means:

1-54 (A) any person, excluding a sales agent, who
1-55 creates a timeshare plan or is in the business of selling timeshare
1-56 interests or employs a sales agent to sell timeshare interests; or

1-57 (B) any person who succeeds in the developer's
1-58 interest by sale, lease, assignment, mortgage, or other transfer if
1-59 the person:

1-60 (i) offers at least 12 timeshare interests
1-61 in a particular timeshare plan; and

1-62 (ii) is in the business of selling
1-63 timeshare interests or employs a sales agent to sell timeshare

2-1 interests [regime].
2-2 (9) [~~7~~] "Dispose" or "disposition" means a
2-3 voluntary transfer of any legal or equitable timeshare interest but
2-4 does not include the transfer or release of a real estate lien or of
2-5 a security interest.
2-6 (10) [~~8~~] "Escrow agent" means a [an independent]
2-7 bonded escrow company, a financial [or an] institution whose
2-8 accounts are insured by a governmental agency or instrumentality,
2-9 or an attorney, real estate broker, or title insurance agent
2-10 licensed in this state [and] who is responsible for the receipt and
2-11 disbursement of funds in accordance with this chapter.
2-12 (11) [~~9~~] "Exchange company" means any person[~~—~~
2-13 ~~including a developer,~~] who owns or operates an exchange program.
2-14 (12) [~~10~~] "Exchange disclosure statement" means a
2-15 written statement that includes the information required by Section
2-16 221.033 [201.033].
2-17 (13) [~~11~~] "Exchange program" means any method,
2-18 arrangement, or procedure for the voluntary exchange of [program
2-19 under which the owner of] a timeshare interest or other [may
2-20 exchange a timeshare period for another timeshare period in the
2-21 same or a different timeshare] property interest, but does not
2-22 include an assignment of a right to use and occupy an accommodation
2-23 or facility granted to a purchaser or owner of a timeshare interest
2-24 in a single site timeshare plan [a one-time exchange of timeshare
2-25 periods in the same timeshare property if offered to a purchaser by
2-26 a developer after that purchaser's disposition].
2-27 (14) "Incidental use right" means the right to use
2-28 accommodations and amenities at one or more timeshare properties
2-29 that is not guaranteed and is administered by the managing entity of
2-30 the timeshare properties that make vacant accommodations at the
2-31 timeshare properties available to owners of timeshare interests in
2-32 the timeshare properties.
2-33 (15) [~~12~~] "Managing entity" means the person
2-34 responsible for operating and maintaining a timeshare property.
2-35 (16) "Multisite timeshare plan" means a plan in which
2-36 a timeshare purchaser has:
2-37 (A) a specific timeshare interest, which is the
2-38 right to use and occupy accommodations at a specific timeshare
2-39 property and the right to use and occupy accommodations at one or
2-40 more other component sites created by or acquired through the
2-41 reservation system of the timeshare plan; or
2-42 (B) a nonspecific timeshare interest, which is
2-43 the right to use and occupy accommodations at more than one
2-44 component site created by or acquired through the reservation
2-45 system of the timeshare plan but which does not include a right to
2-46 use and occupy a particular accommodation [(13) "Master deed" or
2-47 "master lease" or "declaration" means the deed, lease, or
2-48 declaration establishing real property as a timeshare regime].
2-49 (17) [~~14~~] "Offering" or "offer" means any
2-50 advertisement, inducement, or solicitation and includes any
2-51 attempt to encourage a person to purchase a timeshare interest
2-52 other than as a security for an obligation.
2-53 (18) [~~15~~] "Project instrument" means a timeshare
2-54 instrument or one or more recordable documents, by whatever name
2-55 denominated, applying to the whole of a timeshare project and
2-56 containing restrictions or covenants regulating the use,
2-57 occupancy, or disposition of units in a project, including a
2-58 [master deed, master lease,] declaration for a condominium,
2-59 association articles of incorporation, association [or] bylaws,
2-60 and rules for a condominium in which a timeshare plan is created.
2-61 (19) [~~16~~] "Promotion" means any program, [or]
2-62 activity, contest, gift, prize, or any other item of value used to
2-63 induce any person to attend a timeshare sales presentation.
2-64 (20) [~~17~~] "Promotional disclosure statement" means ~~a~~
2-65 ~~written statement that includes the information required by Section~~
2-66 ~~201.031.~~
2-67 [~~18~~] "Purchaser" means any person, other than a
2-68 developer [seller], who by means of a voluntary transfer acquires a
2-69 legal or equitable interest in a timeshare interest other than as a

3-1 security for an obligation.

3-2 (21) "Reservation system" means the method,
 3-3 arrangement, or procedure by which a purchaser, in order to reserve
 3-4 the use and occupancy of an accommodation of a multisite timeshare
 3-5 plan for one or more timeshare periods, is required to compete with
 3-6 other purchasers in the same multisite timeshare plan, regardless
 3-7 of whether the reservation system is administered by a managing
 3-8 entity, exchange company, or any other person. If a purchaser is
 3-9 required to use an exchange program as the purchaser's principal
 3-10 means of obtaining the right to use and occupy the accommodations
 3-11 and facilities of the plan, the arrangement is considered a
 3-12 reservation system. If the exchange company uses a mechanism to
 3-13 exchange timeshare periods among members of the exchange program,
 3-14 the use of the mechanism is not considered a reservation system of
 3-15 the multisite timeshare plan.

3-16 ~~[(19) "Seller" means any person, including a~~
 3-17 ~~developer, who in the ordinary course of business offers a~~
 3-18 ~~timeshare interest for sale to the public, but does not include a~~
 3-19 ~~person who acquires a timeshare interest for his use and~~
 3-20 ~~subsequently offers it for resale.~~

3-21 ~~[(20) "Substantially complete" means that the~~
 3-22 ~~timeshare unit, including furnishings and appliances, is complete~~
 3-23 ~~as represented in the timeshare disclosure statement, the~~
 3-24 ~~accommodations are ready for occupancy, and the amenities dedicated~~
 3-25 ~~to the timeshare regime are as represented in the timeshare~~
 3-26 ~~disclosure statement.~~

3-27 ~~[(21) "Timeshare estate" means any arrangement under~~
 3-28 ~~which the purchaser receives a freehold estate or an estate for~~
 3-29 ~~years in a timeshare property and the right to use an accommodation~~
 3-30 ~~or amenities, or both, in that property for a timeshare period on a~~
 3-31 ~~recurring basis.]~~

3-32 (22) "Single-site timeshare plan" means a timeshare
 3-33 plan in which a timeshare purchaser's right to use and occupy
 3-34 accommodations is limited to a single timeshare property. A
 3-35 single-site timeshare plan that includes an incidental use right or
 3-36 a program under which the owner of a timeshare interest at a
 3-37 specific timeshare property may exchange a timeshare period for
 3-38 another timeshare period at the same or another timeshare property
 3-39 under common management does not transform the single-site
 3-40 timeshare plan into a multisite timeshare plan.

3-41 (23) "Timeshare disclosure statement" means a written
 3-42 statement that includes the information required by Section 221.032
 3-43 [201.032].

3-44 (24) [(23)] "Timeshare estate [expenses]" means an
 3-45 arrangement under which the purchaser receives a right to occupy
 3-46 [expenditures, charges, or liabilities for the operation of] a
 3-47 timeshare property and an estate interest in the real property [or
 3-48 timeshare system, including any allocations to maintain reserves
 3-49 but excluding any purchase money payable for timeshare interests:

3-50 [(A) incurred in connection with a timeshare
 3-51 interest by or on behalf of the owner of all timeshare interests in
 3-52 a timeshare property; and

3-53 [(B) imposed on timeshare interests by the
 3-54 managing entity].

3-55 (25) [(24)] "Timeshare interest" means a timeshare
 3-56 estate or timeshare use.

3-57 (26) [(25)] "Timeshare instrument" means a master
 3-58 deed, master lease, declaration, or any other instrument used in
 3-59 the creation of a timeshare plan [regime].

3-60 ~~[(26) "Timeshare liability" means the liability for~~
 3-61 ~~timeshare expenses allocated to each timeshare interest.]~~

3-62 (27) "Timeshare period" means the period within which
 3-63 the purchaser of a timeshare interest is entitled to the exclusive
 3-64 possession, occupancy, and use of an accommodation [a timeshare
 3-65 unit and to the general use of all amenities].

3-66 (28) "Timeshare plan" means any arrangement, plan,
 3-67 scheme, or similar method, excluding an exchange program but
 3-68 including a membership agreement, sale, lease, deed, license, or
 3-69 right-to-use agreement, by which a purchaser, in exchange for

4-1 consideration, receives an ownership right in or the right to use
4-2 accommodations for a period of time less than a year during a given
4-3 year, but not necessarily consecutive years.

4-4 (29) ~~[(28)]~~ "Timeshare property" means:

4-5 (A) one or more ~~[all real property that is~~
4-6 ~~subject to a timeshare declaration, including all]~~ accommodations
4-7 and any related amenities subject to the same timeshare instrument;
4-8 and

4-9 (B) any other property or property rights
4-10 appurtenant to the accommodations and amenities.

4-11 (30) ~~[(29)]~~ ~~"Timeshare regime" means the real property~~
4-12 ~~use that is created by the filing and recordation of a master deed,~~
4-13 ~~master lease, or declaration.~~

4-14 ~~[(30)]~~ ~~"Timeshare unit" means any accommodation that is~~
4-15 ~~divided into timeshare periods.~~

4-16 ~~[(31)]~~ "Timeshare use" means any arrangement ~~[other~~
4-17 ~~than a hotel or motel operation, whether by lease, rental~~
4-18 ~~agreement, license, use agreement or other means,]~~ under which the
4-19 purchaser receives a right to occupy ~~[use an accommodation or~~
4-20 ~~amenities or both for]~~ a timeshare property ~~[period on a recurring~~
4-21 ~~basis], but under which the purchaser does not receive an [a~~
4-22 ~~freehold] estate interest [or an estate for years] in the [a]~~
4-23 timeshare property.

4-24 ~~[(32)]~~ ~~"Timeshare fees" means an amount assessed~~
4-25 ~~against or collected from an owner by a managing entity in a fiscal~~
4-26 ~~year, without regard to the frequency with which the amount is~~
4-27 ~~assessed or collected.~~

4-28 ~~[(33)]~~ ~~"Owner" means a person who holds a legal or~~
4-29 ~~equitable interest in a timeshare interest in timeshare property~~
4-30 ~~subject to the requirements of this Act.~~

4-31 ~~[(34)]~~ ~~"Timeshare system" means two or more timeshare~~
4-32 ~~properties located in separate geographic areas that are:~~

- 4-33 ~~[(A)]~~ ~~managed by the same managing entity; and~~
- 4-34 ~~[(B)]~~ ~~subject to a written arrangement or~~
4-35 ~~agreement whereby an owner of a timeshare interest in any one of the~~
4-36 ~~timeshare properties may use a timeshare unit and the amenities of~~
4-37 ~~any of the other timeshare properties as provided in the project~~
4-38 ~~instruments.]~~

4-39 SECTION 2. Section 221.003, Property Code, is amended by
4-40 adding Subsection (d) to read as follows:

4-41 (d) A timeshare property subject to this chapter is not
4-42 subject to Chapter 209 unless an individual timeshare owner
4-43 continuously occupies a single timeshare property as the owner's
4-44 primary residence 12 months of the year.

4-45 SECTION 3. Sections 221.011 through 221.014, Property Code,
4-46 are amended to read as follows:

4-47 Sec. 221.011. DECLARATION. (a) The developer of a
4-48 timeshare plan any part of which is located in this state must
4-49 record the timeshare instrument in this state. When a person ~~[who~~
4-50 ~~is a developer, the sole owner, or the co-owner of a building or~~
4-51 ~~proposed building or buildings]~~ expressly declares an intent to
4-52 subject the property to a timeshare plan through the recordation of
4-53 a timeshare instrument [master deed, master lease, or declaration]
4-54 that sets forth the information provided in Subsections (b) and
4-55 (c), [and that sets forth the intent to submit that property to a
4-56 timeshare regime,] that property shall be established thenceforth
4-57 as a timeshare plan ~~[regime].~~

4-58 (b) The declaration made in a timeshare instrument recorded
4-59 under this section must include:

4-60 (1) a legal description of the timeshare property,
4-61 including a ground plan indicating the location of each existing or
4-62 proposed building included in ~~[to be constructed on]~~ the timeshare
4-63 plan ~~[property];~~

4-64 (2) a description of each existing or proposed
4-65 accommodation ~~[timeshare unit],~~ including the location and square
4-66 footage of each unit and an interior floor plan of each existing or
4-67 proposed building;

4-68 (3) a description of any ~~[the]~~ amenities furnished or
4-69 to be furnished to the purchaser;

5-1 (4) a statement of the fractional or percentage part
 5-2 that each timeshare interest bears to the entire timeshare plan
 5-3 [~~regime~~];

5-4 (5) if applicable, a statement that the timeshare
 5-5 property is part of a multisite timeshare plan [~~system~~]; and

5-6 (6) any additional provisions that are consistent with
 5-7 this section.

5-8 (c) Any timeshare interest created under this section is
 5-9 subject to Section 1101.002(5), Occupations Code [~~an interest in~~
 5-10 ~~land within the meaning of Subdivision (1), Section 2, The Real~~
 5-11 ~~Estate License Act (Article 6573a, Vernon's Texas Civil Statutes)],~~
 5-12 but Section 1101.351(a), Occupations Code [~~Subsection (b), Section~~
 5-13 ~~1, The Real Estate License Act)], does not apply to the acts of an
 5-14 exchange company in exchanging timeshare periods [~~under a timeshare~~
 5-15 ~~program~~].~~

5-16 [~~(d) Any timeshare interest located wholly without this state~~
 5-17 ~~may be sold or otherwise disposed of within this state if the~~
 5-18 ~~timeshare property is in full compliance with the legal~~
 5-19 ~~requirements of and may be validly sold or otherwise disposed of as~~
 5-20 ~~a timeshare property in the jurisdiction in which the timeshare~~
 5-21 ~~property is located and if all information required in this section~~
 5-22 ~~is included in the disclosure statement.~~]

5-23 Sec. 221.012. CONVEYANCE AND ENCUMBRANCE. Once the
 5-24 property is established as a timeshare plan [~~regime~~], each
 5-25 timeshare interest may be individually conveyed or encumbered and
 5-26 shall be entirely independent of all other timeshare interests in
 5-27 the same timeshare property. Any title or interest in a timeshare
 5-28 interest may be recorded.

5-29 Sec. 221.013. COMMON OWNERSHIP. (a) Any timeshare
 5-30 interest may be jointly or commonly owned by more than one person.

5-31 (b) A timeshare estate may be jointly or commonly owned in
 5-32 the same manner as any other real property interest in this state.

5-33 Sec. 221.014. PARTITION. An action for partition of a
 5-34 timeshare interest may not be maintained during the term of a
 5-35 timeshare plan [~~unless expressly permitted by the declaration~~].

5-36 SECTION 4. Subchapter C, Chapter 221, Property Code, is
 5-37 amended by amending Sections 221.021 through 221.025 and adding
 5-38 Section 221.026 to read as follows:

5-39 Sec. 221.021. REGISTRATION REQUIRED. (a) Except as
 5-40 provided by Subsection (b) or (d), a [A] person may not offer or
 5-41 dispose of a timeshare interest unless the timeshare plan
 5-42 [~~property~~] is registered with the commission.

5-43 (b) Before a registration application for a timeshare plan
 5-44 is submitted or completed, a [A] developer or any person acting on
 5-45 the developer's [his] behalf may accept a reservation and a deposit
 5-46 from a [the] prospective purchaser if the deposit is placed in a
 5-47 segregated [an] escrow account with an independent escrow agent and
 5-48 if the deposit is fully refundable at any time at the request of the
 5-49 purchaser. The deposit may not be forfeited unless the purchaser
 5-50 affirmatively creates a binding obligation by a subsequent written
 5-51 instrument.

5-52 (c) A developer or anyone acting on the developer's [his]
 5-53 behalf may not offer or dispose of [or encumber] a timeshare
 5-54 interest during any period within which there is in effect an order
 5-55 by the commission or by any court of competent jurisdiction
 5-56 revoking or suspending the registration of the timeshare plan
 5-57 [~~property~~] of which such timeshare interest is a part.

5-58 (d) At the developer's request, the commission may
 5-59 authorize the developer to conduct pre-sales before a timeshare
 5-60 plan is registered if the registration application is
 5-61 administratively complete, as determined by the commission or as
 5-62 established by commission rule. The authorization for pre-sales
 5-63 permits the developer to offer and dispose of timeshare interests
 5-64 during the period the application is in process. To obtain a
 5-65 pre-sales authorization, the developer must:

5-66 (1) submit a written request to the commission for an
 5-67 authorization to conduct pre-sales;

5-68 (2) submit an administratively complete application
 5-69 for registration, including appropriate fees and exhibits required

6-1 by the commission; and

6-2 (3) provide evidence acceptable to the commission that
 6-3 all funds received by the developer will be placed with an escrow
 6-4 agent with instructions requiring the funds to be retained until a
 6-5 registration application is complete as determined by the
 6-6 commission.

6-7 (e) During the pre-sales authorization period, the
 6-8 developer must:

6-9 (1) provide each purchaser and prospective purchaser a
 6-10 copy of the proposed timeshare disclosure statement that the
 6-11 developer submitted to the commission with the initial registration
 6-12 application; and

6-13 (2) offer each purchaser the opportunity to cancel the
 6-14 purchase contract as provided by Section 221.041.

6-15 (f) The developer must:

6-16 (1) give each purchaser and prospective purchaser a
 6-17 copy of the proposed timeshare disclosure statement submitted to
 6-18 the commission with the registration application; and

6-19 (2) provide the purchaser an opportunity to cancel the
 6-20 purchase contract as provided by Section 221.041 after the
 6-21 registration is completed if the commission determines that a
 6-22 material adverse change exists between the disclosures contained in
 6-23 the proposed timeshare disclosure statement and the final timeshare
 6-24 disclosure statement approved by the commission.

6-25 (g) The requirements of this subchapter remain in effect
 6-26 during the period the developer offers or disposes of timeshare
 6-27 interests of the timeshare plan registered with the commission.
 6-28 The developer must notify the commission in writing when all of the
 6-29 timeshare interests of a timeshare plan have been disposed.

6-30 Sec. 221.022. APPLICATION FOR REGISTRATION. (a) An
 6-31 application for registration filed under this section must include
 6-32 a timeshare disclosure statement and any required exchange
 6-33 disclosure statement required by Section 221.033 [201.033],
 6-34 [certified] copies of all timeshare instruments, and other
 6-35 information as may be required by the commission. If existing or
 6-36 proposed accommodations are in a condominium, an applicant who
 6-37 complies with this section is not required to prepare or deliver a
 6-38 condominium information statement or a resale certificate as
 6-39 described by Chapter 82.

6-40 (b) If existing or proposed accommodations [timeshare
 6-41 units] are in a condominium or similar development, the application
 6-42 for registration must contain the project instruments of that
 6-43 development and affirmatively indicate that the creation and
 6-44 disposition of timeshare interests are not prohibited by those
 6-45 instruments. If the project instruments do not expressly authorize
 6-46 the creation and disposition of timeshare interests, the
 6-47 application must contain evidence that existing owners of the
 6-48 condominium development were provided written notice, at least 60
 6-49 days before the application for registration, that timeshare
 6-50 interests would be created and sold. If the project instruments
 6-51 prohibit the creation or disposition of timeshare interests, the
 6-52 application must contain a certification by the authorized
 6-53 representative of all existing owners that the project instruments
 6-54 have been properly amended to permit that creation and disposition.

6-55 (c) The commission may accept an abbreviated registration
 6-56 application from a developer of a timeshare plan if all
 6-57 accommodations in the plan are located outside this state. The
 6-58 developer must file written notice of the intent to register under
 6-59 this section not later than the 15th day before the date the
 6-60 abbreviated application is submitted.

6-61 (d) A developer of a timeshare plan with any accommodation
 6-62 located in this state may not file an abbreviated application
 6-63 unless the developer is a successor in interest after a merger or
 6-64 acquisition and the previous developer registered the timeshare
 6-65 plan in this state preceding the merger or acquisition.

6-66 (e) A developer filing an abbreviated application must
 6-67 provide:

6-68 (1) the legal name and any assumed names, the
 6-69 principal office location, mailing address, telephone number, and

7-1 primary contact person of the developer;
7-2 (2) the name, location, mailing address, telephone
7-3 number, and primary contact person of the timeshare plan;
7-4 (3) the name and address of the developer's authorized
7-5 agent for service of process in this state;
7-6 (4) the address of the developer's authorized or
7-7 registered agent in this state;
7-8 (5) the name, primary office location, mailing
7-9 address, and telephone number of the managing entity of the
7-10 timeshare plan;
7-11 (6) the certificate or other evidence of registration
7-12 from any jurisdiction in which the timeshare plan is approved or
7-13 accepted;
7-14 (7) the certificate or other evidence of registration
7-15 from the appropriate regulatory agency of any other jurisdiction in
7-16 the United States in which some or all of the accommodations are
7-17 located;
7-18 (8) a declaration stating whether the timeshare plan
7-19 is a single-site timeshare plan or a multisite timeshare plan;
7-20 (9) if the plan is a multisite timeshare plan, a
7-21 declaration stating whether the plan consists of specific timeshare
7-22 interests or nonspecific timeshare interests;
7-23 (10) a disclosure of each jurisdiction in which the
7-24 developer has applied for registration of the timeshare plan and
7-25 whether the timeshare plan, the developer, or the managing entity
7-26 used were denied registration or were the subject of a disciplinary
7-27 proceeding;
7-28 (11) if requested by the commission, copies of any
7-29 disclosure documents required to be provided to purchasers or filed
7-30 with any jurisdiction that approved or accepted the timeshare plan;
7-31 (12) the appropriate filing fee; and
7-32 (13) any other information reasonably requested by the
7-33 commission or required by commission rule.
7-34 (f) A foreign jurisdiction providing evidence of
7-35 registration as provided by Subsection (e)(7) must have
7-36 registration and disclosure requirements that are substantially
7-37 similar or stricter than the requirements of this chapter.
7-38 (g) The commission shall investigate all matters relating
7-39 to the application and may in its discretion require a personal
7-40 inspection of the proposed timeshare property by any persons
7-41 designated by it. All direct expenses incurred by the commission in
7-42 inspecting the property shall be borne by the applicant. The
7-43 commission may require the applicant to pay an advance deposit
7-44 sufficient to cover those expenses.
7-45 Sec. 221.023. AMENDMENT OF REGISTRATION. The developer
7-46 shall ~~or managing entity shall promptly~~ file amendments to the
7-47 registration reporting to the commission any material and adverse
7-48 change in any document contained in the registration not later than
7-49 the 30th day after the date the developer knows or reasonably should
7-50 know of the change. The developer may continue to offer and dispose
7-51 of timeshare interests under the existing registration pending
7-52 review of the amendments by the commission if the material and
7-53 adverse change is disclosed to prospective purchasers.
7-54 Sec. 221.024. POWERS OF COMMISSION. (a) The commission
7-55 may prescribe and publish forms and adopt rules necessary to carry
7-56 out the provisions of this chapter and may suspend or revoke the
7-57 registration of any developer, place on probation the registration
7-58 of a developer that has been suspended or revoked, reprimand a
7-59 developer, impose an administrative penalty of not more than
7-60 \$10,000 for each violation on a developer, or take any other
7-61 disciplinary action authorized by this chapter ~~seller~~ if, after
7-62 notice and hearing, the commission determines that a developer
7-63 ~~seller~~ has materially violated this chapter, the Deceptive Trade
7-64 Practices-Consumer Protection Act (Subchapter E, Chapter 17,
7-65 Business & Commerce Code), or the Contest and Gift Giveaway Act
7-66 (Chapter 40, Business & Commerce Code). ~~The commission may bring~~
7-67 ~~suit in a district court of Travis County, Texas, to enjoin a~~
7-68 ~~violation of this Act or for any other relief as the court may deem~~
7-69 ~~appropriate.]~~

8-1 (b) The commission may:

8-2 (1) authorize specific employees to conduct hearings
8-3 and issue final decisions in contested cases; and

8-4 (2) [shall] establish reasonable fees for forms and
8-5 documents it provides to the public and for the filing or
8-6 registration of documents required by this chapter.

8-7 (c) If the commission initiates a disciplinary proceeding
8-8 under this chapter, the person is entitled to a hearing before the
8-9 commission or a hearing officer appointed by the commission. The
8-10 commission by rule shall adopt procedures to permit an appeal to the
8-11 commission from a determination made by a hearing officer in a
8-12 disciplinary action.

8-13 (d) The commission shall set the time and place of the
8-14 hearing.

8-15 (e) A disciplinary procedure under this chapter is governed
8-16 by the contested case procedures of Chapter 2001, Government Code.

8-17 (f) The commission may file a suit in a district court of
8-18 Travis County to prevent a violation of this chapter or for any
8-19 other appropriate relief.

8-20 (g) Judicial review of a commission order imposing an
8-21 administrative penalty is:

8-22 (1) instituted by filing a petition as provided by
8-23 Subchapter G, Chapter 2001, Government Code; and

8-24 (2) by trial de novo.

8-25 Sec. 221.025. EFFECT OF REGISTRATION: SALE EXEMPT FROM
8-26 SECURITIES ACT. A developer's compliance with [The filing of a
8-27 registration under] this chapter exempts the developer's offer and
8-28 disposition of [the sale of] timeshare interests subject to this
8-29 chapter from [registration under] The Securities Act (Article 581-1
8-30 et seq., Vernon's Texas Civil Statutes).

8-31 Sec. 221.026. ISSUANCE AND RENEWAL OF REGISTRATION.

8-32 (a) The commission by rule shall adopt requirements for the
8-33 issuance and renewal of a developer's registration under this
8-34 chapter, including:

8-35 (1) the form required for application for registration
8-36 or a renewal of registration; and

8-37 (2) any supporting documentation required for
8-38 registration or renewal of registration.

8-39 (b) The commission shall issue or renew a registration under
8-40 this chapter for a period not to exceed 24 months.

8-41 (c) The commission may assess and collect a fee for the
8-42 issuance or renewal of a registration under this chapter.

8-43 (d) The commission may assess and collect a late fee if the
8-44 commission has not received the fee or any supporting documentation
8-45 required before the 61st day after the date a registration is issued
8-46 or renewed under this section.

8-47 (e) Failure to pay a late fee is a violation of this chapter.

8-48 SECTION 5. Sections 221.031 and 221.032, Property Code, are
8-49 amended to read as follows:

8-50 Sec. 221.031. ADVERTISING AND PROMOTIONS [~~PROMOTIONAL~~
8-51 ~~DISCLOSURE STATEMENT~~]. (a) At any time, the commission may
8-52 request a developer to file for review by the commission any
8-53 advertisement used in this state by the developer in connection
8-54 with offering a timeshare interest. The developer shall provide
8-55 the advertisement not later than the 15th day after the date the
8-56 commission makes the request. If the commission determines that
8-57 the advertisement violates this chapter or Chapter 40, Business &
8-58 Commerce Code, the commission shall notify the developer in
8-59 writing, stating the specific grounds for the commission's
8-60 determination not later than the 15th day after the date the
8-61 commission makes its determination. The commission may grant the
8-62 developer provisional approval for the advertisement if the
8-63 developer agrees to correct the deficiencies identified by the
8-64 commission. A developer, on its own initiative, may submit any
8-65 proposed advertisement to the commission for review and approval by
8-66 the commission.

8-67 (b) Any advertisement that contains a promotion in
8-68 connection with the offering of a timeshare interest must comply
8-69 with Chapter 40, Business & Commerce Code.

9-1 (c) Any advertisement that contains a Before the use of
9-2 any promotion in connection with the offering of a timeshare
9-3 interest must include, in addition to any disclosures required
9-4 under Chapter 40, Business & Commerce Code, [the person who intends
9-5 to use the promotion shall include] the following [information in
9-6 its advertisements to the prospective purchaser]:

9-7 (1) a statement to the effect that the promotion is
9-8 intended to solicit purchasers of timeshare interests;

9-9 (2) if applicable, a statement to the effect that any
9-10 person whose name is obtained during the promotion may be solicited
9-11 to purchase a timeshare interest;

9-12 (3) the full name of the developer [and seller] of the
9-13 timeshare property; and

9-14 (4) if applicable, the full name and address of any
9-15 marketing company involved in the promotion of the timeshare
9-16 property, excluding the developer or an affiliate or subsidiary of
9-17 the developer [→

9-18 ~~[(5) the complete rules of the promotion; and~~

9-19 ~~[(6) the method of awarding, the odds of winning, a~~
9-20 ~~statement of the retail value of prizes, gifts, or other benefits~~
9-21 ~~under the promotion as set forth in Subsection (b) of this section,~~
9-22 ~~the geographic region in which the promotion is being conducted,~~
9-23 ~~the beginning and ending dates of the promotion, and the date by~~
9-24 ~~which each prize, gift, or benefit will be awarded or conferred].~~

9-25 ~~[(b) For the purposes of this section, the retail value of~~
9-26 ~~the item is the price at which a substantial number of sales of the~~
9-27 ~~exact item, having the same manufacturer, brand, model number, and~~
9-28 ~~type, have been made to members of the general public by at least~~
9-29 ~~two principal retail outlets in the State of Texas during the six~~
9-30 ~~months immediately preceding the offering of the prize or gift~~
9-31 ~~described in the promotion. However, if a substantial number of~~
9-32 ~~sales of a particular prize have not been made in the State of Texas~~
9-33 ~~in the six months immediately preceding the offering of the prize or~~
9-34 ~~gift in a promotion or if the developer elects, then the retail~~
9-35 ~~value of the prize or gift is the actual unit cost of the prize or~~
9-36 ~~the gift, net of any discounts or rebates to the developer, plus 200~~
9-37 ~~percent.~~

9-38 ~~[Provided, however, in the event a prize or gift involves~~
9-39 ~~lodging, airfare, trips, or recreational activity, the retail value~~
9-40 ~~shall be the retail sales price of the lodging, airfare, trips, or~~
9-41 ~~recreational activity to a member of the general public not~~
9-42 ~~involved in a promotional or other discount transaction.]~~

9-43 Sec. 221.032. TIMESHARE DISCLOSURE STATEMENT. (a) Before
9-44 the signing of any agreement [or contract] to acquire a timeshare
9-45 interest, the developer shall provide a timeshare disclosure
9-46 statement to the prospective purchaser and shall obtain from the
9-47 purchaser a written acknowledgement of receipt of the timeshare
9-48 disclosure statement.

9-49 (b) The timeshare disclosure statement must include:

9-50 (1) the type of timeshare plan offered and the name and
9-51 address of:

9-52 (A) the developer;

9-53 (B) the single site or specific site offered for
9-54 a single-site or multisite timeshare plan, including a specific
9-55 timeshare interest; and

9-56 (C) each component site for a multisite timeshare
9-57 plan, including a description of the component site [and the name
9-58 and specific location of the timeshare property];

9-59 (2) a description of the existing or proposed
9-60 accommodations, including the type and number of timeshare
9-61 interests in the accommodations, and, if the accommodations are
9-62 proposed or incomplete, a schedule for commencement, completion,
9-63 and availability of the accommodations [amenities, timeshare
9-64 property, and any project or development within which the timeshare
9-65 property is located or of which it is a part, the total number of
9-66 timeshare units in the timeshare property and whether and under
9-67 what circumstances that number may be increased or decreased, and,
9-68 if a timeshare interest includes amenities not yet in existence,
9-69 the commencement and completion schedule of the proposed

amenities];

(3) a description of any existing or proposed amenities of the timeshare plan and, if the amenities are proposed or incomplete, a schedule for commencement, completion, and availability of the amenities [~~the timeshare interests currently available for disposition and, if applicable, the types and number of units available~~];

(4) a statement that an association [~~a council of purchasers~~] exists or is expected to be created or that such an association [~~a council~~] does not exist and is not expected to be created and, if such an association [~~a council~~] exists or is reasonably contemplated, a description of its powers and responsibilities;

(5) if applicable, copies of the following documents, including any amendments to the documents:

(A) the declaration;

(B) the association articles of incorporation;

(C) the association bylaws;

(D) the association rules; and

(E) any lease or contract, excluding loan documents required to be signed by the purchaser at closing;

(6) the name and principal address of the managing entity and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it;

(7) the current [~~(6) a complete~~] budget, if available, or the projected annual budget for the timeshare plan or timeshare properties managed by the same managing entity [~~for the operation of the timeshare property for a period of one year after the first disposition of a timeshare interest in the property, and thereafter, the current operating budget~~], which [~~operating budget~~] must include:

(A) a statement of the amount reserved or budgeted for repairs, replacements, and refurbishment [~~the total amount included as a reserve for the maintenance of the timeshare property and for the repair or replacement of personal property or fixtures~~];

(B) the projected common expense liability, if any, by category of expenditure for the timeshare plan or timeshare properties managed by the same managing entity [~~total amount of any other reserve and the purpose of the reserve~~];

(C) [~~the projected timeshare liability expressed by categories of expenditure for all timeshare interests,~~

[~~(D) the timeshare liability projected by categories of expenditures for each timeshare interest,~~

[~~(E)] the name and address of the person who prepared the operating budget; and~~

(D) [~~(F)] the assumptions on which the operating budget is based;~~

(8) the projected assessments and [~~(7)] a description of the~~ [~~nature and estimated amount of any timeshare liability that may in the future be assessed and the~~] method for calculating and apportioning those assessments among purchasers [~~and formula for assessing the timeshare liability~~];

(9) [~~(8)] a description of any lien, defect, or encumbrance on or affecting title to the timeshare interest and, if applicable, a copy of each written warranty provided by the developer [~~service that the developer or person acting on his behalf provides or expense that is paid that reasonably may be expected to become a timeshare liability, and the projected timeshare liability attributable to that service or expense~~];~~

(10) [~~(9)] a description of any bankruptcy, pending civil or criminal suit, adjudication, or disciplinary action material to the timeshare interest of which the developer has knowledge [~~the existing or proposed amenities of the timeshare property and, if the amenities are proposed or not yet complete or fully functional, a schedule for the projected commencement, completion, and availability of those amenities~~];~~

(11) any current or anticipated [~~(10) a description~~

11-1 ~~and amount of any current or expected dues, assessments,~~ fees~~,~~
 11-2 or charges to be paid by timeshare purchasers for the use of any
 11-3 ~~[accommodations or]~~ amenities related to the timeshare plan ~~[or for~~
 11-4 ~~any other purpose]~~;

11-5 ~~[(11) a description of any unsatisfied final judgment~~
 11-6 ~~against the developer, seller, managing entity, or exchange company~~
 11-7 ~~with which the developer is under contract, but not including any~~
 11-8 ~~individual sales agent or representative who offers a timeshare~~
 11-9 ~~interest,]~~

11-10 ~~(12) [a description and status of any pending lawsuit~~
 11-11 ~~or administrative action of which the developer has actual~~
 11-12 ~~knowledge that may materially affect a timeshare interest,~~

11-13 ~~[(13)]~~ a description and amount of insurance coverage
 11-14 provided for the protection of the purchaser;

11-15 ~~(13) [(14)]~~ the extent to which a timeshare interest
 11-16 may become subject to a tax lien or other lien arising out of claims
 11-17 against purchasers of different timeshare interests;

11-18 ~~(14) [(15)]~~ a description of those matters required by
 11-19 Section 221.041 ~~[201.041]~~;

11-20 ~~(15) [(16)]~~ a statement disclosing any right of first
 11-21 refusal or other restraint on the transfer of all or any portion of
 11-22 a timeshare interest;

11-23 ~~(16) [(17)]~~ a statement disclosing that any deposit
 11-24 made in connection with the purchase of a timeshare interest must
 11-25 ~~[will]~~ be held by ~~[in]~~ an escrow agent ~~[account]~~ until expiration of
 11-26 any right to cancel the contract and that any deposit must be ~~[or~~
 11-27 ~~any later time specified in the contract and will be]~~ returned to
 11-28 the purchaser if the purchaser ~~[he]~~ elects to exercise the ~~[his]~~
 11-29 right of cancellation; or, if the commission accepts from the
 11-30 developer a surety bond, irrevocable letter of credit, or other
 11-31 financial assurance instead of an escrow deposit, a statement
 11-32 disclosing that the developer has provided a surety bond,
 11-33 irrevocable letter of credit, or other financial assurance in an
 11-34 amount equal to or in excess of the funds that would otherwise be
 11-35 held by an escrow agent and that the deposit must be returned if the
 11-36 purchaser elects to exercise the right of cancellation;

11-37 ~~(17) [(18)]~~ if applicable, a statement that the
 11-38 ~~assessments [timeshare property is part of a timeshare system and~~
 11-39 ~~that timeshare fees]~~ collected from the purchasers ~~[owners]~~ may be
 11-40 placed in a common account with the assessments ~~[timeshare fees]~~
 11-41 collected from the purchasers ~~[owners]~~ of other timeshare
 11-42 properties managed by the same managing entity ~~[participating in~~
 11-43 ~~the timeshare system]~~; and

11-44 ~~(18) [(19)]~~ any other information the commission
 11-45 determines is necessary to protect prospective purchasers or to
 11-46 implement the purpose of this chapter ~~[material circumstances~~
 11-47 ~~concerning a timeshare interest].~~

11-48 (c) The developer may include any other information in the
 11-49 timeshare disclosure statement on approval by the commission.

11-50 (d) A developer who offers a multistate timeshare plan must
 11-51 fully disclose the following information in written, graphic, or
 11-52 tabular form:

11-53 (1) a description of each component site, including
 11-54 the name and address of each component site;

11-55 (2) the number of accommodations and timeshare
 11-56 periods, expressed in periods of seven-day use availability, that
 11-57 are committed to the plan and available for use by the purchasers;

11-58 (3) a statement indicating that, on an annual basis,
 11-59 the sum of the nights that purchasers are entitled to use the
 11-60 accommodations does not exceed the number of nights the
 11-61 accommodations are available for use by the purchasers;

11-62 (4) each type of accommodation, categorized by the
 11-63 number of bedrooms, bathrooms, and sleeping capacity, and a
 11-64 statement indicating whether the accommodation contains a full
 11-65 kitchen, which means a kitchen that has a minimum of a dishwasher,
 11-66 range, sink, oven, and refrigerator;

11-67 (5) a description of the amenities at each component
 11-68 site available for use by the purchasers;

11-69 (6) a description of the reservation system, which

12-1 must include:

12-2 (A) the entity responsible for operating the
12-3 reservation system;

12-4 (B) a summary of the rules governing access to
12-5 and use of the reservation system; and

12-6 (C) the existence of and explanation regarding
12-7 any priority reservation features that affect a purchaser's ability
12-8 to make reservations for the use of a given accommodation on a
12-9 first-come, first-served basis;

12-10 (7) a description of any right to make additions to,
12-11 substitutions in, or deletions from accommodations, amenities, or
12-12 component sites, and a description of the basis on which
12-13 accommodations, amenities, or component sites may be added to,
12-14 substituted in, or deleted from the multisite timeshare plan;

12-15 (8) a description of the purchaser's liability for any
12-16 fees associated with the multisite timeshare plan;

12-17 (9) the location and anticipated relative demand of
12-18 each component site in the multisite timeshare plan and any
12-19 periodic adjustment or amendment to the reservation system that may
12-20 be necessary to accommodate actual purchaser use patterns or
12-21 changes in purchaser use demand for the accommodations existing
12-22 during that period; and

12-23 (10) any other information the commission determines
12-24 is necessary to protect prospective purchasers or to implement the
12-25 purpose of this chapter.

12-26 (e) A developer who offers a multistate timeshare plan may
12-27 include any other information in the timeshare disclosure statement
12-28 on approval by the commission.

12-29 (f) A developer who offers a nonspecific timeshare interest
12-30 in a multistate timeshare plan must disclose the information
12-31 prescribed by Subsection (b) for each component site.

12-32 (g) If the property of a timeshare plan is located wholly
12-33 outside this state, the commission may permit the developer to
12-34 submit a timeshare disclosure statement the developer is currently
12-35 providing purchasers or an equivalent timeshare disclosure
12-36 statement filed for the timeshare plan in another state if the
12-37 current statement or the equivalent statement substantially
12-38 complies with the requirements of this subchapter. This subsection
12-39 does not exempt the developer from other requirements of this
12-40 chapter.

12-41 SECTION 6. Subsection (a), Section 221.033, Property Code,
12-42 is amended to read as follows:

12-43 (a) Before the signing of any agreement to purchase [~~or~~
12-44 ~~contract to acquire~~] a timeshare interest in which a prospective
12-45 purchaser is also offered participation in any exchange program,
12-46 the developer shall also deliver to the prospective purchaser the
12-47 exchange disclosure statement of any exchange company whose service
12-48 is advertised or offered by the developer or other person in
12-49 connection with the disposition.

12-50 SECTION 7. Section 221.034, Property Code, is amended to
12-51 read as follows:

12-52 Sec. 221.034. EXEMPT OFFERINGS AND DISPOSITIONS;
12-53 COMMUNICATIONS [~~WHEN DISCLOSURE NOT REQUIRED~~]. (a) An offering or
12-54 disposition is exempt from this chapter if it is [~~A disclosure~~
12-55 ~~statement need not be delivered in the case of~~]:

12-56 (1) a gratuitous offering or disposition of a
12-57 timeshare interest;

12-58 (2) a disposition pursuant to a court order;

12-59 (3) a disposition by a governmental agency;

12-60 (4) a disposition by foreclosure or deed in lieu of
12-61 foreclosure;

12-62 (5) an offering or [~~a~~] disposition by an association
12-63 of its own timeshare interest acquired through foreclosure, deed in
12-64 lieu of foreclosure, or gratuitous transfer [~~that may be canceled~~
12-65 ~~by the purchaser without penalty at any time and for any reason~~];

12-66 (6) an offering or [~~a~~] disposition of all timeshare
12-67 interests in a timeshare plan [~~regime~~] to not more than five
12-68 persons;

12-69 (7) an offering or [~~a~~] disposition of a timeshare

13-1 interest in a timeshare property situated wholly outside this state
 13-2 under a contract executed wholly outside this state, if there has
 13-3 been no offering to the purchaser within this state;

13-4 (8) an offering or [a] disposition of a timeshare
 13-5 interest to a purchaser who is not a resident of this state under a
 13-6 contract executed wholly outside this state, if there has been no
 13-7 offering to the purchaser within this state; [or]

13-8 (9) the offering or redispotion of a timeshare
 13-9 interest by a purchaser who acquired the interest for his personal
 13-10 use; or

13-11 (10) the offering or disposition is a rental of an
 13-12 accommodation for a period of three years or less.

13-13 (b) The offering or disposition of a timeshare interest by a
 13-14 developer to a person who has previously executed a contract for the
 13-15 purchase of or is the owner of a timeshare interest in a timeshare
 13-16 plan created by the developer is exempt from Sections 221.021,
 13-17 221.022, 221.023, 221.032, 221.041, 221.042, 221.043, 221.061,
 13-18 221.071(a)(1), 221.071(a)(8), 221.074, and 221.075 if the
 13-19 developer:

13-20 (1) permits the purchaser to cancel the purchase
 13-21 contract before the sixth day after the date the contract is signed;
 13-22 and

13-23 (2) provides the purchaser all timeshare disclosure
 13-24 documents required by law to be provided in the jurisdiction in
 13-25 which the timeshare property is located.

13-26 (c) The following communications are not advertisements
 13-27 under this chapter:

13-28 (1) any stockholder communication, including an
 13-29 annual report or interim financial report, proxy material,
 13-30 registration statement, securities prospectus, timeshare
 13-31 disclosure statement, or other material required to be delivered to
 13-32 a prospective purchaser by a state or federal governmental entity;

13-33 (2) any oral or written statement disseminated by a
 13-34 developer to broadcast or print media, excluding:

13-35 (A) paid advertising or promotional material
 13-36 relating to plans for acquiring or developing timeshare property;
 13-37 and

13-38 (B) the rebroadcast or other dissemination of any
 13-39 oral statements by a developer to a prospective purchaser or the
 13-40 distribution or other dissemination of written statements,
 13-41 including newspaper or magazine articles or press releases, by a
 13-42 developer to prospective purchasers;

13-43 (3) the offering of a timeshare interest in a national
 13-44 publication or by electronic media that is not directed to or
 13-45 targeted at any individual located in this state;

13-46 (4) any audio, written, or visual publication or
 13-47 material relating to the availability of any accommodations for
 13-48 transient rental if:

13-49 (A) a sales presentation is not a term or
 13-50 condition of the availability of the accommodations; and

13-51 (B) the failure of the transient renter to take a
 13-52 tour of the timeshare property or attend a sales presentation does
 13-53 not result in a reduction in the level of services or an increase in
 13-54 the rental price that would otherwise be available to the renter; or

13-55 (5) any follow-up communication with a person relating
 13-56 to a promotion if the person previously received an advertisement
 13-57 relating to the promotion that complied with Section 221.031.

13-58 (d) The following communications are exempt from this
 13-59 chapter if they are delivered to a person who has previously
 13-60 executed a contract for the purchase of or is an owner of a
 13-61 timeshare interest in a timeshare plan:

13-62 (1) any communication addressed to and relating to the
 13-63 account of the person; or

13-64 (2) any audio, written, or visual publication or
 13-65 material relating to an exchange company or program if the person is
 13-66 a member of that exchange company or program.

13-67 SECTION 8. Sections 221.041, 221.042, and 221.043, Property
 13-68 Code, are amended to read as follows:

13-69 Sec. 221.041. PURCHASER'S RIGHT TO CANCEL. (a) A

14-1 purchaser may cancel a purchase contract [~~to purchase a timeshare~~
 14-2 ~~interest]~~ before the sixth day after the date the purchaser signs
 14-3 and receives a copy of the purchase contract or receives the
 14-4 required timeshare disclosure statement, whichever is later
 14-5 [~~contract is signed]~~.

14-6 (b) [~~If a purchaser does not receive a copy of the contract~~
 14-7 ~~at the time the contract is signed, the purchaser may cancel the~~
 14-8 ~~contract to purchase the timeshare interest before the sixth day~~
 14-9 ~~after the date the contract is received by the purchaser.~~

14-10 [~~(c)~~] A purchaser may not waive his right of cancellation
 14-11 under this section. A contract containing a waiver is voidable by
 14-12 the purchaser.

14-13 Sec. 221.042. NOTICE; REFUND. (a) If a purchaser elects
 14-14 to cancel a purchase contract under Section 221.041, the purchaser
 14-15 [~~201.041 he~~] may do so by hand-delivering notice of cancellation to
 14-16 the developer, [~~seller or~~] by mailing notice by prepaid United
 14-17 States mail to the developer [~~seller~~] or to the developer's
 14-18 [~~seller's~~] agent for service of process, or by providing notice by
 14-19 overnight common carrier delivery service to the developer or the
 14-20 developer's agent for service of process.

14-21 (b) Cancellation is without penalty, and all payments made
 14-22 by the purchaser before cancellation must be refunded on or before
 14-23 the 30th [~~21st~~] day after the date on which the developer [~~seller~~]
 14-24 receives a timely notice of cancellation or on or before the fifth
 14-25 day after the date the developer receives funds from the purchaser,
 14-26 whichever is later.

14-27 Sec. 221.043. CONTRACT REQUIREMENTS. (a) Each purchase
 14-28 contract [~~Attached to each contract shall be a separate page~~
 14-29 ~~identified as Exhibit A. Exhibit A shall be provided to each~~
 14-30 ~~purchaser at the time the contract is signed and]~~ shall contain the
 14-31 following information. The statements required by this subsection
 14-32 [~~Subdivisions (1)] and Subsection (c)(8)~~ [~~(3)] shall be provided in~~
 14-33 a conspicuous manner and in the exact language set forth in this
 14-34 section with the developer's [~~seller's~~] name and address, the date
 14-35 of the last day of the fiscal year, and the address of the managing
 14-36 entity inserted where indicated:

14-37 [~~(1)~~] "PURCHASER'S RIGHT TO CANCEL.

14-38 "(A) BY SIGNING THIS CONTRACT YOU ARE INCURRING AN
 14-39 OBLIGATION TO PURCHASE A TIMESHARE INTEREST. YOU MAY, HOWEVER,
 14-40 CANCEL THIS CONTRACT WITHOUT PENALTY OR OBLIGATION BEFORE THE SIXTH
 14-41 DAY AFTER THE DATE YOU SIGN AND RECEIVE A COPY OF THE PURCHASE
 14-42 CONTRACT, OR RECEIVE THE REQUIRED TIMESHARE DISCLOSURE STATEMENT,
 14-43 WHICHEVER IS LATER [~~THE CONTRACT. IF YOU DO NOT RECEIVE A COPY OF~~
 14-44 ~~THE CONTRACT AT THE TIME THE CONTRACT IS SIGNED, YOU MAY CANCEL THIS~~
 14-45 ~~CONTRACT WITHOUT PENALTY OR OBLIGATION BEFORE THE SIXTH DAY AFTER~~
 14-46 ~~THE DATE YOU RECEIVE A COPY OF THE CONTRACT]~~.

14-47 "(B) IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MAY DO SO BY
 14-48 EITHER HAND-DELIVERING NOTICE OF CANCELLATION TO THE DEVELOPER,
 14-49 [~~SELLER OR~~] BY MAILING NOTICE BY PREPAID UNITED STATES MAIL TO THE
 14-50 DEVELOPER [~~SELLER~~] OR THE DEVELOPER'S [~~SELLER'S~~] AGENT FOR SERVICE
 14-51 OF PROCESS, OR BY PROVIDING NOTICE BY OVERNIGHT COMMON CARRIER
 14-52 DELIVERY SERVICE TO THE DEVELOPER OR THE DEVELOPER'S AGENT FOR
 14-53 SERVICE OF PROCESS. YOUR NOTICE OF CANCELLATION IS EFFECTIVE ON THE
 14-54 DATE SENT OR DELIVERED TO (INSERT NAME OF DEVELOPER [~~SELLER~~]) AT
 14-55 (INSERT ADDRESS OF DEVELOPER [~~SELLER~~]). FOR YOUR PROTECTION,
 14-56 SHOULD YOU DECIDE TO CANCEL YOU SHOULD EITHER SEND YOUR NOTICE OF
 14-57 CANCELLATION BY CERTIFIED MAIL WITH A RETURN RECEIPT REQUESTED OR
 14-58 OBTAIN A SIGNED AND DATED RECEIPT IF DELIVERING IT IN PERSON OR BY
 14-59 OVERNIGHT COMMON CARRIER.

14-60 "(C) A PURCHASER SHOULD NOT RELY ON STATEMENTS OTHER THAN
 14-61 THOSE INCLUDED IN THIS CONTRACT AND THE DISCLOSURE STATEMENT."

14-62 [~~(2)~~] A statement disclosing the amount of the timeshare
 14-63 fees, on a monthly or annual basis, which are being assessed
 14-64 currently against or collected from the owners of a timeshare
 14-65 interest. Immediately following the timeshare fee disclosure
 14-66 statement shall be a statement that the timeshare fees collected by
 14-67 the managing entity may be used to pay for the administrative and
 14-68 operating expenses of the property; and

14-69 [~~(3)~~] "AS A TIMESHARE OWNER YOU HAVE A RIGHT TO REQUEST A

15-1 ~~WRITTEN ANNUAL TIMESHARE FEE AND EXPENSE STATEMENT. THIS STATEMENT~~
15-2 ~~IS PREPARED ANNUALLY BY THE MANAGING ENTITY AND WILL BE AVAILABLE NO~~
15-3 ~~LATER THAN THE 90TH DAY FOLLOWING (INSERT THE DATE OF THE LAST DAY~~
15-4 ~~OF THE FISCAL YEAR). YOU MAY REQUEST THE STATEMENT BY WRITING TO~~
15-5 ~~(INSERT ADDRESS OF THE MANAGING ENTITY)."]~~

15-6 (b) Immediately following the required statements in
15-7 Subsection (a) [~~on Exhibit A~~] shall be a space reserved for the
15-8 signature of the purchaser. [~~The seller shall obtain the~~
15-9 ~~purchaser's signature on Exhibit A at the time the contract is~~
15-10 ~~signed.]~~

15-11 (c) The purchase contract must also include the following:

15-12 (1) the name and address of the developer [~~seller~~] and
15-13 the address of the timeshare property or the address or any
15-14 available timeshare interest being offered [~~unit~~];

15-15 (2) an agreement describing the cancellation policy
15-16 prescribed by Section 221.041 [~~whether the purchaser visited the~~
15-17 ~~location of the timeshare unit before signing the contract];~~

15-18 (3) [~~an agreement by the seller that if the purchaser~~
15-19 ~~timely exercises the right of cancellation under the contract, all~~
15-20 ~~payments made by the purchaser to the seller in connection with the~~
15-21 ~~contract shall be returned to such purchaser before the 21st day~~
15-22 ~~after the seller receives notice of cancellation;~~

15-23 [~~4~~] the name of the person or persons primarily
15-24 [~~actively~~] involved in the sales presentation on behalf of the
15-25 developer [~~seller~~];

15-26 (4) a statement disclosing the amount of the periodic
15-27 assessments currently assessed against or collected from the
15-28 purchasers of the timeshare interest, immediately followed by a
15-29 statement providing that collected assessments will be used by the
15-30 managing entity to pay for expenditures, charges, reserves, or
15-31 liabilities relating to the operation of the timeshare plan or
15-32 timeshare properties managed by the managing entity;

15-33 (5) a statement disclosing [~~warranty~~] that the
15-34 timeshare common properties are not mortgaged, unless the mortgage
15-35 contains a nondisturbance clause which fully protects the use and
15-36 enjoyment rights of each timeshare owner in the event of
15-37 foreclosure; [~~and~~]

15-38 (6) in the event such timeshare interests are sold
15-39 under a lease, right to use, or membership agreement where free and
15-40 clear title to the accommodation [~~timeshare unit~~] is not passed to
15-41 the purchaser [~~buyer~~], then the purchase contract must contain a
15-42 statement [~~warranty~~] that the timeshare is free and clear; or if
15-43 subject to a mortgage, the mortgage must contain a nondisturbance
15-44 clause which fully protects the use and enjoyment rights of each
15-45 timeshare owner in the event of foreclosure;

15-46 (7) the date the purchaser signs the contract; and

15-47 (8) the following statement:

15-48 "AS A TIMESHARE OWNER, YOU HAVE A RIGHT TO REQUEST A WRITTEN
15-49 ANNUAL TIMESHARE FEE AND EXPENSE STATEMENT. THIS STATEMENT IS
15-50 PREPARED ANNUALLY BY THE MANAGING ENTITY AND WILL BE AVAILABLE NOT
15-51 LATER THAN FIVE MONTHS AFTER (INSERT THE DATE OF THE LAST DAY OF THE
15-52 FISCAL YEAR). YOU MAY REQUEST THE STATEMENT BY WRITING TO (INSERT
15-53 NAME AND ADDRESS OF THE MANAGING ENTITY)."

15-54 (d) The information required to be provided by this section
15-55 may be provided in the purchase contract or in an exhibit to the
15-56 purchase contract, or it may be provided in part in both if all of
15-57 the information is provided.

15-58 SECTION 9. Section 221.052, Property Code, is amended to
15-59 read as follows:

15-60 Sec. 221.052. LIABILITY OF DEVELOPER. A developer does not
15-61 incur any liability arising out of the use, delivery, or
15-62 publication [~~by the developer~~] to a [~~the~~] purchaser of written
15-63 information or audio-visual materials provided to it by the
15-64 exchange company in accordance with Subchapter D, unless[~~—~~ A
15-65 ~~developer is subject to liability arising out of the use, delivery,~~
15-66 ~~or publication to the purchaser of materials provided by the~~
15-67 ~~exchange company if] the developer knows or has reason to know that
15-68 the materials are inaccurate or false.~~

15-69 SECTION 10. Subchapter G, Chapter 221, Property Code, is

16-1 amended by amending Sections 221.061, 221.062, and 221.063 and
 16-2 adding Section 221.064 to read as follows:

16-3 Sec. 221.061. ESCROW OR TRUST ACCOUNT REQUIRED. (a) A
 16-4 ~~[The]~~ developer or escrow agent of a timeshare plan ~~[other person~~
 16-5 ~~acting on its behalf]~~ shall deposit in [establish] an escrow or
 16-6 trust account in a federally insured depository 100 percent of all
 16-7 funds received during the purchaser's cancellation period ~~[with an~~
 16-8 ~~escrow agent for the purpose of protecting deposits made by~~
 16-9 ~~purchasers in connection with proposed dispositions of timeshare~~
 16-10 ~~interests].~~

16-11 (b) An escrow agent owes the purchaser a fiduciary duty.

16-12 (c) The escrow agent and the developer shall execute an
 16-13 agreement that includes a statement providing that:

16-14 (1) funds may be disbursed to the developer from the
 16-15 escrow or trust account by the agent only:

16-16 (A) after the purchaser's cancellation period
 16-17 has expired; and

16-18 (B) as provided by the purchase contract, subject
 16-19 to this subchapter; and

16-20 (2) if the purchaser cancels the purchase contract as
 16-21 provided by the contract, the funds must be paid to:

16-22 (A) the purchaser; or

16-23 (B) the developer if the purchaser's funds have
 16-24 been refunded previously by the developer.

16-25 (d) If a developer contracts to sell a timeshare interest
 16-26 and the construction of the building in which the timeshare
 16-27 interest is located has not been completed when the cancellation
 16-28 period expires, the developer shall continue to maintain all funds
 16-29 received from the purchaser under the purchase agreement in the
 16-30 escrow or trust account until construction of the building is
 16-31 completed. The documentation required for evidence of completion
 16-32 of construction includes:

16-33 (1) a certificate of occupancy;

16-34 (2) a certificate of substantial completion;

16-35 (3) evidence of a public safety inspection equivalent
 16-36 to Subdivision (1) or (2) from a governmental agency in the
 16-37 applicable jurisdiction; or

16-38 (4) any other evidence acceptable to the commission.

16-39 Sec. 221.062. ~~[ESCROW AMOUNT. Fifty percent of any deposit~~
 16-40 ~~obtained from a purchaser shall be placed in the escrow account.~~

16-41 ~~[Sec. 221.063.]~~ RELEASE OF ESCROW. (a) The funds or
 16-42 property constituting the escrow or trust deposit may be released
 16-43 from escrow only in accordance with this section.

16-44 (b) If the purchaser cancels the purchase contract as
 16-45 provided by the contract, the funds shall be paid to:

16-46 (1) the purchaser; or

16-47 (2) the developer if the purchaser's funds have been
 16-48 refunded previously by the developer.

16-49 (c) If the purchaser defaults in the performance of
 16-50 obligations under the terms of the purchase [a] contract [to
 16-51 purchase a timeshare interest], the funds shall be paid to the
 16-52 developer [or other person legally entitled to the escrow deposit
 16-53 shall file an application with the escrow agent requesting release
 16-54 of the applicable amount. The application for release of the escrow
 16-55 deposit must be verified and must include:

16-56 [(1) a concise statement by the applicant that the
 16-57 purchaser has materially defaulted in the performance of
 16-58 obligations under the terms of a contract to purchase a timeshare
 16-59 interest and that the applicant and the developer have complied
 16-60 with all terms and obligations of that contract;

16-61 [(2) a complete explanation of the nature of the
 16-62 purchaser's material default under the contract and of the date of
 16-63 its occurrence;

16-64 [(3) a statement that pursuant to the terms of the
 16-65 purchase contract the applicant is entitled to the escrow deposit;

16-66 [(4) a statement that the developer has no knowledge
 16-67 of a dispute between the purchaser and developer and a statement
 16-68 that the purchaser has not, to the applicant's knowledge, made a
 16-69 demand for the return of the deposit; and

17-1 ~~[(5) a statement that the purchaser has not exercised~~
17-2 ~~a right of cancellation under Subchapter E].~~

17-3 (d) If the developer defaults in the performance of
17-4 obligations under the purchase contract, the funds shall be paid to
17-5 the purchaser.

17-6 (e) If the funds of the purchaser have not been disbursed
17-7 previously as provided by Subsections (a)-(d), the funds may be
17-8 disbursed to the developer by the escrow or trust agent if
17-9 acceptable evidence of completion of construction is provided.

17-10 (f) If there is a dispute relating to the funds in the escrow
17-11 or trust account, the agent shall maintain the funds in the account
17-12 until:

17-13 (1) the agent receives written directions agreed to
17-14 and signed by all parties; or

17-15 (2) a civil action relating to the disputed funds is
17-16 filed.

17-17 (g) If a civil action is filed under Subsection (f)(2), the
17-18 escrow or trust account agent shall deposit the funds with the court
17-19 in which the action is filed.

17-20 Sec. 221.063. ALTERNATIVE TO ESCROW OR TRUST ACCOUNT:
17-21 FINANCIAL ASSURANCE. (a) Instead of depositing funds in an escrow
17-22 or trust account as provided by Section 221.061, the commission may
17-23 accept from the developer a surety bond, irrevocable letter of
17-24 credit, or other form of financial assurance, including financial
17-25 assurance posted in another state or jurisdiction.

17-26 (b) The amount of the financial assurance provided under
17-27 this section must be an amount equal to or more than the amount of
17-28 funds that would otherwise be placed in an escrow or trust account
17-29 under Section 221.061(a).

17-30 (c) The amount of the financial assurance provided under
17-31 this section for timeshare property under construction as provided
17-32 by Section 221.061(d) must be the lesser of:

17-33 (1) an amount equal to or more than the amount of funds
17-34 that would otherwise be placed in an escrow or trust account under
17-35 that subsection; or

17-36 (2) the amount necessary to assure completion of the
17-37 building in which the timeshare interest is located.

17-38 Sec. 221.064. DOCUMENTATION REQUIRED. The escrow or trust
17-39 account agent or developer shall make documents related to the
17-40 escrow or trust account or the financial assurance provided
17-41 available to the commission at the commission's request

17-42 ~~[(c) Notwithstanding the other provisions of this section,~~
17-43 ~~the escrow agent may release the escrow deposit to the applicant on~~
17-44 ~~presentation to the escrow agent of:~~

17-45 ~~[(1) an affidavit by the developer that the timeshare~~
17-46 ~~unit is substantially complete and that no applicable right of~~
17-47 ~~cancellation of the contract has been exercised by the purchaser;~~

17-48 ~~[(2) if funds were placed in the escrow account in~~
17-49 ~~connection with the proposed disposition of a timeshare estate, a~~
17-50 ~~true and correct copy of the instrument transferring ownership of~~
17-51 ~~the timeshare estate to the purchaser free and clear of all liens~~
17-52 ~~and encumbrances, except for any encumbrance created by purchaser~~
17-53 ~~financing; and~~

17-54 ~~[(3) if funds were placed in the escrow account in~~
17-55 ~~connection with the proposed disposition of a timeshare use, a true~~
17-56 ~~and correct copy of a properly executed and recorded nondisturbance~~
17-57 ~~agreement executed by the developer and all holders of a lien~~
17-58 ~~recorded against the timeshare property and providing that~~
17-59 ~~subsequent owners or foreclosing holders of a lien shall take title~~
17-60 ~~to the timeshare property subject to the rights of prior purchasers~~
17-61 ~~under their contracts of sale.~~

17-62 ~~[(d) A deposit may not be released from escrow until the~~
17-63 ~~escrow agent has provided the purchaser written notice of intent to~~
17-64 ~~release the escrow at least 14 days before the release].~~

17-65 SECTION 11. Section 221.071, Property Code, is amended by
17-66 amending Subsection (a) and adding Subsection (c) to read as
17-67 follows:

17-68 (a) A developer ~~[seller]~~ or other person commits a false,
17-69 misleading, or deceptive act or practice within the meaning of

18-1 Subsections (a) and (b) of Section 17.46 of the Texas Deceptive
18-2 Trade Practices-Consumer Protection Act (Article 17.46 et seq.,
18-3 Business & Commerce Code), by engaging in any of the following acts:

18-4 (1) failing to disclose information concerning a
18-5 timeshare interest required by Subchapter D;

18-6 (2) making false or misleading statements of fact
18-7 concerning the characteristics of accommodations or amenities
18-8 available to a consumer;

18-9 (3) predicting specific or immediate increases in the
18-10 value of a timeshare interest without a reasonable basis for such
18-11 predictions;

18-12 (4) making false or misleading statements of fact
18-13 concerning the duration that accommodations or amenities will be
18-14 available to a consumer;

18-15 (5) making false or misleading statements of fact
18-16 concerning the conditions under which a purchaser of a timeshare
18-17 interest may exchange the right to occupy a unit for the right to
18-18 occupy a unit in the same or another timeshare property;

18-19 (6) representing that a prize, gift, or other benefit
18-20 will be awarded in connection with a promotion with the intent not
18-21 to award that prize, gift, or benefit in the manner represented;

18-22 (7) failing to provide a copy of the purchase contract
18-23 to the purchaser at the time the contract is signed by the
18-24 purchaser [~~unless the purchaser requests in writing that the~~
18-25 ~~contract be mailed, and the contract is mailed to the purchaser~~
18-26 ~~before the end of the next business day~~];

18-27 (8) failing to provide the annual [~~timeshare fee and~~
18-28 ~~expense~~] statement as required by Section 221.074(a) [~~221.074~~]; or

18-29 (9) furnishing false information in the annual
18-30 timeshare fee and expense statement as required by Section 221.074.

18-31 (c) If a developer has substantially complied with this
18-32 chapter in good faith, a nonmaterial error or omission is not
18-33 actionable. A nonmaterial error or omission alone is not
18-34 sufficient to permit a purchaser to cancel a purchase contract
18-35 after the period provided for cancellation expires under this
18-36 chapter.

18-37 SECTION 12. Section 221.072, Property Code, is amended to
18-38 read as follows:

18-39 Sec. 221.072. INSURANCE. Before the disposition of any
18-40 timeshare interest, the developer or managing entity shall maintain
18-41 the following insurance with respect to the timeshare property:

18-42 (1) property insurance on the timeshare property and
18-43 any personal property for use by purchasers, other than personal
18-44 property separately owned by a purchaser, insuring against all
18-45 risks of direct physical loss commonly insured against, in a total
18-46 amount, after application of deductibles, of the full replacement
18-47 cost of the accommodations and amenities of the timeshare property;
18-48 and

18-49 (2) liability insurance covering all occurrences
18-50 commonly insured against for death, bodily injury, and property
18-51 damage arising out of or in connection with the use, ownership, and
18-52 maintenance of the timeshare property.

18-53 SECTION 13. Subsections (a) and (b), Section 221.073,
18-54 Property Code, are amended to read as follows:

18-55 (a) A developer [~~or seller~~] subject to this chapter commits
18-56 an offense if the developer [~~or seller~~] offers or disposes of a
18-57 timeshare interest in a timeshare property which has not been
18-58 registered with the commission.

18-59 (b) It is not a violation of this section for a developer [~~or~~
18-60 ~~seller~~] subject to [~~the provisions of~~] this chapter [~~Act~~] to accept
18-61 reservations and deposits from prospective purchasers in
18-62 accordance with the provisions of Section 221.021(b) or (d)
18-63 [~~Subsection (b) of Section 221.021 of this Act~~].

18-64 SECTION 14. Section 221.074, Property Code, is amended to
18-65 read as follows:

18-66 Sec. 221.074. ANNUAL TIMESHARE FEE AND EXPENSE STATEMENT.

18-67 (a) Notwithstanding any contrary [~~a~~] provision of the required
18-68 timeshare [~~promotional~~] disclosure statement, project instrument,
18-69 timeshare instrument, or bylaws adopted pursuant to a timeshare

19-1 instrument, the managing entity shall make a written annual
 19-2 accounting of the operation of each timeshare property managed by
 19-3 the managing entity to each purchaser who requests an accounting
 19-4 not later than five months [the 60th day] after the last day of each
 19-5 fiscal year [the managing entity shall make available to each owner
 19-6 a written annual accounting of the operation of the timeshare
 19-7 property or timeshare system]. The statement shall fairly and
 19-8 accurately represent the collection and expenditure of assessments
 19-9 and include:

19-10 (1) a balance sheet;
 19-11 (2) an income and expense statement [~~which complies~~
 19-12 ~~with generally accepted accounting principles and reflects the~~
 19-13 ~~collection and expenditure of timeshare fees];~~

19-14 (3) the current operating budget for the timeshare
 19-15 property or multisite timeshare plan [system] required by Section
 19-16 221.032(b)(7) [221.032(b)(6)]; and

19-17 (4) [~~an accounting identifying any unfunded reserves~~
 19-18 ~~for capital improvements and maintenance and upkeep of the~~
 19-19 ~~timeshare property; and~~

19-20 [~~5) the name and address of each member of the board~~
 19-21 ~~of directors of the council of purchasers or the owners'~~
 19-22 ~~association, if one exists, and] the name, address, and telephone
 19-23 number of a designated representative of the managing entity.~~

19-24 (b) On the request of an owner, the [The] managing entity of
 19-25 the timeshare plan shall provide the owner with the name and address
 19-26 of each member of the board of directors of the owners' association,
 19-27 if one exists [make the fee statement available to owners of record
 19-28 of a timeshare interest as of the last day of the fiscal year as
 19-29 reflected in the managing entity's records].

19-30 (c) A developer or managing entity shall have an annual
 19-31 independent audit of the financial statements of the timeshare plan
 19-32 or timeshare properties managed by the managing entity performed by
 19-33 a certified public accountant or an accounting firm. The audit must
 19-34 be:

19-35 (1) conducted in accordance with generally accepted
 19-36 auditing standards as prescribed by the American Institute of
 19-37 Certified Public Accountants, the Governmental Accounting
 19-38 Standards Board, the United States General Accounting Office, or
 19-39 other professionally recognized entities that prescribe auditing
 19-40 standards; and

19-41 (2) completed not later than five months after the
 19-42 last day of the fiscal year of the timeshare plan or timeshare
 19-43 property [The statement shall be delivered in person or by mail to
 19-44 each person on the board of directors of the council of purchasers
 19-45 or the owners' association, if one exists].

19-46 (d) Knowingly furnishing false information in the annual
 19-47 timeshare fee and expense statement is a violation of the Deceptive
 19-48 Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17,
 19-49 Business & Commerce Code).

19-50 (e) The managing entity of any accommodation located in this
 19-51 state shall post prominently in the registration area of the
 19-52 accommodations [each timeshare property] the following notice,
 19-53 with the date of the last day of the current fiscal year and the
 19-54 address of the managing entity inserted where indicated:

19-55 "AS A TIMESHARE OWNER YOU HAVE A RIGHT TO REQUEST A WRITTEN
 19-56 ANNUAL TIMESHARE FEE AND EXPENSE STATEMENT. THIS STATEMENT IS
 19-57 PREPARED ANNUALLY BY THE MANAGING ENTITY AND WILL BE AVAILABLE NO
 19-58 LATER THAN THE FIVE MONTHS [90TH DAY] FOLLOWING (INSERT THE DATE OF
 19-59 THE LAST DAY OF THE CURRENT FISCAL YEAR). YOU MAY REQUEST THE
 19-60 STATEMENT, BY WRITING TO (INSERT ADDRESS OF THE MANAGING ENTITY)."

19-61 [~~e) If a request for the statement is received by the~~
 19-62 ~~managing entity prior to the date by which the statement is~~
 19-63 ~~available, the statement shall be provided no later than one week~~
 19-64 ~~after the date the statement becomes available. If a request for~~
 19-65 ~~the statement is received by the managing entity after the date the~~
 19-66 ~~statement becomes available, the statement shall be provided no~~
 19-67 ~~later than two weeks after the date the request is received by the~~
 19-68 ~~managing entity. For the purposes of this section, the statement~~
 19-69 ~~shall be deemed provided if it is deposited in the mail, properly~~

20-1 addressed, with postage prepaid.

20-2 [~~(f) A managing entity shall provide a separate annual~~
20-3 ~~timeshare fee and expense statement for each timeshare property~~
20-4 ~~unless the property is part of a timeshare system. A managing~~
20-5 ~~entity may provide a consolidated statement for all timeshare~~
20-6 ~~properties comprising a timeshare system.]~~

20-7 SECTION 15. Subsections (a) and (d), Section 221.075,
20-8 Property Code, are amended to read as follows:

20-9 (a) On receipt of a written request filed with the
20-10 commission by a managing entity before the date on which the
20-11 statement required by Section 221.074 must be made available, the
20-12 commission for good cause shown may grant the managing entity an
20-13 extension of no more than 30 days in which to provide the statement.

20-14 (d) A managing entity may not assess against or collect from
20-15 the purchasers [~~owners~~] of a timeshare property the amount of a
20-16 penalty incurred under this section.

20-17 SECTION 16. Sections 221.076 and 221.077, Property Code,
20-18 are amended to read as follows:

20-19 Sec. 221.076. MANAGING ENTITIES THAT MANAGE MORE THAN ONE
20-20 TIMESHARE [~~SYSTEM OR~~] PROPERTY. (a) A managing entity that
20-21 manages two or more single-site timeshare plans [~~properties which~~
20-22 ~~are not participants of the same timeshare system~~] may [~~not~~]
20-23 commingle the assessments [~~timeshare fees~~] collected from
20-24 purchasers [~~owners~~] of one timeshare plan [~~property~~] with the
20-25 assessments [~~timeshare fees~~] collected from purchasers [~~owners~~]
20-26 of any other single-site plan for which it is the managing entity only
20-27 if the practice is disclosed in the timeshare disclosure statement
20-28 for each timeshare property and the appropriate statement is
20-29 included in the declaration for each timeshare property as required
20-30 by Subchapter B.

20-31 (b) [~~A managing entity that manages two or more timeshare~~
20-32 ~~systems may not commingle the timeshare fees collected from owners~~
20-33 ~~participating in one timeshare system with the timeshare fees~~
20-34 ~~collected from owners participating in any other timeshare system.~~

20-35 [~~(c)~~] A managing entity which manages a multisite timeshare
20-36 plan [~~system~~] may deposit assessments [~~timeshare fees~~] collected
20-37 from purchasers [~~owners~~] of one timeshare property into a common
20-38 account with assessments [~~timeshare fees~~] collected from
20-39 purchasers [~~owners~~] of other timeshare properties participating in
20-40 the same multisite timeshare plan [~~system~~] only if the practice is
20-41 disclosed in the timeshare disclosure statement for each timeshare
20-42 property in the multisite timeshare plan [~~system~~] and the
20-43 appropriate statement is included in the declaration for each
20-44 timeshare plan [~~regime~~] as required by Subchapter B.

20-45 (c) Nothing in this section shall be construed to allow a
20-46 managing entity to commingle assessments [~~the timeshare fees~~] of a
20-47 multisite timeshare plan with the assessments of a separate
20-48 multisite timeshare plan or a timeshare plan that is not a part of
20-49 the multisite timeshare plan [+

- 20-50 (1) ~~separate timeshare systems,~~
- 20-51 (2) ~~separate timeshare properties which are not part~~
20-52 ~~of a timeshare system; or~~
- 20-53 (3) ~~a timeshare system with the timeshare fees of a~~
20-54 ~~separate timeshare property which is not a participant in the~~
20-55 ~~timeshare system].~~

20-56 Sec. 221.077. AVAILABILITY OF BOOKS AND RECORDS; RECORDS
20-57 RETENTION. (a) A developer or managing entity, on written request
20-58 of an owner, shall make available for examination at its registered
20-59 office or principal place of business and at any reasonable time or
20-60 times the relevant books and records relating to the collection and
20-61 expenditure of assessments [~~timeshare fees~~].

20-62 (b) A developer or managing entity shall maintain in its
20-63 records a copy of each purchase contract for an accommodation sold
20-64 by the developer for a timeshare period unless the contract has been
20-65 canceled. If a sale of the timeshare estate is pending, the
20-66 developer shall retain a copy of the contract until a deed of
20-67 conveyance, agreement for deed, or lease is recorded in the real
20-68 property records of the county in which the timeshare property is
20-69 located.

21-1 SECTION 17. This Act takes effect September 1, 2003, and
21-2 applies to a developer who offers or disposes of an interest in a
21-3 timeshare plan and a managing entity who manages a timeshare
21-4 property under Chapter 221, Property Code, as amended by this Act,
21-5 on or after that date.

21-6 SECTION 18. If a timeshare property is registered with the
21-7 Texas Real Estate Commission before January 1, 2004, the
21-8 registration expires on the second anniversary of the date the
21-9 property was last registered, and a developer may renew the
21-10 registration as provided by Section 221.026, Property Code, as
21-11 added by this Act.

21-12 * * * * *