CHAPTER 707

TIME−SHARE OWNERSHIP

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SUBCHAPTER I

GENERAL PROVISIONS

707.02 Definitions. In this chapter:

(1) "Affiliate of a developer" means any person who controls, is controlled by or is under common control with a developer.

(2) "Association" means the association organized under s. 707.30 (2).

(4) "Campground" means real property that is available for use by campground members under a campground contract and is intended for camping or outdoor recreation, including the use of campsites and campground amenities by campground members, but does not include a manufactured and mobile home community as defined in s. 66.0435 (1) (cg).

(5) "Campground amenity" means a major recreational building or recreational facility at a campground, including a swimming pool, ski hill, marina, pier, tennis court, utility−serviced campsite, clubhouse, trading post or grocery store; but does not include an individual campsite or general campsite location, any minor recreational building or facility, horseshoe pit or other minor game or athletic court, or a nonrecreational building or facility, including a restroom, road, dump station or pumphouse.

(6) "Campground contract" means an agreement entered into within this state evidencing a campground member's ownership of a time−share easement in a campground.

(7) "Campground member" means a person who enters into a campground contract with a campground operator, or a transferee of a person who enters into a campground contract with a campground operator.

(8) "Campground operator" means a developer who is the owner or operator of a campground for which campground contracts are offered or sold.

(9) "Closing" means:

(a) With respect to time−share estates, conveyance of legal or equitable title to the time share by delivery of a deed or contract to purchase to the purchaser.

(b) With respect to time−share easements, delivery by all parties of the documents necessary to vest in the purchaser the rights to access and use of the time−share unit.

(9m) "Controls" or "controlled by" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, by common management or otherwise, including any of the following, unless the powers are held solely as security for an obligation and are not exercised:

(a) Owning or controlling more than 20 percent of the voting interest in a person.

(b) Controlling the election of a majority of the directors of a person.

(c) Contributing more than 20 percent of the capital of a person.

(10) "Conversion building" means a building that at any time before the disposition of any time share was occupied wholly or partially by persons other than purchasers and persons who occupied with the consent of purchasers.

(11) "Developer" means any person who offers to dispose of, or disposes of, an interest in a time share not previously disposed of or succeeds to any special developer right under s. 707.31.

(12) "Dispose" or "disposition" means a voluntary transfer of any legal or equitable interest in a time share, excluding the transfer or release of a security interest.

(13) "Dues payment" means the periodic fee paid by a campground member, other than the sales payment, for the purpose of using a campground, excluding fees charged for specific goods or services provided, such as campsite reservations, daily campsite rentals, equipment rentals or meals.

(14) "Manager" means any person, other than all time−share owners or the association, named or employed under the time−share instrument or project instrument to manage the time−share units.

(15) "Managing entity" means the manager or, if there is no manager, the association.

(17) "Offering" means any advertisement, inducement, solicitation or attempt to encourage any person to acquire a time share, other than as security for an obligation.

(20) "Project" means real property which is subject to a project instrument and contains more than one unit, including real property which contains units that are not time−share units.

(21) "Project instrument" means any document, recordable under s. 706.05, regulating the use, occupancy or disposition of units in an entire project, including any amendments to the document.

(22) "Purchaser" means any person, other than the developer, who by means of a voluntary transfer acquires a legal or equitable interest in a time share, other than as security for an obligation.

(24) "Time share" means a time−share estate, time−share easement, or time−share license.

(25) "Time−share easement" means an interest in property vesting in the purchaser and the purchaser's heirs, successors and assigns and evidencing a right to access to and use of a unit or any of several units during at least 4 separated periods over at least 4 years, including renewal options.

(26) "Time−share estate" means a right to occupy a unit during at least 4 separated periods over at least 4 years, together with a fee simple absolute interest or an interest for years in a time−share property.

(27) "Time−share expenses" means expenditures, fees, charges, liabilities or real property taxes incurred with respect to time shares by or on behalf of all time−share owners in a time−share property and imposed on the time−share units by the entity governing a project of which the time−share property is a part, together with any allocations to reserves, but excluding purchase money payable for time shares.

(28) "Time−share instrument" means a document creating or regulating time shares.

(29) "Time−share liability" means the liability for time−share expenses allocated to each time share under s. 707.21 (1) (e).

(30) "Time−share license" means a right to occupy a unit or any of several units under a license or lease agreement during at least 4 separated periods over at least 4 years, including renewal options, not coupled with an interest in property.

(31) "Time−share owner" means a person who is an owner or co−owner of a time share, other than as security for an obligation.

(32) "Time−share property" means one or more time−share units subject to the same time−share instrument, together with any real estate or rights to real estate appurtenant to those units.

(33) "Time−share unit" means a unit in which time shares exist.

(34) "Unit" means real property designated for separate occupancy and use.

History: 1987 a. 399; 1999 a. 150 s. 672; 2007 a. 11, 18.

707.03 Status of time−share estates. (1) A grant of an estate in a unit conferring the right of possession during a potentially infinite number of separated periods creates a fee simple absolute interest, and a grant of an estate in a unit conferring the right of possession during 4 or more separated periods over a finite number of years equal to at least 4, including renewal options, creates an interest for years.

(2) Each time−share estate constitutes for all purposes a separate estate in real property.

History: 1987 a. 399.

A contract to purchase a time−share creates an interest in real estate, which, under s. 706.02 (1) must be signed by or on behalf of the grantor in order to be valid. Section 707.46 (1) (a) requires a time−share purchase contract to contain the actual date that the contract is executed by each party, which means that a valid time−share purchase contract must include the signature of both parties. Irrespective of any statutory right to cancel a valid contract, a party to an invalid contract may, under the common law, have it rescinded and be restored to the status quo. Ott v. Peppertree Resort Villas, Inc. 2006 WI App 77, 292 Wis. 2d 173, 716 N.W.2d 127, 04−1226.

707.05 Variation by agreement. Except as otherwise provided in this chapter, the provisions of this chapter may not be varied by agreement, and rights conferred under this chapter may not be waived. A developer may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the time−share instrument.

History: 1987 a. 399.

707.06 Unconscionable contract. (1) UNCONSCIONABILITY; REMEDY. If a court as a matter of law finds that any aspect of a contract relating to the use or ownership of a time share, any conduct directed against the purchaser by a party to the contract, or any result of the contract is unconscionable, the court shall, in addition to the remedy authorized in sub. (4), either refuse to enforce the contract against the purchaser, or so limit the application of any unconscionable aspect or conduct as to avoid any unconscionable result.

(2) FACTORS. Without limiting the scope of sub. (1), the court may consider, among other things, any of the following as pertinent to the issue of unconscionability:

(a) That those engaging in the practice know of the inability of a party to receive benefits properly anticipated from the time share and related goods or services.

(b) That there exists a gross disparity, at the time of contracting, between the price of the time share and related goods or services and their value as measured by the price at which similar time shares or related goods or services were readily obtainable or by other tests of true value, except that a disparity between the contract price and the value of the time share measured by the price at which similar time shares were readily obtainable in similar transactions does not, of itself, render the contract unconscionable.

(c) That the practice may enable one party to take advantage of the inability of the other party reasonably to protect his or her interests by reason of physical or mental infirmities, illiteracy or inability to understand the language of the agreement, ignorance or lack of education or similar factors.

(d) That the terms of the contract require a party to waive legal rights.

(e) That the terms of the contract require a party to unreasonably jeopardize money or property beyond the money or property immediately at issue in the transaction.

(f) That the natural effect of the practice would reasonably cause or aid in causing a party to misunderstand the true nature of the contract or his or her rights and duties under the contract.

(g) That the writing purporting to evidence the obligation of the party under the contract contains terms or provisions or authorizes practices prohibited by law.

(h) Definitions of unconscionability in statutes, rules, regulations, rulings and decisions of legislative, administrative or judicial bodies.

(3) COURSE OF CONDUCT. Any charge or practice expressly permitted by this chapter is not in itself unconscionable, but even though a practice or charge is authorized by this chapter, the totality of a party's conduct may show that such practice or charge is part of an unconscionable course of conduct.

(4) OTHER REMEDIES. In addition to the protections afforded in sub. (1), a party shall be entitled upon a finding of unconscionability to recover from the person responsible for the unconscionable conduct a remedy in accordance with s. 707.57 (1).

History: 1987 a. 399.

707.07 Obligation of good faith. Every contract or duty within this chapter imposes an obligation of good faith in its performance or enforcement.

History: 1987 a. 399.

707.09 Conflicts with other laws. If a conflict exists between this chapter and ch. 703, the provisions of this chapter prevail.

History: 1987 a. 399.

707.10 Zoning and other regulation of time−share projects. (1) LIMITATIONS; LAND USE REGULATION. No zoning or other land use ordinance or regulation may prohibit time−share projects or impose any requirements upon a time−share project which it does not impose upon a physically identical development under a different form of ownership. No provision of a state or local building code may be applied differently to an improvement to real property in a time−share project than would be applied to a similar improvement under a different form of ownership.

(2) LIMITATIONS; OTHER REGULATIONS. No county, city or other jurisdiction, other than the state, may impose a burden or restriction on a time−share project that is not imposed on all other property of similar character not part of a time−share project.

History: 1987 a. 399.

707.11 Securities law; applicability. A time share created and marketed in accordance with this chapter is not a security under ch. 551 if a developer complies with ss. 707.38 (1m) and 707.49.

History: 1987 a. 399.

SUBCHAPTER II

CREATION, TERMINATION AND INCIDENTS OF TIME−SHARE OWNERSHIP

707.20 Time shares in projects. (1) If all of the documents constituting a project instrument are recorded after June 1, 1988, time shares may not be created in any unit in the project unless expressly permitted by the project instrument, including an amendment to the project instrument under sub. (2).

(2) An amendment to a project instrument adopted under s. 707.39 (5) or (6) which is recorded after June 1, 1988, may not permit the creation of time shares unless the owner of each unit in the project, and the record owners of liens on each unit in the project, consent to the amendment.

History: 1987 a. 399.

707.21 Time−share instrument. (1) CONTENTS. Except as provided in sub. (2), more than 12 time shares may be created in a single time−share property only by recording under sub. (3) a time−share instrument containing or providing for all of the following:

(a) A sufficient description of the time−share property and the name or other identification of the project, if any, within which the time−share property is located.

(b) A copy of or reference to a recorded project and time−share property plat required under s. 707.215.

(c) The name of the county or counties in which the time−share property is located.

(d) Identification of time periods by letter, name or number.

(e) The time−share liability and any voting rights assigned to each time share.

(em) A method for allocating real property taxes among the time−share owners and a method of giving notice to the time−share owners of an assessment and the amount of the property taxes, as required under s. 70.095.

(f) If additional units may become part of the time−share property, the method of doing so and the formula for allocation and reallocation of the time−share liabilities and any voting rights.

(g) The method of designating the insurance trustee required under s. 707.35 (4).

(h) Allocation of time for maintenance of the time−share units.

(i) Provisions for management by a managing entity or by the time−share owners.

(2) EXCEPTION FOR CERTAIN EASEMENTS OR LICENSES. If a time−share easement or a time−share license applies to units in more than one time−share property, the time−share instrument creating the time−share easement or the time−share license need not contain or provide for the matters specified in sub. (1) (a) to (h).

(3) RECORDING. Before the sale of any time share in a time−share property for which a time−share instrument is required under sub. (1), the developer shall record the time−share instrument and all amendments of the time−share instrument with the register of deeds of every county in which any portion of the time−share property is located. The time−share instrument shall be indexed in the name of the time−share property and the developer, and the index shall identify time−share estate owners and all transfers of time−share estates. Subsequent instruments affecting the title to a time−share unit which is physically located entirely within a single county shall be recorded only in that county, even if the common elements are not physically located entirely within that county. Subsequent amendments shall be indexed under the name of the developer.

History: 1987 a. 399; 2007 a. 18.

707.215 Project and time−share property plat. (1) RECORDING REQUIREMENT. When a time−share instrument is recorded under s. 707.21 (3), the developer shall file for record a plat, as described in sub. (2), of the time−share property and the project, if any, within which the time−share property is located, except that if a plat of the project was previously recorded the developer need only file the information necessary to update the recorded plat.

(2) REQUIRED CONTENTS. A plat filed for recording under sub. (1) may consist of one or more sheets, shall be produced on media that is acceptable to the register of deeds, and shall contain at least all of the following:

(a) On each sheet of the plat, the name of the project and time−share property and the county in which the project and time−share property are located. If there is more than one sheet, each sheet shall be consecutively numbered and show the relation of that sheet number to the total number of sheets.

(b) A survey of the project and time−share property complying with minimum standards for property surveys adopted by the examining board, as defined in s. 443.01 (3), and showing the location of any time−share unit, unit or other building located or to be located on the property.

(c) Diagrammatic floor plans of each building located or to be located on the property which show the approximate dimensions, floor area and location of each time−share unit and unit in a building. Common elements shall be shown graphically to the extent feasible.

(3) FORM OF MAPS AND PLANS. All survey maps and floor plans submitted for recording shall be legibly prepared with a binding margin of one inch on all sides on durable white media that is 14 inches in length and 22 inches in width, or on other media that is acceptable to the register of deeds, with a permanent nonfading black image. The maps and plans shall be drawn to a convenient scale.

(4) DESIGNATION OF TIME−SHARE UNITS AND UNITS. Every time−share unit and unit shall be designated on the plat by number or other appropriate designation.

(5) PROFESSIONAL LAND SURVEYOR'S CERTIFICATE. A plat is sufficient for the purposes of this chapter if attached to or included in the plat is a certificate of a professional land surveyor licensed under ch. 443, and the certificate provides all of the following:

(a) That the plat is a correct representation of the project and the time−share property.

(b) The identification and location of each time−share unit and each unit and the common elements can be determined from the plat.

(6) NONAPPLICABILITY. Chapter 236 does not apply to plats required under this section.

History: 1987 a. 399; 2005 a. 41; 2013 a. 358.

707.22 Allocation of time−share liability and voting rights. (1) ALLOCATION OF EXPENSES. The time−share instrument shall state the amount of, or formula used to determine, any time−share liability.

(2) ALLOCATION OF VOTING RIGHTS. (a) If the time−share instrument provides for voting, it shall allocate votes to each time−share unit and to each time share under par. (b), but shall not allocate votes to any other property or person.

(b) The number of votes allocated to each time share shall be equal for all time shares or proportionate to each time share's value, as estimated by the developer, time−share liability or time−share unit size. The time−share instrument may specify matters as to which the votes shall be equal and other matters as to which votes shall be proportionate.

(3) ALTERING ALLOCATION. Except as otherwise provided under s. 707.21 (1) (f), the votes and time−share liability may not be altered without the unanimous consent of all time−share owners entitled to vote and voting either at a meeting or in an initiative or referendum in which at least 80 percent of the votes allocated to time shares are cast.

(4) SUM OF EXPENSES. Except for minor variations due to rounding, the sum of the time−share liabilities assigned to all time shares shall equal one, if stated as fractions, or 100 percent if stated as percentages. If a discrepancy occurs between the time−share liability or votes allocated to a time share and the result derived from the application of the formulas, the allocated time−share liability or vote prevails.

History: 1987 a. 399.

707.23 Partition. Notwithstanding ch. 842, no action for partition of a time−share unit may be maintained except as permitted by the time−share instrument or under s. 707.24 (3) (b).

History: 1987 a. 399.

707.24 Termination of time shares. (1) TERMINATION BY AGREEMENT. All time shares in a time−share property may be terminated only by agreement of the time−share owners having at least 80 percent of the time shares, except that the time−share instrument may require approval by a greater majority.

(2) RECORDING OF AGREEMENT. (a) An agreement to terminate all time shares in a time−share property shall be evidenced by a termination agreement which meets the requirements of s. 706.05 (2) for recording, is signed by each of the time−share owners who agree to termination under sub. (1) and provides that the agreement will be void unless the agreement is recorded before a specified date.

(b) A termination agreement shall be recorded in the office of the register of deeds of each county in which a portion of the time−share property is located and shall be effective only upon recordation.

(3) AGREEMENT WITHOUT SALES CONTRACT. (a) Unless the termination agreement sets forth a sales contract described in sub. (4), title to an estate or interest in each time−share unit, equal to the sum of the time shares in the time−share unit, shall vest upon termination in the time−share owners of the time−share unit in proportion to their respective interests under sub. (6m) or (7), and liens on the time shares shall shift accordingly to encumber those interests.

(b) Upon termination, an owner of an estate or interest in a time−share unit under par. (a) may maintain an action for partition under ch. 842.

(4) AGREEMENT WITH SALES CONTRACT. If the termination agreement sets forth the material terms of a contract or proposed contract under which an estate or interest in each time−share unit, equal to the sum of the time shares in the time−share unit, is to be sold and designates a trustee to effect the sale, title to that estate or interest shall vest upon termination in the trustee for the benefit of the time−share owners, to be transferred under the contract. Proceeds of the sale shall be distributed to time−share owners and lienholders under sub. (6).

(5) RIGHTS AND LIABILITIES AFTER TERMINATION. Except as otherwise specified in the termination agreement, if the former time−share owners or their trustee holds title to the estate or interest equal to the sum of the time shares, each former time−share owner and the time−share owner's successors in interest have the same rights with respect to occupancy in the former time−share unit that the former time−share owner would have had if termination had not occurred, together with the same liabilities and other obligations imposed under this chapter or the time−share instrument.

(6) DISTRIBUTION OF PROCEEDS. After termination of all time shares in a time−share property and adequate provision for the payment of the claims of the creditors for time−share expenses, the proceeds shall be distributed to the former time−share owners and their successors in interest in proportion to their interests as determined under sub. (6m) or (7). The distribution shall consist of the proceeds of any sale under this section and the proceeds of any personalty or other funds held for the use and benefit of the former time−share owners. After termination, creditors of the association holding liens perfected against the time−share property before the termination may enforce those liens in the same manner as any other lienholder. All other creditors of the association shall be treated as if they had liens on time−share property which were perfected immediately before termination.

(6m) INTERESTS SPECIFIED. The time−share instrument may specify the respective fractional or percentage interest in the estate or interest in each time−share unit equal to the sum of the time shares in the time−share unit that will be owned by each former time−share owner.

(7) APPRAISALS. (a) If the specification under sub. (6m) is not made, an appraisal under par. (b) of the fair market value of each time share shall be made not more than 180 days before the termination by one or more impartial qualified appraisers, selected either by the trustee designated in the termination agreement or by the managing entity if no trustee is designated.

(b) The appraisal shall state the corresponding fractional or percentage interests calculated in proportion to those values and shall be made in accordance with all of the following:

1. If the termination agreement sets forth a sales contract described in sub. (4), each time share conferring a right of occupancy during a limited number of time periods shall be appraised as if the time until the date specified for the conveyance of the property had already elapsed.

2. If the termination agreement does not set forth a sales contract described in sub. (4), each time share conferring a right of occupancy during a limited number of time periods shall be appraised as if the date specified under sub. (2) had already elapsed.

3. The interest of each time−share owner is the value of the time share divided by the sum of the values of all time shares in the unit or units to which the time share applies.

(c) A notice stating all values and corresponding interests determined under par. (b) and the return address of the sender shall be sent by certified or registered mail by the managing entity or by the trustee designated in the termination agreement to all time−share owners.

(d) The appraisal governs the magnitude of each interest unless at least 25 percent of the time−share owners deliver, within 60 days after the notices required under par. (c) are mailed, written

disapprovals to the sender of the notice or unless a court determines that the appraisal should be set aside.

(8) FORECLOSURE. Foreclosure or enforcement of a lien or encumbrance against all of the time shares in a time−share property does not, of itself, terminate those time shares.

History: 1987 a. 399.

707.25 Use for sales purposes. (1) Except as provided in sub. (2), a developer may maintain sales offices, management offices and models in the time−share property only if the time−share instrument so provides and specifies the rights of a developer with regard to the number, size, location and relocation of the offices. The developer may maintain signs on the time−share property advertising the time−share property.

(2) A developer's authority under sub. (1) is subject to restrictions in ordinances and the project instrument.

History: 1987 a. 399.

707.26 Rights of secured lenders. The time−share instrument may require that all or a specified number or percentage of holders of mortgages or equivalent security interests encumbering units or time shares approve specified actions of the unit owners, time−share owners, the developer or the managing entity as a condition to the effectiveness of those actions, but no requirement for approval may do any of the following:

(1) CONTROL OVER ADMINISTRATION. Deny or delegate control over the general administrative affairs of an association by the unit owners or time−share owners, or their elected representatives.

(2) INVOLVEMENT IN LITIGATION. Prevent an association from commencing, intervening in or settling any litigation or proceeding or receiving and distributing insurance proceeds under s. 707.35.

History: 1987 a. 399.

707.28 Foreclosure of time−share estates and licenses. (1) DEFINITION. In this section, "foreclosing entity" means a person that holds a mortgage or a lien for assessments under s. 707.37 on a time−share estate and that seeks to foreclose the mortgage or lien.

(2) AVAILABLE PROCEDURES. (a) *Time−share estates.* A mortgage or a lien for assessments under s. 707.37 on a time−share estate may be foreclosed in the same manner and subject to the same requirements as a foreclosure of mortgages on real property in this state or in the manner provided under this section.

(b) *Time−share licenses.* A security interest in, or a lien for assessments under s. 707.37 on, a time−share license may be foreclosed under chs. 401 to 411.

(3) NONJUDICIAL TIME−SHARE ESTATE FORECLOSURE PROCEDURE. (a) *Notice of default; nonjudicial foreclosure.* 1. To foreclose a mortgage or a lien for assessments under s. 707.37 on a time−share estate under this section, a foreclosing entity shall first provide written notice to the time−share owner in default at the time−share owner's last−known address by certified mail, with return receipt requested, and by 1st class mail, subject to s. 707.38 (5).

2. The notice shall inform the time−share owner of his or her default and the amount that he or she owes to the foreclosing entity; that he or she has the right to a judicial foreclosure conducted in the manner provided in ch. 846; that, within 30 days from the date on which the notice was mailed under subd. 1., or 30 days from the last date the notice was mailed if the mailings were not on the same date, he or she may cure the default or object in writing to nonjudicial foreclosure; and that, if he or she does not timely cure the default or object to the nonjudicial foreclosure in writing, the foreclosing entity may proceed with a nonjudicial foreclosure.

3. The notice shall include, for use by the time−share owner, a separate form objecting to nonjudicial foreclosure that includes the address of the foreclosing entity.

4. If, within the 30−day period under subd. 2., the time−share owner returns the objection form under subd. 3. or otherwise objects in writing to the use of nonjudicial foreclosure, the foreclosing entity must use the procedure under ch. 846 to foreclose the mortgage or lien. However, if the time−share owner does not, within the 30−day period under subd. 2., object in writing to nonjudicial foreclosure, he or she waives his or her right to foreclosure conducted in the manner provided under ch. 846, and, if he or she does not within that 30−day period cure the default, the foreclosing entity may proceed with a foreclosure sale of the time−share estate by public auction as provided in this section.

(b) *Notice of sale; general requirements.* The foreclosing entity shall provide notice of the foreclosure sale under this section as follows:

1. a. Except as provided in subd. 1. b., notice of the sale as provided in par. (c) or (d), whichever is applicable, must be published once in each of 3 successive weeks in a newspaper having general circulation in the county in which the time−share estate is located. The first publication must be no later than 30 days before the date of the sale, excluding the date of that first publication and the date of the sale.

b. In lieu of publishing the notice of sale in a newspaper as provided in subd. 1. a., notice may be given by posting a copy of the notice of sale as provided in par. (c) or (d), whichever is applicable, for 3 successive weeks on the Internet and publishing, once a week for 3 successive weeks in a newspaper having general circulation in the county in which the time−share estate is located, a notice, in at least 10−point boldface type, that states at a minimum that the notice of sale for the foreclosure of the time−share estate is posted on the Internet, the Internet site where the notice is posted, and the name and street address of the property in which the time−share estate exists. The posting on the Internet shall begin on the same date as the first newspaper publication, which date must be no later than 30 days before the date of the sale, excluding the date of that first publication and the date of the sale.

2. At least 30 days before the date of the sale, excluding the date of the sale, written notice of the date, time, and place of the sale, which may be a copy of the notice under par. (c) or (d), whichever is applicable, must be mailed to all of the following:

a. Subject to s. 707.38 (5), the time−share owner at the time−share owner's last−known address by certified mail, with return receipt requested, and by 1st class mail.

b. All persons having a lien of record on the time−share estate by certified mail, with return receipt requested.

3. The notice provided to the time−share owner under subd. 2. a. must include the following language: "You are hereby notified that you have a right to petition the Circuit Court for _____ County (the county in which the time−share estate is located), with service on _____ (the foreclosing entity) and upon such bond as the Court may require, to enjoin the scheduled foreclosure sale."

4. If more than one time−share estate in the same time−share property will be sold at the foreclosure sale, all such time−share estates may be combined into one notice of sale, with one property description, as described in par. (c) or (d), whichever is applicable.

5. The notice of sale as provided in par. (c) or (d), whichever is applicable; published, or posted and published, and mailed in accordance with the requirements under this subsection; together with such other or further notice, if any; constitutes sufficient notice of the sale.

(c) *Form of notice to foreclose lien for assessments.* The notice of foreclosure sale for foreclosing a lien for assessments under s. 707.37 on a time−share estate under this section shall be in substantially the following form:

NOTICE OF SALE OF TIME−SHARE ESTATE OR ESTATES UNDER CHAPTER 707 OF THE WISCONSIN STATUTES

By virtue of the (project instrument or time−share instrument, whichever is applicable) of the .... (name and address of the time−share property), and Chapter 707 of the Wisconsin Statutes establishing a lien for failure to pay assessments on the time−share estate (or estates, if more than one) held by the time−share owner (or owners, if more than one) listed below, the time−share estate (or estates, if more than one) will be sold at public auction, commencing at ...., on ...., 20.., at ...., Wisconsin.

(For each time−share estate, list the name and address of the time−share owner, a general description of the time−share estate, and the recording information for the deed or other instrument vesting the time−share estate in the time−share owner.)

TERMS OF SALE: (State the deposit amount to be paid by the buyer at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time−share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed ....

Holder of the lien or authorized agent.

(d) *Form of notice to foreclose mortgage lien.* The notice of foreclosure sale for foreclosing a mortgage lien on a time−share estate under this section shall be in substantially the following form:

NOTICE OF SALE OF TIME−SHARE ESTATE OR ESTATES UNDER CHAPTER 707 OF THE WISCONSIN STATUTES

By virtue of Chapter 707 of the Wisconsin Statutes and the rights contained in a certain mortgage (or mortgages, if more than one) on the time−share estate (or estates, if more than one) given by the time−share owner (or owners, if more than one) set forth below for breach of the conditions of the mortgage (or mortgages, if more than one) and for the purpose of foreclosing, the time−share estate (or estates, if more than one) will be sold at public auction, commencing at ...., on ...., 20.., at ...., Wisconsin.

(For each time−share estate, list the name and address of the time−share owner, a general description of the time−share estate, the recording information for the deed or other instrument vesting the time−share estate in the time−share owner, and the recording information for the mortgage.)

TERMS OF SALE: (State the deposit amount to be paid by the buyer at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time−share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed ....

Holder of the mortgage or authorized agent.

(e) *Sale procedure.* 1. The foreclosure sale must take place on the time−share property in which the time−share estate exists or at another location in the same county in which that time−share property is located. The sale must be by public auction, conducted by an auctioneer registered under ch. 480 or by an attorney who is a member of the State Bar of Wisconsin. At his or her discretion, the auctioneer or attorney may dispense with the reading of the names of the time−share owners if there is more than one time−share owner, of the descriptions of the time−share estates if there is more than one time−share estate, and of the recording information if there is more than one instrument.

2. Upon the sale of the time−share estate, the time−share owner's right to redeem the time−share estate is extinguished. Unless the successful buyer is the time−share owner, the successful buyer at the foreclosure sale takes title to the time−share estate free and clear of any outstanding assessments owed by the previous time−share owner to the managing entity or other person specified in the project instrument or time−share instrument, but subject to municipal or other taxes and to any liens and encumbrances that were recorded prior to the recording of the mortgage or the assessment lien. A buyer at a foreclosure sale under this section is not required to complete the purchase if the time−share estate is subject to outstanding liens and encumbrances, other than those included in the notice of sale, that are not stated at the sale. The buyer shall have a period of 5 days from the foreclosure sale date to determine if the time−share estate is subject to any such liens or encumbrances.

3. No later than 10 days after the foreclosure sale date, the foreclosing entity shall deliver to the successful bidder a foreclosure deed or other appropriate instrument transferring title to the time−share estate and an affidavit in recordable form attesting that all requirements described in this section have been met. Within 30 days after the delivery of the foreclosure deed or other instrument of transfer and affidavit, the buyer shall record the foreclosure deed or other instrument of transfer and affidavit with the register of deeds of the county in which the time−share estate is located.

4. Subject to s. 707.38 (5), within 30 days after delivering the foreclosure deed or other instrument of transfer and affidavit to the buyer, the foreclosing entity shall mail by 1st class mail to the last−known address of the former time−share owner and to each party that held a lien or security interest junior to that of the foreclosing entity a notice detailing the results of the foreclosure sale.

(f) *Application of sale proceeds.* 1. No later than 30 days after the foreclosure sale, the foreclosing entity shall apply the proceeds of the sale first to the expenses of the sale and then to the amount owed to the foreclosing entity, as set forth in the notice to the former time−share owner under par. (a).

2. Any surplus after the payments under subd. 1. are made shall be applied as follows:

a. If there are any parties that held a lien or security interest junior to that of the foreclosing entity, the foreclosing entity may make an equitable and proper distribution of the surplus to those parties, or may bring an action of interpleader, turn the surplus over to the court, name the parties with the junior liens or security interests, and ask the court to determine the proper distribution of the surplus. The foreclosing entity shall recover reasonable attorney fees in any interpleader action under this subd. 2. a.

b. If no party held a lien or security interest junior to that of the foreclosing entity, or if all parties holding junior liens or security interests have been paid, any surplus shall be paid to the former time−share owner. If the foreclosing entity is unable to locate the former time−share owner within one year after the foreclosure sale, the foreclosing entity shall deliver the surplus to the secretary of revenue as provided under ch. 177.

(4) WAIVER OF DEFICIENCY. Any foreclosing entity that forecloses a mortgage or lien under this section waives the right to bring an action for any deficiency that may remain due to the foreclosing entity after the sale of the time−share estate.

History: 2011 a. 102; 2013 a. 20.

SUBCHAPTER III

MANAGEMENT OF TIME−SHARE PROPERTY

707.30 Managing entity; association of unit owners. **(1)** LEGAL ENTITY. Except as otherwise provided in this section, the affairs of every time−share property shall be managed by an association which, whether incorporated or unincorporated, is a legal entity for all purposes.

(2) ORGANIZATION OF ASSOCIATION. (a) *More than 12 time shares.* 1. If the number of time shares in a time−share property exceeds 12, the developer shall establish an association to govern the time−share property not later than the date of the first conveyance of a time share in the time−share property to a purchaser. The association shall be organized as a profit or nonprofit corporation

or as an unincorporated association. After it is organized, the membership of the association shall at all times consist exclusively of all of the time−share owners.

2. If a developer does not establish an association under subd. 1., any interested party, including a time−share owner or a holder of a lien in the time−share property, may petition the circuit court in the county in which the time−share property is located to establish an association and prescribe the powers of the managing entity in accordance with sub. (5).

(b) *Twelve or fewer time shares.* If the number of time shares in the time−share property is 12 or fewer, 3 or more time−share owners may form an association to manage the time−share property.

(3) DEVELOPER CONTROL PERIOD. Until an association is established under sub. (2) or unless time−share owners exercise the authority granted under sub. (6), the developer has the power and responsibility to act in all instances in which this chapter, any other provision of law, the time−share instrument or project instrument requires action by the association or its officers.

(4) BOARD OF DIRECTORS. (a) All powers of the association under sub. (5) shall be exercised by and under the authority of, and the business and affairs of the association shall be conducted by, a board of directors elected in accordance with pars. (b) to (d).

(b) The developer or persons designated by the developer may appoint or remove the members of the association's board of directors, except as provided in par. (c).

(c) 1. Time−share owners other than the developer may elect no less than one−third of the members of the board of directors of the association when time−share owners other than the developer own 15 percent or more of the time shares in a time−share property.

2. Time−share owners other than the developer may elect no less than a majority of the members of the board of directors of an association when the first of any of the following occurs:

a. Three years after 50 percent of the time shares in a time−share property have been conveyed to purchasers.

b. Three months after 90 percent of the time shares in a time−share property have been conveyed to purchasers.

c. All of the time shares that will ultimately be operated by the association have been completed, some of them have been conveyed to purchasers, and none of the others is being offered for sale by the developer in the ordinary course of business.

d. Some of the time shares have been conveyed to purchasers and none of the others is being constructed or offered for sale by the developer in the ordinary course of business.

3. The developer or persons designated by the developer may not remove any member of the board of directors who was elected by the time−share owners.

(d) Within 60 days after the time−share owners are entitled under par. (c) to elect a member or members of the board of directors of an association, the association shall call, upon not less than 30 days' nor more than 40 days' notice, a meeting of the time−share owners to elect the members of the board of directors. Any time−share owner may call and give notice of a meeting under this paragraph if the association fails to do so.

(5) POWERS OF MANAGING ENTITY. (a) Subject to par. (c) and the time−share instrument, the association may do any of the following:

1. Adopt, amend and repeal bylaws, rules and regulations.

2. Adopt and amend budgets for revenues, expenditures and reserves, and levy and collect assessments for time−share expenses from time−share owners.

3. Employ and dismiss employees, agents and independent contractors.

4. Commence, defend or intervene in court actions or administrative proceedings in its name on behalf of itself or 2 or more time−share owners on matters affecting the time−share property or time shares.

5. Make contracts and incur liabilities.

6. Regulate the use, maintenance, repair, replacement and modification of the time−share property.

7. Cause additional improvements to be made to the time−share property.

8. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the time−share instrument, bylaws and rules or regulations of the association.

9. Impose reasonable charges for the preparation of resale certificates required by s. 707.48 (2) or statements of unpaid assessments.

10. Exercise any other powers conferred by the time−share instrument or bylaws.

11. Impose and receive any payments, fees or charges for the use, rental or operation of the time−share property and for services provided to time−share owners.

12. Acquire, hold, encumber and convey in its name any right, title or interest in or to real or personal property.

13. Assign its right to future income, including the right to receive assessments for time−share expenses, but only to the extent that the time−share instrument expressly so provides.

14. Provide for the indemnification of its directors and officers and maintain directors' and officers' liability insurance.

15. Exercise all other powers that may be exercised in this state by legal entities of the same type as the association.

16. Exercise any other powers necessary and proper for the governance and operation of the association.

(b) Except as otherwise provided in the time−share instrument, the manager, to the extent permitted by the management contract, may exercise the powers specified in par. (a) 1. to 11.

(c) 1. The time−share instrument may not impose limitations on the power of the association to deal with the developer which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

2. If the time−share property is a part of a project, this section may not confer any powers on the managing entity, the developer or the time−share owners with respect to any portion of the project other than the units comprising the time−share property.

(6) POWERS AND RESPONSIBILITY IF NO MANAGING ENTITY. If the number of time shares in the time−share property is 12 or fewer and no managing entity is established, the time−share owners shall have all of the following:

(a) The powers in sub. (5) (a) 1. to 11., subject to any restrictions and limitations specified by the time−share instrument. If the time−share instrument is silent with respect to the manner of exercise of any of these powers, the time−share owners may exercise the power only by unanimous action.

(b) The responsibilities and liabilities of an association under ss. 707.33 and 707.34.

(7) CAMPGROUNDS EXCLUDED. This section does not apply to time−share property in which a campground member owns a time−share easement in a campground.

History: 1987 a. 399.

707.31 Transfer of special developer rights. (1) DEFINITION. In this section, "special developer right" means a developer's right to do any of the following:

(a) Add more units to a time−share property under s. 707.21 (1) (f).

(b) Maintain sales offices, management offices, models and signs under s. 707.25.

(c) Appoint, control or serve as the managing entity.

(2) REQUIREMENTS FOR TRANSFER. No special developer right may be transferred except by an instrument executed by both the transferor and transferee which evidences the transfer and is recorded in every county in which any portion of the time−share property is located.

(3) LIABILITY OF TRANSFEROR. Upon transfer of a special developer right, the liability of a transferor shall be as follows:

(a) The transferor may not be relieved of any obligation or liability arising before the transfer, and the transferor shall remain liable for warranty obligations imposed upon him or her under s. 707.53. Lack of privity may not deprive a time−share owner of standing to maintain an action to enforce an obligation of the transferor.

(b) If a successor to a special developer right is an affiliate of the developer, the transferor shall be jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the time−share property.

(c) If the transferor retains any special developer right but transfers other special developer rights to a successor who is not an affiliate of the developer, the transferor shall be liable for any obligations or liabilities imposed on a developer either by this chapter or by the time−share instrument relating to the retained special developer rights and arising after the transfer.

(d) A transferor is not liable for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special developer right by a successor developer who is not an affiliate of the transferor.

(4) RIGHTS WHERE FORECLOSURE OR TAX SALE. (a) 1. Unless otherwise provided in a mortgage instrument or deed of trust, in case of foreclosure of a mortgage, tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under bankruptcy or receivership proceedings, of any time shares owned by a developer in the time−share property, a person acquiring title to all of the time shares being foreclosed or sold shall succeed, depending upon his or her request, to one of the following:

a. All special developer rights.

b. Any rights reserved in the time−share instrument under s. 707.25 allowing the developer to maintain sales offices, management offices, models and signs.

2. The judgment or instrument conveying title shall provide for transfer of only those special developer rights requested under subd. 1.

(b) Upon foreclosure, tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under bankruptcy or receivership proceedings of all time shares in a time−share property owned by a developer, all of the following shall occur:

1. The right to appoint, control or serve as the managing entity shall terminate unless the judgment or instrument conveying title provides for transfer of all special developer rights to a successor developer.

2. The developer shall cease to have any other special developer rights.

(5) RIGHTS, LIABILITIES AND DUTIES OF SUCCESSOR. (a) A successor to any special developer right who is an affiliate of a developer is subject to all obligations and liabilities imposed on the transferor by this chapter or the time−share instrument.

(b) 1. A successor to any special developer right, other than a successor described in par. (c) or (d), who is not an affiliate of a developer, is subject to any of the following obligations and liabilities imposed by this chapter or the time−share instrument:

a. On a developer, which relate to a developer's exercise or nonexercise of special developer rights.

b. On the successor's transferor, except as provided in subd. 2.

2. A successor described in subd. 1. is not subject to any of the following obligations and liabilities of the successor's transferor:

a. Liability for misrepresentations by a previous developer.

b. Warranty obligations on improvements made by any previous developer or made before the property became a time−share property.

c. Breach of any fiduciary obligation by any previous developer or any developer's appointees.

d. Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(c) A successor to only the right to maintain sales offices, management offices, models and signs under s. 707.25, if the successor is not an affiliate of a developer, may not exercise any other special developer right and is not subject to any liability or obligation as a developer, except the obligation to provide a time−share disclosure statement and any liability arising as a result of providing the time−share disclosure statement.

(d) If a successor to all special developer rights held by a transferor is not an affiliate of the developer and has succeeded to those rights by deed in lieu of foreclosure, judgment or an instrument conveying title to the time shares under sub. (4), the successor may declare in a recorded instrument the intention to hold those rights solely for transfer to another person. Thereafter, until transferring all special developer rights, that successor may not exercise any of those rights other than any right held by the transferor to appoint, control or serve as the managing entity, and any attempted exercise of those rights is void. During any period in which a successor may not exercise special developer rights under this paragraph, the successor is not subject to any liability or obligation as a developer other than liability for his or her acts and omissions in appointing, controlling or serving as the managing entity.

(6) PRESERVATION OF PURCHASER'S CLAIMS AND DEFENSES. (a) Any claim or defense based on any written documentation which a purchaser may raise against the person who sold the time share to the purchaser is preserved against any assignee or successor to any of the following:

1. The contract of sale.

2. Any credit contract in connection with the sale of the time share which is executed by the purchaser and which may be retained by or assigned to the developer, an affiliate of the developer or a creditor having a contractual relationship with the developer.

(b) Any recovery by a purchaser under par. (a) may not exceed the amounts paid by the purchaser under the contract.

(c) Sellers and creditors shall include the following language in promissory notes executed in connection with the sale of time shares:

NOTICE

ANY HOLDER OF THIS CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF SERVICES OR PROPERTY OBTAINED PURSUANT TO THE CREDIT CONTRACT OR WITH THE PROCEEDS OF THE CREDIT CONTRACT. RECOVERY UNDER THE CREDIT CONTRACT BY THE DEBTOR MAY NOT EXCEED AMOUNTS PAID BY THE DEBTOR UNDER THE CREDIT CONTRACT.

(7) EXTENT OF OBLIGATIONS. Nothing in this section subjects any successor to a special developer right to any claims against or other obligations of a transferor developer, other than claims and obligations arising under this chapter or any written documentation.

History: 1987 a. 399.

707.32 Termination of contracts and leases of developer. (1) DEFINITION. In this section, "time−share property" does not include a campground.

(1m) AUTHORITY OF THE ASSOCIATION. The following contracts or leases relating to the time−share property which are entered into before the developer ceases under s. 707.30 (4) (c) to appoint a majority of the board of directors may be terminated without penalty by the association at any time after the developer ceases to appoint a majority of the board of directors, upon not less than 90 days' notice to the other party to the contract or lease:

(a) Any management contract, employment contract, or lease of recreational or parking areas or facilities.

(b) Any contract or lease between the managing entity and a developer or an affiliate of a developer.

(c) Any contract or lease that is not bona fide or was unconscionable to the time−share owners when entered into under the circumstances then prevailing.

(2) APPLICABILITY TO LEASES. This section does not apply to a lease if termination of the lease would terminate the time−share property or reduce its size, unless the real estate subject to the lease was included in the time−share property for the purpose of avoiding the right to terminate a lease under this section.

(3) ACTION BY TIME–SHARE OWNER. If no association is established under s. 707.30 (2), any time−share owner, individually or on behalf of the class of time−share owners, may maintain an action under sub. (1m) to terminate a contract or lease of the developer relating to the time−share property.

History: 1987 a. 399.

707.33 Upkeep of units. (1) RESPONSIBILITY OF MANAGING ENTITY AND REQUIRED ACCESS. (a) Unless otherwise provided in the time−share instrument, the managing entity shall be responsible for maintenance, repair and replacement of the time−share units and any personal property available for use by time−share owners in conjunction with the time−share units, other than personal property separately owned by a time−share owner.

(b) Each time−share owner shall afford access through the time−share unit reasonably necessary for the purposes described in par. (a), but the managing entity shall promptly repair any damage to the time−share unit or personal property in the time−share unit which results from the access required under this paragraph.

(2) ALTERATION OF UNIT. Subject to the time−share instrument, a time−share owner may not change the appearance of a time−share unit without the consent of the managing entity.

History: 1987 a. 399.

707.34 Tort and contract liability. (1) ACTIONS AGAINST DEVELOPER AND THE ASSOCIATION. (a) An action in tort alleging a wrong done by a developer or a manager selected by the developer, or an agent or employee of either, in connection with any portion of the time−share property or other property which the developer or the manager has the responsibility to maintain may not be maintained against the association or any time−share owner other than a developer.

(b) An action in tort alleging a wrong done by an association or by an agent or employee of the association or an action arising from a contract made by or on behalf of the association may be maintained only against the association.

(bm) If a tort or breach of contract action against an association under par. (b) is based upon conduct which occurred during any period of developer control, the developer is subject to liability for all unreimbursed losses suffered by the association or time−share owners, including costs and reasonable attorney fees notwithstanding s. 814.04 (1). Any statute of limitations affecting the right of action of the association or time−share owners under this paragraph is tolled until the period of developer control terminates.

(c) No time−share owner may be precluded from bringing an action under this subsection because the person is a time−share owner or a member, officer or director of the association.

(2) ACTIONS AGAINST TIME–SHARE OWNER. (a) Except as provided in sub. (3), a time−share owner is personally liable for his or her acts and omissions.

(b) Each time−share owner shall be liable to the association for any damage, except ordinary wear and tear, done to the time−share property by the time−share owner or a person using the time−share property under the rights of the time−share owner.

(c) An action may not be maintained against a time−share owner merely because he or she owns a time share.

(3) LIABILITY OF VOLUNTEER DIRECTORS AND OFFICERS. A director or officer of an association who is not paid for services to the association is not personally liable for damages resulting solely because of his or her membership on the board or participation in association activities.

(4) JUDGMENT LIEN. A judgment for money against an association shall be a lien against all of the time shares if properly entered in the judgment and lien docket under ch. 806, but, notwithstanding s. 806.15 (1), the judgment shall not constitute a lien against any other property of a time−share owner.

History: 1987 a. 399; 1995 a. 224.

707.35 Insurance; repair or replacement of damaged property. (1) REQUIRED INSURANCE. Beginning not later than when a developer offers a time share for sale in a time−share property in which the number of time shares exceeds 12, the managing entity shall maintain all of the following insurance, to the extent reasonably available and applicable and not otherwise unanimously agreed by the time−share owners or provided by the developer or by a person managing a project of which the time−share property is a part:

(a) Property insurance on the time−share property and any personal property available for use by time−share owners in conjunction with the time−share property, other than personal property separately owned by a time−share owner, insuring against all risks of direct physical loss commonly insured against, for not less than full replacement value of the property insured, exclusive of items normally excluded from property insurance policies.

(b) Liability insurance, including medical payments insurance, in an amount determined by the managing entity but not less than any amount specified in the time−share instrument, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the time−share property and time−share units.

(2) NOTICE REQUIREMENT. If the insurance under sub. (1) is not reasonably available, the managing entity shall promptly mail or hand deliver notice of that fact to all time−share owners.

(2m) INSPECTION OF POLICIES. The managing entity shall make copies of all insurance policies carried under sub. (1) available for inspection by the time−share owners during normal business hours.

(3) CONTENTS OF POLICY. Each insurance policy carried under sub. (1) shall provide all of the following:

(a) That each time−share owner is an insured person under the policy whether designated as an insured by being named individually or as part of a named group or otherwise, as the time−share owner's interest may appear.

(b) That the insurer waives its right to subrogation under the policy against any time−share owner or members of the time−share owner's household.

(c) That an act or omission by any time−share owner shall not void the policy or be a condition to recovery by any other person under the policy unless the time−share owner is acting within the scope of his or her authority on behalf of the association.

(d) That the policy is primary insurance not contributing with any other insurance in the name of a time−share owner covering the same risk covered by the policy, and the other insurance in the name of a time−share owner applies only to loss in excess of the primary coverage.

(4) INSURANCE TRUSTEE. (a) Except as provided in par. (d), any loss covered by the property insurance required under sub. (1) (a) shall be adjusted with, and the insurance proceeds from that loss payable to, the insurance trustee designated in the time−share instrument. If a trustee has not been designated or if the designated trustee fails to serve, the managing entity shall be the insurance trustee.

(b) Except as provided in par. (c), the insurance trustee shall hold any insurance proceeds in trust for time−share owners and lienholders as their interests may appear and be determined in accordance with s. 707.24.

(c) Subject to sub. (7), the insurance trustee shall disburse insurance proceeds for the repair or restoration of the time−share property, and time−share owners and lienholders may not receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or there is a termination under s. 707.24.

(d) This subsection does not apply if the property insurance required under sub. (1) (a) is provided by a person managing a project of which the time−share property is a part.

(5) OTHER INSURANCE PROTECTION. (a) The time−share instrument may require the managing entity to carry any other insurance and the managing entity may carry any other insurance deemed appropriate.

(b) An insurance policy issued under sub. (1) may not prevent a time−share owner from obtaining insurance for the time−share owner's benefit.

(6) CERTIFICATES; CANCELLATION. (a) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to any association and, upon written request, to any time−share owner, mortgagee or beneficiary under a deed of trust.

(b) An insurer that has issued an insurance policy under this section may terminate the policy only as provided in s. 631.36, except that notice of cancellation or nonrenewal shall be mailed to the last−known address of the managing entity and each person to whom a certificate or memorandum of insurance has been issued.

(7) DAMAGED PROPERTY; REPAIR OR REPLACEMENT. (a) Any portion of the time−share property damaged or destroyed shall be repaired or replaced promptly by the managing entity unless any of the following occur:

1. Another person repairs or replaces it.

2. There is a termination under s. 707.24.

3. Repair or replacement would be illegal under any state or local health or safety statute or ordinance, including a zoning ordinance.

4. Fifty percent of the time−share owners of undamaged or undestroyed time−share units and 80 percent of the time−share owners of damaged or destroyed time−share units vote not to rebuild.

5. A decision not to rebuild the damaged property is made by another person empowered to make that decision.

(b) Unless the time−share instrument provides otherwise, all of the following apply if the entire time−share property need not be repaired or replaced:

1. The insurance proceeds attributable to the damaged area shall be used to restore the damaged area to a condition compatible with the remainder of the property.

2. The insurance proceeds attributable to time−share units that are not rebuilt shall be distributed as if those units constituted a time−share property in which all time shares had been terminated under s. 707.24.

(c) The cost of repair or replacement of the time−share property in excess of insurance proceeds and reserves shall be a time−share expense.

(8) WAIVER. Notwithstanding s. 707.05, this section may be varied or waived in the case of a time−share property in which none of the time−share units may be used as dwellings or for recreational purposes.

History: 1987 a. 399.

707.36 Disposition of surplus funds. Unless otherwise provided in the time−share instrument, any surplus funds derived from the time−share owners or from property belonging to the time−share owners or their association and held by a managing entity, which are remaining after payment of or provision for time−share expenses and any prepayment of reserves, shall be paid to the time−share owners in proportion to their time−share liabilities, credited to the owners to reduce their future time−share liabilities or used for any other purpose as the association decides.

History: 1987 a. 399.

707.37 Assessments for time−share expenses; lien. **(1)** LIABILITY FOR ASSESSMENTS. (a) Until assessments for time−share expenses are made against the time−share owners, the developer shall pay all time−share expenses.

(b) When assessments for time−share expenses are made against the time−share owners, assessments for time−share expenses shall be made at least annually, based on a budget adopted at least annually by the managing entity and in accordance with the allocation set forth in the time−share instrument under s. 707.22 (1). Except as provided in pars. (c) to (f), no time−share owner may be excused from payment of his or her share of time−share expenses unless all of the time−share owners are excused from payment.

(c) A developer may be excused from the payment of the developer's share of the time−share expenses which would have been assessed against the time shares during a stated period during which the developer has guaranteed to each purchaser in the time−share disclosure statement, or by agreement between the developer and a majority of the time−share owners other than the developer, that the assessment for time−share expenses imposed upon the time−share owners would not increase over a stated dollar amount. If the developer makes such a guarantee, the developer shall pay any amount of time−share expenses incurred during the guarantee period which was not produced by the assessments at the guarantee level from other time−share owners.

(d) To the extent required by the time−share instrument, any time−share expense benefiting fewer than all of the time−share owners may be assessed only against the time−share owners benefited.

(e) Assessments to pay any judgment against the association may be made only against the time shares in the time−share property when the judgment was entered, in proportion to their time−share liabilities.

(f) If any time−share expense is caused by the misconduct of a time−share owner, the managing entity may assess that expense exclusively against that time−share owner's time share.

(1m) INTEREST; REALLOCATION. (a) Any past due assessment or installment shall bear interest at the rate established by the managing entity or the time−share instrument.

(b) If time−share liabilities are reallocated, assessments for time−share expenses and any installment not yet due shall be recalculated in accordance with the reallocated time−share liabilities.

(2) ASSESSMENTS CONSTITUTE LIEN. (a) All assessments for time−share expenses, until paid, together with interest and actual costs of collection, constitute a lien on the time shares on which they are assessed, if a statement of time−share lien is filed under par. (b) within 2 years after the date on which the assessment becomes due. The lien shall be effective against a time share when the assessment became due regardless of when within the 2−year period it is filed.

(b) A statement of time−share lien shall be filed in the land records of the office of the clerk of circuit court of the county where the time−share property is located, stating the description of the time−share property and the time share, the name of the time−share owner, the amount due and the period for which the assessment for time−share expenses was due. The clerk of circuit court shall index the statement of time−share lien under the name of the time−share owner in the judgment and lien docket. The statement of time−share lien shall be signed and verified by an officer or agent of the association as specified in the bylaws or, if there is no association, a representative of the time−share owners. On full payment of the assessment for which the lien is claimed, the time−share owner shall be entitled to a satisfaction of the lien that may be filed with the clerk of circuit court.

(2m) LIABILITY FOR ASSESSMENTS UPON TRANSFER. A time−share owner shall be liable for all time−share expenses assessed against the time−share owner and coming due while the time−share owner owns a time share and until the time−share owner notifies the managing entity in writing of the transfer of the time share. In a voluntary grant of a time share, the grantee shall be jointly and severally liable with the grantor for those time−share expenses which are assessed against the grantor up to the time of the voluntary grant and for which a statement of lien is filed under sub. (2), except as provided in sub. (3), without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee for the assessments. Liability for assessments may not be avoided by waiver of the use or enjoyment of any part of the time−share property or by abandonment of the time share for which the assessments are made.

(3) STATEMENT OF UNPAID ASSESSMENTS. Any grantee of a time share is entitled to a statement from the managing entity setting forth the amount of unpaid assessments for time−share expenses against the grantor. The grantee is not liable for, nor shall the time share conveyed be subject to a lien which is not filed under sub. (2) for, any unpaid assessment against the grantor in excess of the amount set forth in the statement. If the managing entity does not provide the statement within 10 business days after the grantee's request, it is barred from claiming any lien against the grantee which is not filed under sub. (2) before the request for the statement.

(4) PRIORITY OF LIEN. A lien under sub. (2) is prior to other liens except all of the following:

(a) Liens of general and special taxes.

(b) All sums unpaid on a first mortgage on the time share which is recorded before the assessment is made.

(c) Mechanic's liens filed before the assessment on the time−share unit, divided into the time share involved.

(d) A lien under s. 292.31 (8) (i) or 292.81.

(5) FORM OF STATEMENT OF TIME−SHARE LIEN. A statement of time−share lien is sufficient for the purposes of this chapter if it contains the following information and is substantially in the following form:

STATEMENT OF TIME−SHARE LIEN

This is to certify that .... owner(s) of time share No. .... in ...., a time−share property (is) (are) indebted to ...., the managing entity, in the amount of $.... as of ...., ... (year) for (his) (her) (its) (their) proportionate share of time−share expenses for the period from (date) to (date), plus interest thereon at the rate of ....%, costs of collection, and actual attorney fees.

(Managing Entity)

By: ....

Officer's title (or agent)

Address ....

Phone number ....

I hereby affirm under penalties of perjury that the information contained in the foregoing Statement of Time−Share Lien is true and correct to the best of my knowledge, information and belief.

....

Officer (or agent)

(6) ENFORCEMENT OF LIEN. A lien may be enforced and foreclosed by a managing entity, or any other person specified in the time−share instrument, in the manner provided in s. 707.28 (2). The managing entity may recover costs and actual attorney fees. The managing entity may, unless prohibited by the project instrument or time−share instrument, bid on the time share at foreclosure sale and acquire, hold, mortgage, and convey the time share. Suit to recover a money judgment for unpaid time−share expenses shall be maintainable without foreclosing or waiving the lien securing the time−share expenses. Except as provided in s. 707.28 (4), suit for any deficiency following foreclosure may be maintained in the same proceeding. No action may be brought to foreclose the lien unless brought within 3 years after the recording of the statement of time−share lien and, except as provided in s. 707.28 (3) (a) and (b), unless 10 days' prior written notice is given to the time−share owner by registered mail, return receipt requested, to the address of the time−share owner shown on the books of the managing entity.

(7) FINANCIAL RECORDS. A person who has a duty to make assessments for time−share expenses shall keep financial records sufficiently detailed to enable the person to comply with s. 707.48. All financial and other records shall be made reasonably available for examination by any time−share owner or the time−share owner's authorized agent.

History: 1987 a. 399; 1993 a. 453; 1995 a. 224, 225, 227; 1997 a. 27, 35, 250, 252; 1999 a. 185; 2007 a. 18; 2011 a. 102; s. 35.17 correction in (5) (form).

707.38 Blanket encumbrances; liens. (1) DEFINITION. In this section, "blanket encumbrance" means any mortgage, lien or other interest which secures or evidences an obligation to pay money or to convey or otherwise dispose of all or any part of a time−share property, affects the time−share property or time shares owned by more than one time−share owner and permits or requires the foreclosure or other disposition of the time−share property to which it attaches, but does not include any of the following:

(a) A lien for taxes and assessments levied by a public body which are not yet due and payable.

(b) A lien for common expenses in favor of a homeowners', condominium or community association which is not a judgment lien.

(c) A lease.

(d) A recorded agreement for the payment of reasonable fees or other compensation for management services performed on behalf of the time−share property.

(e) Any interest arising from an agreement to sell or pledge the ownership interest in an individual time share.

(1m) NONDISTURBANCE AGREEMENT. If delivery of a time−share disclosure statement is required under s. 707.41 (2), a developer whose project is subject to a blanket encumbrance shall, before transferring a time share, obtain from the holder of the blanket encumbrance a nondisturbance agreement, which shall be recorded in the office of the register of deeds under s. 706.05, for the benefit of the purchaser and the purchaser's successors in interest, by which the holder agrees to all of the following:

(a) The holder's rights in the time−share property are subordinate to the rights of time−share owners upon recording of the nondisturbance agreement.

(b) The holder and any successor or assign, or any person who acquires the time−share property through foreclosure or by deed in lieu of foreclosure or in fulfillment of the blanket encumbrance, shall take the time−share property subject to the rights of time−share owners.

(c) The holder and any successor acquiring the time−share property under the blanket encumbrance may not use or cause the time−share property to be used in a manner which would prevent the time−share owners from using and occupying the time−share property in a manner contemplated by the project instrument and time−share instrument.

(2) RELEASE FROM BLANKET ENCUMBRANCE. (a) If a blanket encumbrance becomes effective against a time share after purchase of the time share, the time−share owner is entitled to a release of the time share from the blanket encumbrance upon payment of an amount proportionate to the ratio that the time−share owner's time−share liability bears to the total time−share liability of all time shares subject to the blanket encumbrance. Upon receipt of payment, the holder shall promptly deliver to the time−share owner a release of the blanket encumbrance covering that time share.

(b) Upon release under par. (a) of a time share from a blanket encumbrance, the managing entity may not assess or have a lien

against that time share for any portion of the expenses incurred in connection with the blanket encumbrance.

(3) EFFECT OF OTHER LIENS. Except as provided in s. 707.37 (2) to (6), after creation of a time−share property, all liens which are not blanket encumbrances exist only against individual time shares in the same manner and under the same conditions as liens or encumbrances may arise or be created upon or against separate parcels of real property owned in individual ownership.

(4) LIENHOLDER'S RIGHTS. (a) Except as provided in s. 707.37 (2) to (6), the holder of a lien against an individual time share in a time−share property shall have the lien rights preserved against a purchaser of the time share unless the purchaser objects and shows within the time specified in par. (b) that the project instrument is invalid, void or voidable.

(b) The developer shall give a purchaser written notice, by certified mail or personal delivery, that the developer has assigned a receivable related to the time share to the lienholder and that the time−share owner has 30 days to object and show the invalidity or defect of the project instrument. A purchaser who fails to assert an objection as provided in this paragraph may not raise the issue in any later action for enforcement of the collection of the receivable or enforcement of the lien by the lienholder.

(5) SERVICE OF PROCESS. If a lien is to be foreclosed or enforced against all time shares in a time−share property, service of process in the action upon the managing entity, if any, shall constitute service upon all of the time−share owners for the purposes of foreclosure or enforcement. The managing entity shall promptly forward, by certified or registered mail, a copy of the process to each time−share owner at his or her last address known to the managing entity. The cost of forwarding shall be advanced by the holder of the lien and may be taxed as a cost of the enforcement proceeding. This notice does not suffice for the entry of a deficiency or other personal judgment against any time−share owner.

History: 1987 a. 399.

707.39 Initiative, referendum and recall. (1) DEFINITIONS. In this section:

(a) "Owner" means a person who, other than as security for an obligation, is an owner or co−owner of a time share or is an owner or co−owner of a unit that is not a time−share unit.

(b) "Time share" does not include a time−share easement in a campground.

(c) "Unit" does not include real property in which a time−share easement in a campground exists.

(2) APPLICABILITY. This section applies only to a project in which at least 50 percent of the votes are allocated to time shares.

(3) ADDRESS LIST. For purposes of this section, the managing entity shall keep reasonably available for inspection and copying by any owner all addresses, known to it or to the developer, of all of the owners, with the principal permanent residence address of each indicated, if known. The managing entity shall revise continually the list of addresses based on any new information it obtains, and the developer shall keep the managing entity advised of any information which the developer has or obtains.

(4) GENERAL PROVISIONS. (a) Each ballot prepared under subs. (5) to (7) shall contain all of the following:

1. A statement that the ballot will not be counted unless signed by an owner.

2. The date, not less than 30 days nor more than 180 days after the date the ballot is mailed, by which the ballot must be received by the person to whom it is to be returned, and a statement that the ballot will not be counted unless received by that date.

3. The name and address of the person to whom the ballot is to be returned.

4. No material other than what is required by this section.

(b) Each ballot mailed under subs. (5) to (7) shall be mailed to the principal permanent residence of the owner to whom it is addressed, if known to the person responsible for mailing it, and that person shall procure and keep reasonably available for inspection for at least one year after the vote is calculated a certificate of mailing for each ballot mailed and the original or a photocopy of each ballot returned by the date specified in par. (a) 2.

(c) If the developer or a person on behalf of the developer communicates with an owner, other than as expressly authorized by sub. (5), (6) or (7), on the subject matter of any petition or ballot prepared under any of those subsections, the expense of that communication may not be assessed directly or indirectly in whole or in part to any owner other than the developer.

(d) The vote allocated to any time share and to any unit other than a time−share unit shall be counted as having been cast in accordance with the ballot of any owner of that time share or unit. If the ballots of different owners of the same time share, or of the same unit other than a time−share unit, are not in accord with one another, the vote allocated to that time share or unit shall be divided in proportion to the number of owners of the time share or unit voting each way and shall be counted accordingly. Any ballot that is not signed by an owner or is not received by the date specified under par. (a) 2. is void.

(e) The managing entity shall take action reasonably calculated to notify all owners of the resolution of any matter considered under sub. (5), (6) or (7).

(f) No right or power of an owner under this section may be waived, limited or delegated by contract, power of attorney, proxy or otherwise, in favor of the developer, an affiliate of a developer, a managing entity or a designee of any of them.

(4m) AMENDMENT TO PROJECT INSTRUMENT. The project instrument may be amended by the owners by direct initiative under sub. (5) or by referendum under sub. (6). An amendment adopted under sub. (5) or (6) shall be promptly recorded by the managing entity with a statement of the vote and becomes effective upon recordation.

(5) DIRECT INITIATIVE BY OWNERS. (a) The owners may amend the project instrument or any unrecorded document governing the project, or approve or reject any proposed expenditure, in accordance with this subsection or in any manner permitted by the project instrument or document.

(b) An owner may deliver to the managing entity a petition containing the language of a proposed amendment and signed by the owners of at least one time share or other estate or interest in each of a number of units to which at least 33 1/3 percent of the votes are allocated or any smaller percentage specified by the document to be amended. A writing of not more than 750 words in support of the proposal may be attached to the petition and mailed with the ballots under par. (c).

(c) Within 20 days after receiving the petition under par. (b), the managing entity shall mail to each owner a ballot setting forth the language of the petition and affording an opportunity to approve or reject the proposal, together with a copy of the writing, if any, attached to the petition. A writing of not more than 750 words from the managing entity recommending approval or rejection of the proposal may be mailed with the ballots.

(d) 1. Within 10 days after the date specified under sub. (4) (a) 2., the managing entity shall examine the ballots that have been returned and determine the vote. A signature on the petition shall be treated for the purpose of sub. (4) (d) as a ballot from the signer indicating approval of the proposed amendment.

2. Except as provided in s. 707.20 (2), a simple majority of the votes counted shall be sufficient for the adoption of the proposal unless the document to be amended specifies a larger majority or, in the case of a proposed expenditure, the project instrument specifies a larger majority not exceeding 66 2/3 percent, except that no document may specify more than a simple majority for a proposal which the managing entity could effect unilaterally.

3. No proposal may be adopted by an initiative in which the ballots favoring the proposal represent less than 10 percent of the votes allocated to all owners.

(e) A proposal adopted under this subsection may not be repealed or modified within 3 years after adoption except by another initiative under this subsection. After the 3−year period, the managing entity may not repeal or modify the result without the approval of the owners in a referendum under sub. (6). If the project instrument permits the managing entity to initiate a referendum for that purpose, no referendum may be initiated for that purpose more often than once every 3 years.

(6) REFERENDUM OF OWNERS. (a) The owners may amend the project instrument by referendum, and the project instrument may specify other matters which the owners may determine by referendum and may permit the managing entity to select matters which the owners may determine by referendum.

(b) If an amendment to a project instrument proposed by the managing entity, or other matter, is to be determined by referendum, the managing entity shall prepare and, not less than 30 days nor more than 180 days before the votes are to be counted, mail to each owner a ballot stating each matter to be determined and affording the opportunity to approve or reject each matter. The ballot may be accompanied by a writing of not more than 750 words from the managing entity recommending a particular decision.

(c) Within 10 days after the date specified under sub. (4) (a) 2., the managing entity shall examine the ballots and determine the vote. Except as provided in s. 707.20 (2), a simple majority of the votes counted shall determine each matter in question unless the project instrument specifies a larger majority, but no matter may be determined by referendum unless the ballots favoring the majority decision represent at least 10 percent of the votes allocated to all owners.

(7) RECALL OF MANAGER BY OWNERS. (a) In addition to any manner permitted by the project instrument, the owners may discharge the manager with or without cause in the manner provided by this subsection.

(b) 1. An owner may prepare a ballot affording the opportunity to indicate a preference between retaining the present manager and discharging the present manager in favor of a new manager. A writing of not more than 750 words supporting discharge of the manager may be attached to the ballot.

2. A copy of the ballot and of any writing that is to be mailed with the ballots shall be delivered to the manager. Not less than 10 days nor more than 30 days after the ballot and writing are delivered to the manager, the owner who prepared the ballot shall mail to each owner the ballot and writing, if any, supporting discharge, and a copy of any written reply from the manager of not more than 750 words.

(c) 1. Within 10 days after the date specified under sub. (4) (a) 2., the person who receives the ballots shall examine those that have been returned, determine the vote and promptly notify the manager of the result. If at least 66 2/3 percent of the vote, representing at least 33 1/3 percent of the votes allocated to all owners, favors discharging the manager, then all of the following shall occur:

a. The developer shall be notified of the result and the ballots or photocopies of the ballots shall be given promptly to the manager.

b. The developer shall diligently attempt to procure offers for management contracts from prospective managers. Any owner other than the developer also may attempt to procure such offers.

2. If the developer or any owner obtains an offer within 60 days after the date on which the vote was tabulated, the developer or owner shall promptly notify the developer and the owner who was responsible for tabulating the vote. If no offer is obtained from a prospective manager other than the current manager within the 60−day period, that period shall be extended for successive intervals of 30 days each until an offer is obtained.

3. At the end of any period under subd. 2. during which an offer from a prospective manager other than the current manager is obtained, the owner who prepared the ballot, or the developer if that owner so directs in a writing delivered to the developer, shall promptly prepare and mail to each owner a 2nd ballot stating the term and compensation provided by each offer that has been received and affording an opportunity to indicate a preference for any one of the offers or for retaining the current manager. A letter recommending that a particular offer be accepted or that the current manager be retained may accompany the ballot, and if the developer prepared the ballot, the developer shall enclose a copy of any letter submitted by the owner who was responsible for tabulating the vote.

4. The developer has no obligation under this paragraph and nothing need be delivered to the developer if the developer owned no estate or interest in any unit on the date that the first ballot was delivered to the manager and neither the developer nor the affiliates of the developer or the developer's appointees caused the current manager to be hired.

(d) Within 10 days after the date specified under sub. (4) (a) 2., the person who receives the ballots prepared under par. (c) 3. shall examine the ballots that have been returned, determine the vote, notify the manager of the result, and hold the ballots available for inspection by the manager and any proposed manager for at least 30 days. If more votes favor accepting a particular offer rather than retaining the manager, the manager shall be discharged 90 days after being notified of the result, except that if the ballot prepared under par. (b) was delivered to the manager before the current term of the manager began, the manager is discharged immediately upon being notified of the result. The person who received the ballots prepared under par. (c) 3. shall accept on behalf of the owners the offer that received the largest number of votes. The expenses under a contract accepted under this paragraph are time−share expenses.

(e) A manager discharged under this subsection is not entitled because of the discharge to any penalty or other charge payable directly or indirectly in whole or in part by any owner other than the developer.

(f) If the manager is discharged under par. (d), the reasonable expenses incurred by the developer or any owner in obtaining offers and preparing and mailing ballots under this subsection, including reasonable attorney fees, shall be promptly collected by the managing entity from all owners as a time−share expense and paid to the developer or the owner.

History: 1987 a. 399.

SUBCHAPTER IV

PROTECTION OF PURCHASERS

707.40 Applicability; exemptions. This subchapter applies to all time shares subject to this chapter, except that ss. 707.41 to 707.45 and 707.48 do not apply to any of the following:

(1) The disposition of a time share in any of the following circumstances:

(a) By gift.

(b) By court order.

(c) By a government or governmental agency.

(d) By foreclosure or deed in lieu of foreclosure.

(2) The disposition of a time share if the purchaser may cancel at any time and for any reason without penalty.

(3) The disposition of a time share in a unit situated wholly outside this state under a contract executed wholly outside this state, if there has been no offering within this state.

(4) An offering by a developer of time shares in not more than one time−share unit at any one time.

(5) Disposition to one purchaser of a time−share property or all of the time shares in a time−share property.

(6) A transaction normal and customary in the hotel and motel business, including but not limited to acceptance of advance reservations, if the person engaging in the transaction operates or owns

a motel or hotel substantially engaged in the business of accepting short−term, single reservation contracts with customers who obtain no associated long−term use rights.

History: 1987 a. 399.

707.41 Time−share disclosure statement. (1) PREPARATION OF STATEMENT. (a) Except as provided in par. (b), a developer, before offering an interest in a time−share unit, shall prepare a time−share disclosure statement conforming to the requirements of this section and, if applicable, ss. 707.42 to 707.45.

(b) A developer may transfer responsibility for preparation of all or a part of the time−share disclosure statement to a successor developer or to a person in the business of selling real estate who intends to offer time shares in the time−share property for the person's own account. The developer shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of this section.

(2) DELIVERY OF STATEMENT; SINGLE STATEMENT. (a) A developer or other person in the business of selling real estate who offers a time share for the person's own account to a purchaser shall deliver a time−share disclosure statement to a prospective purchaser in the manner prescribed in s. 707.47 (1).

(b) If a time−share property is part of any other real estate venture in connection with the sale of which the delivery of a disclosure statement is required under the laws of this state, a single disclosure statement conforming to the requirements of this section and, if applicable, ss. 707.42 to 707.45, as those requirements relate to all real estate ventures in which the time−share property is located, and to any other requirements imposed under the laws of this state, may be prepared and delivered in lieu of providing 2 or more disclosure statements.

(3) LIABILITY FOR STATEMENT. The person who prepared all or a part of the time−share disclosure statement is liable under ss. 707.47 and 707.57 for any false or misleading statement set forth in, or any omission of material fact from, that portion of the time−share disclosure statement which the person prepared.

(4) CONTENTS OF STATEMENT. A time−share disclosure statement shall contain or fully and accurately disclose all of the following:

(a) A cover sheet bearing the title "Time−Share Disclosure Statement" and the name and principal business address of the developer and the developer's agent, if any, the name and location of the time−share property and the following 3 statements in boldface type or capital letters no smaller than the largest type on the page:

1. THESE ARE THE LEGAL DOCUMENTS COVERING YOUR RIGHTS AND RESPONSIBILITIES AS A TIME−SHARE OWNER. IF YOU DO NOT UNDERSTAND ANY PROVISIONS CONTAINED IN THEM, YOU SHOULD OBTAIN PROFESSIONAL ADVICE.

2. THESE DISCLOSURE MATERIALS GIVEN TO YOU AS REQUIRED BY LAW MAY BE RELIED UPON AS CORRECT AND BINDING. ORAL STATEMENTS MAY NOT BE LEGALLY BINDING.

3. YOU MAY CANCEL IN WRITING ANY CONTRACT FOR THE PURCHASE OF A TIME SHARE, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN 5 BUSINESS DAYS FROM THE DATE YOU SIGN THE CONTRACT OR UNTIL 5 BUSINESS DAYS AFTER YOU RECEIVE THE TIME−SHARE DISCLOSURE STATEMENT, WHICHEVER IS LATER. IF YOU SO CANCEL THE CONTRACT, YOU ARE ENTITLED TO RECEIVE A FULL REFUND OF ANY DEPOSITS MADE, EXCEPT, IF YOU HAVE USED OR OCCUPIED THE TIME−SHARE PROPERTY FOR MORE THAN 12 HOURS, THE MANAGING ENTITY OR CAMPGROUND OPERATOR MAY SUBTRACT FROM DEPOSITS MADE A REASONABLE CHARGE TO COVER THE LENGTH OF STAY PLUS THE COST FOR DAMAGES TO THE TIME−SHARE PROPERTY DIRECTLY ATTRIBUTABLE TO YOU OR ANY MEMBER OF YOUR PARTY.

(b) A general description of the time−share property and the time−share units, including the number of units in the time−share property and in any project of which it is a part, and the schedule of commencement and completion of all promised improvements as described in the time−share instrument, promotional materials, advertising and the time−share disclosure statements.

(c) As to all units owned or offered by the developer in the same project, all of the following:

1. The types and number of units.

2. Identification of units that are time−share units.

3. The types and durations of the time shares.

4. The maximum number of units that may become part of the time−share property.

5. A statement of the maximum number of time shares that may be created or a statement that there is no maximum.

(d) Copies and a brief narrative description of the significant features of the time−share instrument and any documents, other than plats and plans, referred to in the time−share instrument, copies of any contracts or leases to be signed by the purchaser at closing, and a brief narrative description of any contracts or leases that may be canceled by the association under s. 707.32.

(e) The identity of the managing entity and the manner, if any, by which the developer may change the managing entity or its control.

(f) A current balance sheet and budget for the association, if there is an association, either within or as an exhibit to the time−share disclosure statement. During the 12 months after the date of the first transfer to a purchaser the budget may be a projected budget. The budget shall include all of the following:

1. A statement of who prepared the budget and the budgetary assumptions concerning occupancy and inflation factors.

2. A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement.

3. A statement of any other reserves.

4. The projected time−share expenses by category of expenditure, for the time−share units.

5. The projected time−share liability for each time share.

(g) A description of the nature and purposes of all charges, dues, maintenance fees and other expenses that may be assessed, the current amounts assessed and the method and formula for changes.

(h) Any services provided by the developer or expenses paid by the developer which the developer expects may become a time−share expense, and the projected time−share liability attributable to each of those services or expenses for each time share.

(i) Any initial or special fee due from the purchaser at closing and a description of the purpose of, and method of calculating, the fee.

(j) A statement of the effect on the time−share owners of liens, defects or encumbrances on, or affecting the title to, the time−share units.

(k) A description of any financing offered by the developer.

(L) The terms and significant limitations of any warranties provided by the developer, including statutory warranties and limitations on the enforcement of the warranties or on damages.

(m) If of significance to the time−share units, a statement of any unsatisfied judgments against the managing entity or the developer, the status of any pending suits involving the sale or management of real estate to which the managing entity or the developer or an affiliate of the developer is a defending party, and the status of any pending suits of which the developer has actual knowledge.

(n) A statement that an amount equal to 50 percent of the deposits, as defined in s. 707.49 (1) (b), made in connection with the purchase of a time share will be held in an escrow account, except as provided in s. 707.49 (4), until all of the events listed in

s. 707.49 (3) (b) 3. have occurred or any later time specified in the contract to purchase the time share, and that the full amount of the deposit, minus any amount that may be withheld under s. 707.47 (6) (b), will be returned to the purchaser if the purchaser cancels the contract under s. 707.47.

(o) Any restraints on transfer of time shares or portions of time shares.

(p) A description of the insurance coverage provided for the benefit of time−share owners in accordance with s. 707.35.

(q) Any current or expected fees or charges to be paid by time−share owners for the use of any facilities related to the project.

(r) The extent to which financial arrangements have been provided for completion of all promised improvements as described in the time−share instrument, promotional materials, advertising and the time−share disclosure statements.

(s) The extent to which a time−share unit may become subject to a tax or other lien arising out of claims against other time−share owners of the same time−share unit.

(t) A description of the rights and remedies provided in the time−share instrument to a time−share owner who is prevented from enjoying exclusive occupancy of a time−share unit by others, or a statement that there are none provided in the time−share instrument.

(u) All unusual and material circumstances, features and characteristics of the project.

History: 1987 a. 399.

707.42 Exchange or reciprocal program; additional requirements. (1) DEFINITIONS. In this section:

(a) "Exchange company" means a person operating an exchange program.

(b) "Exchange program" means an arrangement where time−share owners exchange occupancy rights among themselves or with time−share owners of other time−share units or both.

(c) "Reciprocal program" means an arrangement allowing a campground member to use one or more campgrounds, the owners of which are persons other than the campground operator who entered into the campground contract with the campground member.

(2) EXCHANGE PROGRAM; DISCLOSURES. If time−share owners are permitted or required to become members of or to participate in an exchange program, the time−share disclosure statement or a supplement delivered with the statement shall contain or fully and accurately disclose, in addition to the information required by s. 707.41 (4) and, if applicable, ss. 707.43 to 707.45, all of the following information:

(a) Whether membership or participation in the exchange program by a time−share owner is voluntary or mandatory.

(b) The name and address of the exchange company, whether the exchange company is an affiliate of the developer, and whether the exchange company or any of its officers or directors has any legal or beneficial interest in any developer or manager of any time−share property participating in the exchange program.

(c) The names of all officers, directors and shareholders owning 5 percent or more of the outstanding stock of the exchange company.

(d) The terms and conditions of the contractual relationship between the time−share owner and the exchange company.

(e) The procedures whereby the contractual relationship between the time−share owner and the exchange company may be changed or terminated, and whether it may be terminated or otherwise affected by action or inaction of the developer or the managing entity or by other factors beyond the control of the time−share owner.

(f) A complete and accurate description of all limitations, restrictions or priorities used in the operation of the exchange program, including limitations on exchanges based on the season, unit size or levels of occupancy, expressed in boldface type, and if the limitations, restrictions or priorities are not uniformly applied by the exchange program, a clear description of the manner in which they are applied.

(g) The procedures to qualify for and effectuate exchanges and the manner in which exchanges are arranged by the exchange company.

(h) Whether exchanges are arranged on a space−available basis and whether the exchange program guarantees fulfilling specific requests for exchanges.

(i) Whether and under what circumstances a time−share owner, in dealing with the exchange company, may lose the use and occupancy of the time share in an exchange which the time−share owner properly applied for without being provided with substitute accommodations by the exchange company.

(j) The fees or range of fees for participation by time−share owners in the exchange program, a statement of whether the fees may be altered by the exchange company and the circumstances under which changes in the fees may be made.

(k) The name and address of the site of each time−share property, accommodation or facility that is participating in the exchange program.

(L) The number of units in each time−share property participating in the exchange program that are available for occupancy and that qualify for participation in the program, expressed with the following numerical groupings: 1−5, 6−10, 11−20, 21−50, and 51 and over.

(m) The number of time−share owners with respect to each time−share property who are eligible to participate in the exchange program expressed within the following numerical groups: 1−100, 101−249, 250−499, 500−999, and 1,000 and over.

(n) The disposition made by the exchange company of time shares deposited with the exchange program by time−share owners eligible to participate in the exchange program and not used by the exchange company in effecting exchanges.

(o) All of the following information, which shall be independently audited by an independent, certified public accountant or accounting firm in accordance with generally accepted accounting principles:

1. The number of time−share owners eligible to participate in the exchange program and a description of the relationship between the exchange company and time−share owners as either fee−paying or gratuitous.

2. The number of time−share properties, accommodations or facilities eligible to participate in the exchange program, categorized by those having a contractual relationship between the developer or the managing entity and the exchange company and those having solely a contractual relationship between the exchange company and time−share owners directly.

3. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the exchange company divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for and the statement specified in sub. (4).

4. The number of time shares for which the exchange company has an outstanding obligation to provide an exchange to a time−share owner who relinquished a time share during the year in exchange for a time share in any future year.

5. The number of exchanges confirmed by the exchange company during the year.

(3) DELIVERY. If an exchange company offers an exchange program directly to the purchaser or time−share owner, the exchange company shall deliver to each purchaser or time−share owner the information set forth in sub. (2). This subsection does not apply to any renewal of the contract between a time−share owner and an exchange company, unless there are material changes in the information required by sub. (2) adversely affecting the interests of the time−share owner.

(4) BOLDFACE STATEMENT. Each exchange company offering an exchange program to purchasers in this state shall include the following statement in boldface type on all promotional brochures, pamphlets, advertisements or other materials disseminated by the exchange company which also contain the percentage of confirmed exchanges described in sub. (2) (o) 3.: THE PERCENTAGE OF CONFIRMED EXCHANGES IS A SUMMARY OF THE EXCHANGE REQUESTS ENTERED WITH THE EXCHANGE COMPANY IN THE PERIOD REPORTED. THE PERCENTAGE OF CONFIRMED EXCHANGES DOES NOT INDICATE A PURCHASER'S PROBABILITIES OF BEING CONFIRMED TO ANY SPECIFIC CHOICE OR RANGE OF CHOICES, SINCE AVAILABILITY AT INDIVIDUAL LOCATIONS MAY VARY.

(5) MISREPRESENTATION IN EXCHANGE COMPANY INFORMATION; REPRESENTATIONS BY DEVELOPER. (a) If the developer relies in good faith on information provided by others in making disclosures required by this section, the developer shall be responsible for a misrepresentation based upon that information only if the developer has knowledge of its falsity.

(b) Except for written information provided to the developer by the exchange company, an exchange company is not liable for any of the following:

1. Representations made by the developer relating to the exchange program or the exchange company.

2. The use, delivery or publication by the developer of any information relating to the exchange program or the exchange company.

(6) CAMPGROUNDS; RECIPROCAL PROGRAM. A campground operator shall maintain any reciprocal program that is represented in a campground contract as available to a campground member when the campground contract is signed, except that the campground operator may cancel a reciprocal program if any of the following occurs:

(a) The campground operator acquires for the use of campground members the number of campgrounds specified in the campground contract as constituting a replacement for the reciprocal program.

(b) The term of the reciprocal program, as specified in the campground contract, expires.

(c) The campground operator substitutes a comparable reciprocal program, as provided in the campground contract.

History: 1987 a. 399.

707.43 Multilocation developer; additional requirements. (1) DEFINITION. As used in this section, "multilocation developer" means a developer creating or selling its own time shares in more than one time−share property under a program permitting time−share owners, by reservation or other similar procedure, to occupy time−share units in more than one time−share property.

(2) ADDITIONAL REQUIREMENTS. If time−share owners are permitted or required to participate in a multilocation program, the time−share disclosure statement or a supplement delivered with the statement shall contain or fully and accurately disclose, in addition to the information required by s. 707.41 (4) and, if applicable, ss. 707.42, 707.44 and 707.45, all of the following information:

(a) A complete and accurate description of the procedure to qualify for and effectuate use rights in time−share units in the multilocation program.

(b) A complete and accurate description of all limitations, restrictions or priorities employed in the operation of the multilocation program, including limitations on reservations, use or entitlement rights based on the season, unit size, levels of occupancy or class of owner, expressed in boldface type, and, if the limitations, restrictions or priorities are not uniformly applied by the multilocation program, a clear description of the manner in which they are applied.

(c) Whether use is arranged on a space−available basis and whether the multilocation developer guarantees fulfilling specific requests for use.

(d) The name and address of the site of each time−share property included in the multilocation program.

(e) The number of time−share units in each time−share property which is available for occupancy and all of the following about each such time−share unit:

1. The interest which the multilocation developer has in the time−share unit and, if less than fee ownership, a statement of all relevant terms of the multilocation developer's interest in the time−share unit.

2. Whether the time−share unit may be withdrawn from the multilocation program.

(f) All of the following information, which shall be independently audited by an independent, certified public accountant or accounting firm in accordance with generally accepted accounting principles:

1. The number of time−share owners in the multilocation program.

2. For each time−share property in the multilocation program, the number of properly made requests for use of time−share units in the time−share property.

3. For each time−share property, the number of time−share owners who received the right to use a unit in the time−share property, expressed as a percentage of the time−share owners who properly requested such use in the time−share property.

(g) The following statement in boldface type: THE PERCENTAGE OF TIME−SHARE OWNERS WHO RECEIVED THE RIGHT TO USE A UNIT IN THE TIME−SHARE PROPERTY DOES NOT INDICATE A PURCHASER'S PROBABILITIES OF BEING ABLE TO USE ANY TIME−SHARE UNIT, SINCE AVAILABILITY AT INDIVIDUAL LOCATIONS MAY VARY.

History: 1987 a. 399.

707.44 Conversion building; additional requirements. (1) ADDITIONAL REQUIREMENTS. If a conversion building includes or will include one or more time−share units, is more than 10 years old and the developer or any affiliates of the developer own or control more than 50 percent of all units in the project, the time−share disclosure statement shall contain, in addition to the information required by s. 707.41 (4) and, if applicable, ss. 707.42, 707.43 and 707.45, all of the following information:

(a) A statement by the developer, based on a report prepared by an independent registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations which are material to the use and enjoyment of the time−share units.

(b) A statement by the developer of the expected useful life of each item reported on in par. (a) or a statement that no representations are made in that regard.

(c) A list of any outstanding notices of uncorrected violations of building codes or other state and municipal regulations, together with the estimated cost of correcting those violations.

(2) APPLICABILITY. This section applies only to units which may be used as a dwelling or for recreational purposes or both.

History: 1987 a. 399.

707.45 Amendments to statement. A developer shall promptly amend all of the following:

(1) The time−share disclosure statement to report any material change in the information required by s. 707.41 or 707.44.

(2) The time−share disclosure statement or any supplement to the statement to report any material change known to the developer in the information required by s. 707.42, except that:

(a) The developer shall report to purchasers any significant change in information required by s. 707.42 (2) (b), (c) and (k) that adversely affects purchasers' interests within 30 days after the

change occurs, and if the developer reports the change as required, the developer is not liable to purchasers for any harm resulting because purchasers were not informed earlier of the change.

(b) The information required by s. 707.42 (2) (m) to (o) shall be calculated, at a minimum, from the records of the exchange company, as defined in s. 707.42 (1) (a), for each calendar year and shall be available no later than July 1 of the succeeding year.

(3) The time−share disclosure statement or any supplement to the statement to report any material change in the information required by s. 707.43, except that the information required by s. 707.43 (2) (d) to (f) shall be calculated, at a minimum, from the records of the multilocation developer, as defined in s. 707.43 (1), for the preceding calendar year and shall be available no later than July 1 of the succeeding year.

History: 1987 a. 399.

707.46 Contract; minimum requirements. (1) REQUIRED PROVISIONS. All contracts for the purchase of a time share shall contain at least all of the following provisions:

(a) The actual date that the contract is executed by each party.

(b) The name and address of the developer or seller and of any agent acting on behalf of the developer or seller, and, if different than the developer or seller, any owner of the land or buildings included in the project of which the time shares are a part.

(c) The total financial obligation of the purchaser, including the initial purchase price and any additional charges to which the purchaser may be subject, such as financing, reservation and recreation charges and time−share expenses.

(d) The projected date of completion of construction, as defined in s. 707.49 (1) (a), of each part of the project of which time shares are a part which is not completed at the time the purchase contract is executed.

(e) A description of the nature and duration of the time share being sold.

(f) A description of the purchaser's rights under s. 707.47.

(2) CAMPGROUNDS; ADDITIONAL PROVISIONS. In addition to the information required under sub. (1), a contract for the purchase of a time−share easement in a campground shall include all of the following information:

(a) Any policy or other existing obligation to allow persons who are not campground members to use the campground or campground amenities.

(b) The maximum ratio of campground contracts projected to be sold per campsite during the course of a campground contract.

(3) RECORDING. (a) A contract for the purchase of a time−share and any other instrument that is evidence of a purchase of a time−share is valid only if it is recorded.

(b) Paragraph (a) does not apply to a contract for, or other instrument evidencing, the purchase of a time−share license.

History: 1987 a. 399; 1999 a. 9; 2009 a. 133.

707.47 Purchaser's right to cancel. (1) PROVISION OF STATEMENT. A person required to deliver a time−share disclosure statement under s. 707.41 (2) shall, before transfer of a time share and no later than the date of any contract for the purchase of a time share, provide a prospective purchaser with a copy of the time−share disclosure statement and all amendments and supplements to the statement.

(2) RIGHT TO CANCEL. If delivery of a time−share disclosure statement is required under s. 707.41 (2), the purchaser may cancel a contract for the purchase of a time share until midnight of the 5th business day after whichever of the following is later:

(a) The date that the contract is executed.

(b) The date on which the purchaser receives the last of the documents required to be provided to the purchaser under sub. (1).

(3) ACTIVITY BEFORE CANCELLATION PERIOD EXPIRES. No title may be recorded, deed delivered or deposit released until the cancellation period under sub. (2) has expired. Nothing in this subsection or sub. (4) precludes the execution of documents before the cancellation period expires, for delivery after the cancellation period expires.

(4) WAIVER PROHIBITED. The purchaser or any person on behalf of the purchaser may not waive the right to cancel under sub. (2).

(5) NOTICE OF CANCELLATION. If a purchaser elects to cancel a contract under sub. (2), the purchaser may do so by personally−delivering notice of the cancellation to the seller or by mailing the notice to the developer or to the developer's agent for service of process. If mailed, any notice of cancellation shall be considered given on the date that the notice is postmarked.

(6) REFUND. (a) Cancellation under sub. (2) shall be without penalty, and, except as provided in par. (b), all payments made by the purchaser before cancellation shall be refunded within 20 days after receipt of the notice of cancellation or within 5 days after receipt of funds from the purchaser's cleared check, whichever is later.

(b) If the purchaser has used or occupied the time−share property for more than 12 hours before cancellation, the funds to be returned to the purchaser may be reduced by a reasonable charge to cover the length of stay plus the cost for damages, if any, to the time−share property directly attributable to the purchaser's use or occupancy of the time share property.

History: 1987 a. 399.

707.48 Resales of time shares. (1) REQUIRED DISCLOSURES. Except as provided in s. 707.40 or except where delivery of a time−share disclosure statement is required under s. 707.41 (2), a seller of a time share shall furnish to the purchaser before execution of any contract for the purchase of a time share, or otherwise before the transfer of title, a copy of the time−share instrument, other than any plats or plans, and a certificate containing statements disclosing all of the following information:

(a) The effect on the proposed transfer of any right of first refusal or other restraint on transfer of all or any portion of the time share.

(b) The amount of the periodic time−share liability and any unpaid time−share expense or special assessment or other sums currently due and payable from the seller.

(c) Any other fees payable by time−share owners.

(d) Any judgments or other matters that are or may become liens against the time share or the time−share unit and the status of any pending suits that may result in those liens.

(2) MANAGING ENTITY; PREPARATION OF CERTIFICATE. (a) Except as provided in par. (b), the managing entity, within 10 days after a request by a time−share owner, shall furnish a certificate containing the information necessary to enable the time−share owner to comply with sub. (1).

(b) If there is no managing entity, the time−share owner shall furnish the information specified in sub. (1).

(3) LIABILITY; VOIDING CONTRACT. (a) A purchaser is not liable for any unpaid time−share liability or fee greater than the amount set forth in a certificate prepared under sub. (2).

(b) A time−share owner is not liable to a purchaser for the failure or delay of the managing entity to provide the certificate in a timely manner or for any erroneous information provided by the managing entity and included in the certificate, except for information on judgment liens against the time share or the time−share unit.

(c) A purchaser may void a purchase contract until the certificate, whether prepared by the managing entity or time−share owner, is provided and for 5 business days after the certificate is provided or until transfer of the time share, whichever occurs first.

History: 1987 a. 399.

707.49 Deposits; escrow requirement. (1) DEFINITIONS. In this section:

(a) "Completion of construction" means that all accommodations of the time−share unit and all buildings, improvements and

other facilities of the time−share property, including campground amenities, are available for use in a manner identical in all material respects to the manner portrayed by the time−share instrument, promotional materials, advertising and the time−share disclosure statements.

(b) "Deposit" means any money or property given by a purchaser as earnest money, downpayment or other payment in connection with the purchase of a time share, whether the payment is intended to be applied toward the purchase price or other obligation or returned to the purchaser, but excluding any dues payment.

(c) "Escrow account" means an account established solely for the purposes set forth in this section with a financial institution, as defined in s. 705.01 (3), which is located within this state and the accounts of which are insured by a governmental agency or instrumentality.

(d) "Escrow agent" means any of the following:

1. A savings and loan association, savings bank, bank or trust company located in this state.

2. An attorney who is a member of the State Bar of Wisconsin.

3. A real estate broker licensed under ch. 452.

4. A title insurance company authorized to do business in this state.

(2) ESCROW AGENT. (a) *Designation.* Except as provided in sub. (4), before the sale of any time shares in a project, the developer shall establish an escrow account and shall designate an escrow agent for the purpose of protecting the deposits of purchasers. All escrow agents shall be independent of the developer, and the developer, any affiliate of the developer or any officer, director, subsidiary or employee of the developer shall not serve as escrow agent.

(b) *Duties.* An escrow agent designated under par. (a) shall do all of the following:

1. Maintain, in accordance with generally accepted accounting practices, separate books and records for each time share.

2. Maintain the accounts required by this section only in such a manner as to be under the direct supervision and control of the escrow agent.

3. Retain for 5 years all affidavits received under sub. (3) (b).

4. Upon receipt of conflicting demands for the escrowed funds or property, immediately and with the consent of all parties either submit the matter to arbitration or, by interpleader or otherwise, seek an adjudication of the matter in court.

(3) ESCROW AGREEMENT; RELEASE OF FUNDS. (a) Until the deposit may be released from escrow under par. (b), an amount equal to 50 percent of the deposit shall be deposited in an escrow account under an escrow agreement.

(b) The escrow agreement shall provide that the deposit may be released from escrow only as follows:

1. If a purchaser gives a valid notice of cancellation under s. 707.47 (5) or is otherwise entitled to cancel the sale, the deposit shall be returned to the purchaser under s. 707.47 (6).

2. After expiration of the cancellation period under s. 707.47 (2), if the purchaser defaults in the performance of his or her obligations under the contract to purchase, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed deposit and shall provide a copy of the affidavit to the purchaser who has defaulted. The developer's affidavit shall include all of the following:

a. A statement that the purchaser has defaulted and that the developer has not defaulted.

b. A brief explanation of the nature of the default and the date of default.

c. A statement that the developer is entitled under the contract to the deposit held by the escrow agent.

d. A statement that the developer has not received from the purchaser any written notice of a dispute between the purchaser and developer or a claim by the purchaser to the escrowed deposit.

3. If no cancellation or default has occurred, the escrow agent may release the escrowed deposit upon presentation by the developer of an affidavit and, if the project is subject to a blanket encumbrance, as defined in s. 707.38 (1), a certified copy of a recorded nondisturbance agreement. The developer's affidavit shall state that all of the following have occurred:

a. Expiration of the cancellation period.

b. Completion of construction of the time−share unit and amenities or, if ownership is not related to a specific unit, completion of construction of sufficient units to provide appropriate use of the completed time−share units by the purchaser.

c. Completion of the closing.

d. Execution and recording of a nondisturbance agreement meeting the requirements of s. 707.38 (1m).

(4) SURETY BOND AND OTHER OPTIONS. Instead of placing deposits in an escrow account, a developer may obtain a surety bond issued by a company authorized to do business in this state or obtain and maintain an irrevocable letter of credit or a similar arrangement, in an amount which at all times is not less than the amount of the deposits otherwise subject to the escrow requirements of this section. The bond, letter of credit or similar arrangement shall be filed with the department of agriculture, trade and consumer protection and made payable to the department of agriculture, trade and consumer protection for the benefit of aggrieved parties.

History: 1987 a. 399; 1991 a. 221; 1995 a. 27; 2001 a. 103; 2005 a. 213.

707.50 Conversion building; tenants' rights. **(1)** NOTICE OF CONVERSION. A developer of a time−share property which includes all or part of a conversion building, and any person in the business of selling real estate for the person's own account who intends to offer time shares in a time−share property which includes all or part of a conversion building, shall give each residential tenant and residential subtenant in possession of the proposed time−share units 120 days' prior written notice of the conversion. The notice shall set forth generally the rights of tenants and subtenants under this section and shall be personally delivered to the unit or mailed to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant.

(1m) TENANTS' RIGHTS. (a) A residential tenant or residential subtenant shall not be required to vacate the property during the notice period required under sub. (1) unless the tenancy is properly terminated under s. 704.17 or unless, with respect to a tenancy under a lease, as defined in s. 704.01 (1), the term of the lease expires.

(b) The terms of a residential tenancy may not be altered during the notice period required under sub. (1).

(c) Failure to give notice as required by this section is a defense to an action for possession.

(2) NOTICE OF TERMINATION. If the notice provided under sub. (1) meets the requirements of s. 704.17 or 704.19, whichever may be applicable, and s. 704.21, the notice constitutes both a notice of conversion and notice of termination of tenancy.

(3) PRIORITY OF LEASE. Nothing in this section permits termination of a lease by a developer in violation of the terms of the lease.

History: 1987 a. 399.

707.51 Protection of campground interests. **(1)** INCREASE IN DUES PAYMENTS. (a) Except as provided in par. (b), the total amount of dues payments in any year required to be paid by a campground member may not be increased over the total amount of dues payments required during the previous year by a percentage greater than the percentage increase in the U.S. con-

sumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor for the previous year, plus 3 percent.

(b) The limit on a dues payment increase provided in par. (a) does not apply if all of the following occur:

1. The campground operator proposes an increase greater than the limit.

2. The campground operator mails a ballot to each campground member to whom the increase would apply, at the campground member's last−known mailing address.

3. A majority of the campground members who return ballots approve the increase.

(2) USE OF DUES PAYMENTS. Dues payments may not be used for any purposes other than those stated in the campground contract.

(3) MODIFICATION OF CAMPGROUND RULES. (a) Except as provided in par. (b), with respect to a campground located in this state, the campground operator may not, in any manner that significantly degrades or diminishes the rights of the majority of campground members, adversely modify any campground rules or regulations or adversely modify rights to or the scope or nature of any campground or campground amenity, unless occasioned by unanticipated emergency circumstances, in which case the modifications may be made for a period not to exceed 90 days.

(b) Except as provided in par. (c), a campground operator may modify campground rules or regulations, or rights to or the scope or nature of a campground or campground amenity if all of the following occur:

1. The campground operator proposes a modification.

2. The campground operator mails a ballot to each campground member to whom the modification would apply, at the campground member's last−known mailing address.

3. A majority of the campground members who return ballots approve the modification.

(c) A campground operator may not under par. (b) terminate a campground contract or suspend a campground member's right or privilege to use a campground or campground amenities.

History: 1987 a. 399.

707.52 Campgrounds; breach by member. (1) TERMINATION FOR BREACH. A campground operator may not terminate a campground contract because of a campground member's breach of rules or regulations or terms or conditions of the campground contract, other than terms or conditions for installment payments of the purchase price or for dues payments, unless the campground member has been given at least 30 days' prior written notice of the breach and an opportunity within that period to cure the breach, and unless the breach constitutes any of the following:

(a) A threat to others or to the property of others.

(b) A repeated violation of rules or regulations or terms or conditions, after notice has been given of a previous breach.

(c) A public nuisance.

(d) An unreasonable infringement upon the rights of other campground members.

(2) SUSPENSION. A campground operator, upon prior written notice, may immediately suspend a campground member's right or privilege to use campgrounds and campground amenities upon a breach of rules or regulations or terms or conditions under sub. (1) (a) to (d) or upon failure to make installment payments of the purchase price or to make dues payments.

(3) TERMINATION; INSTALLMENT PAYMENTS. A campground operator may not terminate a campground contract because of a campground member's failure to make installment payments of the purchase price unless the campground member has been given at least 30 days' prior written notice of the breach and an opportunity within that period to cure the breach.

(4) TERMINATION; DUES PAYMENTS. A campground operator may not terminate a campground contract because of a campground member's failure to make dues payments unless the default continues for more than 6 months.

(5) REINSTATING A CAMPGROUND CONTRACT. A campground operator may reinstate a campground contract that was terminated or suspended for failure to make installment payments of the purchase price or dues payments if the campground member pays all delinquent amounts, together with any interest or penalties specified in the campground contract.

(6) NO UNREASONABLE FORFEITURE. The termination of a campground contract because of a campground member's breach may not result in an unreasonable forfeiture of the amount of the purchase price already paid. During the first 5 years after a campground contract is signed, the campground operator may not retain a forfeiture, as the result of a campground member's breach, in an amount which exceeds that portion of the total purchase price which is equal to the percentage of the number of months the campground contract has been in effect during the first 5−year period plus 20 percent of the total purchase price.

History: 1987 a. 399.

707.53 Warranties. (1) EXPRESS WARRANTIES OF QUALITY. (a) Express warranties made by any seller of a time share to a purchaser, if relied upon by the purchaser, are created as follows:

1. Any affirmation of fact or promise which relates to the time share, the time−share unit, rights appurtenant to either, area improvements that would directly benefit the time share or the right to use or have the benefit of facilities not located on the time−share unit, creates an express warranty that the time share, the time−share unit and related rights and uses will conform to the affirmation or promise.

2. Any model or description of the physical characteristics of the time−share property, including plans and specifications of or for improvements, creates an express warranty that the time−share property will conform to the model or description.

3. Any description of the quantity or extent of the real estate constituting the time−share property, including plats or surveys, creates an express warranty that the time−share property will conform to the description, subject to customary tolerances.

4. A provision that a purchaser may put a time−share unit only to a specified use is an express warranty that the specified use is lawful.

(b) Neither formal words, such as "warranty" or "guarantee", nor a specific intention to make a warranty, is necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the time share, the time−share unit or the value of either does not create a warranty.

(c) Any transfer of a time share transfers to the purchaser all express warranties of quality made by previous sellers.

(2) IMPLIED WARRANTIES OF QUALITY. (a) A developer and any person in the business of selling real estate for the person's own account impliedly warrants all of the following:

1. That except for reasonable wear and tear a time−share unit will be in at least as good condition at the earlier of the time of the transfer or of the delivery of possession of the time−share unit as it was at the time of contracting.

2. That a time−share unit and any other real property that the time−share owners have a right to use in conjunction with the time−share unit are suitable for the ordinary uses of real estate of its type, and that any improvements made or contracted for by the developer or the person in the business of selling real estate for the person's own account, or made by any person before transfer, will be all of the following:

a. Free from defective materials.

b. Constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.

(b) In addition to par. (a), a developer impliedly warrants to a purchaser of a time share that an existing use of the time−share unit, continuation of which is contemplated by the parties, does

not violate applicable law at the earlier of the time of transfer or of the delivery of possession of the time−share unit.

(c) For purposes of this subsection, improvements made or contracted for by an affiliate of a developer are made or contracted for by the developer.

(d) Any transfer of a time share transfers to the purchaser all of the developer's implied warranties of quality.

(3) ACCRUAL OF ACTIONS. (a) Subject to par. (b), a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues, unless extended by agreement, as follows:

1. As to a unit, at the time of the first transfer of a time share in the unit by the seller to a bona fide purchaser.

2. As to other improvements, at the time each improvement is completed.

(b) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the property, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

History: 1987 a. 399.

707.54 Labeling of promotional material. If any improvement in the time−share property is not required to be built, no promotional material may be displayed or delivered to prospective purchasers which describes or portrays that improvement unless the description or portrayal of the improvement is conspicuously labeled or identified as "NEED NOT BE BUILT".

History: 1987 a. 399.

707.55 Prohibited advertising and sales practices. In connection with the offer or sale of a time share, no person may engage in any of the following practices:

(1) FALSE OR MISLEADING STATEMENTS. Making any assertion, representation or statement of material fact that is false, deceptive or misleading.

(2) INCENTIVES. Making any assertion, representation or statement that any incentives, including discounts, special prices, merchandise awards, types of memberships or other financial benefits, are only available to a prospective purchaser for the remainder of the day on which the assertion, representation or statement is made, except that the person may state that the incentives are not guaranteed in the future and that they may be subject to negotiation in the future.

(2m) VALUE OF INCENTIVES. Making any assertion, representation or statement that an incentive or inducement to purchase has a specified price or value unless the incentive or inducement is customarily sold apart from the sale of a time share.

(3) RESALE VALUE. Misrepresenting the resale value of a time share.

(4) FINANCIAL INVESTMENT. Representing a time share as a financial investment.

(5) SALESPERSONS. Misrepresenting the identity, function, or authority of a salesperson or team of salespersons.

(6) CONTRADICTORY STATEMENTS. Making any assertion, representation or statement of material fact which is inconsistent with or contradictory to the terms or provisions of the purchase contract or material provided with the purchase contract.

(7) LENGTH OF SALES PRESENTATION. Misrepresenting the reasonably estimated length of any sales presentation by a salesperson or team of salespersons.

(8) SELLER'S IDENTITY. Failing to clearly disclose the seller's identity and that time shares are being offered for sale at the beginning of an initial contact with a prospective purchaser, if the contact is initiated by or on behalf of a seller.

(9) PURPOSE OF ADVERTISING MATERIAL. Failing to include the following disclosure, in boldface type, on any printed advertising material, including any lodging certificate, gift, award, prize, premium or discount: THIS ADVERTISING MATERIAL IS BEING USED FOR THE PURPOSE OF SOLICITING THE SALE OF TIME−SHARE PROPERTY OR INTERESTS IN TIME−SHARE PROPERTY.

(10) GIFTS AND PRIZES. A mail or coupon promotion sent to residents of this state that offers any award, gift or prize for visiting a development or attending any sales presentation shall comply with the requirements of s. 100.171.

(11) WAIVER. Entering into or requesting a person to enter into any agreement or stipulation that binds the person to waive compliance with this section or that requests the person to certify the absence of any misrepresentation or other violation of this section.

History: 1987 a. 399; 1991 a. 269; 1997 a. 111; 2007 a. 18; 2015 a. 258.

707.56 Developer's obligation to complete improvements. The developer shall complete all promised improvements as described in the time−share instrument, promotional materials, advertising and the time−share disclosure statements. The developer shall be excused for the period or periods of delay in the completion of any promised improvement if delayed, hindered or prevented from doing so by causes beyond the developer's control, including any of the following:

(1) Labor disputes not caused by the developer.

(2) Riots.

(3) Civil commotion or insurrection.

(4) War or warlike operations.

(5) Governmental restrictions, regulations or control.

(6) Inability to obtain any materials or services.

(7) Fire or other casualties.

(8) Acts of God.

(9) Forces not under the control or supervision of the developer.

History: 1987 a. 399.

707.57 Remedies and penalties. (1) PRIVATE REMEDIES. (a) If a developer or any other person subject to this chapter fails to comply with this chapter or the time−share instrument, any person or class of persons adversely affected by the failure to comply has a claim for appropriate relief, including but not limited to damages, injunctive or declaratory relief, specific performance and rescission.

(b) A person or class of persons entitled to relief under par. (a) is also entitled to recover costs, disbursements and reasonable attorney fees, notwithstanding s. 814.04 (1).

(2) DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION AUTHORITY. (a) The department of agriculture, trade and consumer protection, or any district attorney upon informing the department of agriculture, trade and consumer protection, may commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction any violation of this chapter. Before entry of final judgment, the court may make such orders or judgments as may be necessary to restore to any person any pecuniary loss suffered because of the acts or practices involved in the action if proof of these acts or practices is submitted to the satisfaction of the court.

(b) The department of agriculture, trade and consumer protection may conduct hearings, administer oaths, issue subpoenas and take testimony to aid in its investigation of violations of this chapter.

(3) PENALTY. Any person who violates this chapter shall be required to forfeit not more than $5,000 for each offense. Forfeitures under this subsection shall be enforced by action on behalf of the state by the department of agriculture, trade and consumer protection or by the district attorney of the county where the violation occurs.

(4) LIBERAL CONSTRUCTION. The remedies provided by this chapter shall be liberally administered.

History: 1987 a. 399; 1995 a. 27.

That under sub. (1), any person or class of persons adversely affected by the failure to comply with ch. 707 has a claim does not require that a plaintiff must show some specific harm or pecuniary loss resulting from a seller's violations in order to obtain

a remedy under sub. (1). The requirement that a plaintiff be adversely affected by a violation serves to exclude those who have not entered into a transaction with a time−share seller from bringing suit for the seller's violations of ch. 707. Ott v. Peppertree Resort Villas, Inc. 2006 WI App 77, 292 Wis. 2d 173, 716 N.W.2d 127, 04−1226.

707.58 Applicability to existing time shares. (1) This chapter applies to all time shares created in units within this state on or after June 1, 1988, and to time shares created before June 1, 1988, as provided in subs. (2) to (12).

(2) Sections 707.03, 707.30 (5) (a) 1. to 9. and 14. to 16. and (c) 1., 707.35 (1) to (6) and (8), 707.36, 707.37, 707.38 (1), (2), (3) and (5), 707.40 and 707.50 to 707.52 apply to time shares created before June 1, 1988.

(3) Sections 707.06 and 707.07 apply to contracts relating to time shares created before June 1, 1988, if the contract is entered into on or after June 1, 1988.

(4) Section 707.23 applies to time−share units created before June 1, 1988, but s. 707.23 does not apply to actions for partition which are brought before June 1, 1988.

(5) Section 707.34 applies to actions relating to time shares created before June 1, 1988, if those actions accrued on or after June 1, 1988.

(6) Section 707.35 (7) applies to time−share property created before June 1, 1988, which is damaged or destroyed on or after June 1, 1988.

(7) Sections 707.38 (1m) and (4), 707.41 to 707.48 and 707.54 to 707.56 apply to time shares which were created before June 1, 1988, and which are sold on or after June 1, 1988.

(8) Section 707.49 applies to time shares created before June 1, 1988, with respect to deposits, as defined in s. 707.49 (1) (b), relating to those time shares which are received on or after June 1, 1988.

(9) Section 707.53 applies to time shares created before June 1, 1988, with respect to warranties relating to those time shares which are made on or after June 1, 1988.

(10) Section 707.57 applies to actions relating to time shares created before June 1, 1988, to the extent the time shares are subject to this chapter.

(11) Section 707.02 applies to time shares created before June 1, 1988 to the extent necessary to construe any of the provisions listed in subs. (2) to (10).

(12) The provisions listed in subs. (2) to (11) do not apply to time shares created before June 1, 1988, if the provision conflicts with any rights or obligations created by a time−share instrument, document transferring an estate or interest in real property, or contract, existing before June 1, 1988.

(13) The time−share instrument or similar document of a time−share property created before June 1, 1988, may be amended to accomplish any result permitted by this chapter if the amendment is adopted in conformity with the procedures and requirements specified by the time−share instrument or similar document. If the amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

History: 1987 a. 399; 1989 a. 31.

707.59 Time−share units not within state. (1) Except as provided in sub. (2), if time shares in a time−share unit located outside of this state are offered or sold in this state, the laws of the state where the time−share unit is located which relate to a general matter covered by this chapter apply to the offer or sale of those time shares in this state. If the state in which the time−share unit is located has no laws relating to a general matter covered by this chapter, the provision in this chapter relating to that matter applies to the offer or sale of those time shares in this state.

(2) Section 707.55 applies to any offer or sale of a time share in a time−share unit, whether the time−share unit is located in this state or outside this state.

History: 1987 a. 399.