

**NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares, and Mobile Homes

RULE NO.:

RULE TITLE:

61B-39.003

Filing of Single-Site Timeshare Plans.

PURPOSE AND EFFECT: This rule amendment is required to address the new public offering statement disclosure requirement relating to a timeshare owner's obligation to pay assessments as amended by Section 8 of Chapter 2009-133, LOF. The amendment also deletes redundant disclosure requirements in this rule.

Other rules incorporating this rule: 61B-39.002, 39.003, 39.004, 39.005, 39.006, 39.008 and 41.003, F.A.C. The amendment to this rule will have no significant impact on the referenced rules.

SUMMARY: This rule amendment addresses the public offering statement disclosure requirements for timeshare interests.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 721.07(5), 721.26(6) FS.

LAW IMPLEMENTED: 721.05, 721.06(1)(g), 721.07(5), (6), 721.52(4), (5), 721.53 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW. IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD.

TIME AND DATE: October 19, 2009 at 10:00 a.m.

PLACE: The Northwood Centre, Suite 16, Conference Room, 1940 N. Monroe Street, Tallahassee, Florida.

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO SHARON A. MALLOY, SENIOR MANAGEMENT ANALYST II, DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES, 1940 NORTH MONROE STREET, TALLAHASSEE, FLORIDA 32399-1030, WITHIN 21 DAYS OF THIS NOTICE. WRITTEN COMMENTS RECEIVED AFTER THE HEARING MAY NOT BE CONSIDERED.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to

participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting Sharon A. Malloy, Senior Management Analyst II at 850-488-1631. If you are hearing or speech impaired, please contact the agency by calling 1-800-955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850) 488-1631.

THE FULL TEXT OF THE PROPOSED RULE IS:

**61B-39.003 Filing of Single-Site Timeshare Plans.**

(1) NO CHANGE

(2) Every single-site registered POS must organize the required information and disclosures in the following manner and format:

(a) – (b) NO CHANGE

(c) The next consecutive page(s) shall be the index and shall list the sections of the POS text with corresponding subject matter and page number, pursuant to Section 721.07(5)(c), F.S., as prescribed in DBPR Form TS 6000-10, Index to Single-Site/Component Site Public Offering Statement Text, incorporated ~~herein~~ by reference and effective 12-18-01, a copy of which may be obtained at the address referenced in subsection 61B-39.002(4), F.A.C. If any required information or disclosure is not applicable to a particular POS, the index shall contain a notation to that effect where such information or disclosure would otherwise be described in the index. However, such notations shall not cause a POS to deviate from either the order or numbering of presentation as prescribed in this rule;

(d) – (f) NO CHANGE

(g) The next consecutive pages shall be labeled “III. Public Offering Statement Text” and shall contain the subject matter indicated by, and be organized by section according to, the Index to Public Offering Statement Text, and contain the information and disclosures required in Sections 721.07(5)(e)-(ii)(~~gg~~), 721.55, F.S., in the following order:

1. – 13. NO CHANGE

~~14. Section 5.i. shall contain the information required in Section 721.07(5)(n), F.S.;~~

~~15. Section 5.j. shall contain the information and disclosure, if applicable, required in Section 721.07(5)(r), F.S.;~~

~~14. 16.~~ Section 6. shall contain the information required in Section 721.07(5)(t), F.S.;

~~15. 17.~~ Section 7.a. shall contain the information required in Section 721.07(5)(z), F.S.;

~~16. 48.~~ Section 7.b. shall contain the information required in Sections 721.07(5)(u), (5)(v), (5)(x), and (5)(y), F.S.;

~~17. 49.~~ Section 7.c. shall contain the information required in Section 721.07(5)(j), (cc) and (dd), F.S. If the developer does not own the real property underlying any particular accommodation or facility, the developer shall disclose the extent to which such accommodation or facility will be available to purchasers, including an explanation of any limitations, risk, or restrictions on availability. This disclosure shall not relieve the developer from complying with the financial assurance or non-disturbance requirements of Chapter 721, F.S., or these rules, where applicable;

~~18. 20.~~ Section 7.d. shall contain the information required in Sections 721.07(5)(p)1. and (p)2. and (5)(ii), F.S.; ~~and~~

~~19. 21.~~ Section 8. shall contain the information required in Section 721.07(5)(bb), F.S.;

(h) The next consecutive page(s) shall contain the POS exhibits tabbed and labeled by "Exhibit #", as previously listed pursuant to paragraph (2)(b) of this rule or required pursuant to Section 721.07(5), F.S., including:

1. An exhibit containing the form receipt for timeshare documents to be furnished to purchasers as prescribed in DBPR Form TS 6000-7, Receipt for Timeshare Documents, incorporated ~~herein~~ by reference and effective 12-18-01, a copy of which may be obtained at the address referenced in subsection 61B-39.002(4), F.A.C.; and

2. A description of exhibits that will not be provided to purchasers.

(3) NO CHANGE

(4) The single-site registered POS shall be accompanied by the following completed and executed forms and documents, where applicable:

(a) NO CHANGE

(b) DBPR Form TS 6000-8, Certificate of Identical Documents, incorporated ~~herein~~ by reference and effective 12-18-01, a copy of which may be obtained at the address referenced in subsection 61B-39.002(4), F.A.C.;

(c) – (e) NO CHANGE

(5) – (6) NO CHANGE

*Rulemaking Specific Authority 721.07(5), 721.26(6) FS. Law Implemented 721.05, 721.06(1)(g), 721.07(5), (6), 721.52(4), (5), ~~721.53~~ FS. History—New 5-8-94, Amended 12-11-94, 6-12-96, 12-18-01.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Cochran, Director, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030.

NAME OF THE AGENCY HEAD WHO APPROVED THE PROPOSED RULE:

Charles W. Drago, Secretary, Department of Business and Professional Regulation.

DATE PROPOSED RULE APPROVED BY THE AGENCY HEAD: September 9, 2009.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009.