

**NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares, and Mobile Homes

RULE NO.: 61B-40.0062  
RULE TITLE: Waiver of Reserves.

PURPOSE AND EFFECT: Section 721.13(3)(c)3., Florida Statutes, allows for the waiver or reduction of reserves for capital expenditures and deferred maintenance in a Florida timeshare plan. The purpose of this rule amendment is to delete subsection 61B-40.0062(2), FAC, which conflicts with section 721.13(3)(c)3., Florida Statutes, by prohibiting the waiver or reduction of reserves in Florida timeshare plans.

Other Rules Incorporating this Section: 61B-41.003. The amendment to 61B-40.0062 will have no significant impact on 61B-41.003.

SUMMARY: This rule addresses reserve funding for capital expenditures and deferred maintenance in Florida timeshare plans.

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: 718.501(1)(f), 721.03(2), 721.26(6) FS.

LAW IMPLEMENTED: 718.112(2)(f), 721.03(3), 721.07(5)(t) 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: November 23, 2009 at 9:00 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-40.0062 Waiver of Reserves.**

~~(1) Annual vote required to waive funding requirements.~~ For condominium timeshare plans any vote to waive or reduce the funding of reserves required by Section 718.112(2)(f)2. or 721.07(5)~~(1)(a)~~, F.S., shall be effective for only one annual budget. In a multi-condominium association no waiver or reduction of the funding of reserves shall be effective as to a particular condominium unless:

(1) (a) Conducted at a duly called meeting of the association;

~~(2) (b)~~ The same percentage of voting interests of the condominium as is otherwise  
~~otherwise~~ required for a quorum of the association is present, or represented by proxy; and

~~(3) (c)~~ A majority of those voting interests in that condominium that are present, or  
represented by proxy, vote to waive or reduce the funding of reserves.

~~(2) Waivers prohibited for non-condominium timeshare plans. For non-condominium  
timeshare plans, reserves required by Section 721.07(5)(u), F.S., shall be included on the  
proposed annual budget and shall not be waived or reduced.~~

*Rulemaking Specific Authority 718.501(1)(f), 721.03(2), 721.26(6) FS. Law Implemented  
718.112(2)(f), 721.03(3), 721.07(5)(~~t~~)(~~u~~) FS. History—New 2-5-96, Amended 12-18-01,*

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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: October 14, 2009.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 28,  
2009.