



Government Operations Appropriations Committee

Amended

Meeting Packet

**March 10, 2015
12:30 p.m. – 2:30 p.m.
Morris Hall**



The Florida House of Representatives
Appropriations Committee
Government Operations Appropriations Subcommittee

Steve Crisafulli
Speaker

Jeanette Nuñez
Chair

March 10, 2015

AGENDA
12:30 p.m. – 2:30 p.m.
Morris Hall

I. Call to Order/Roll Call

II. Consideration of Bills

HB 225 All-American Flag Act by Rep. Cortes, B.; Rep. Campbell

HB 373 Public Accountancy by Rep. Raulerson

CS/HB 453 Timeshares by Civil Justice Subcommittee, Rep. Eisnagle

CS/HB 703 Regulation of Financial Institutions by Insurance & Banking
Subcommittee, Rep. Broxson

III. Presentation by the Department of the Lottery

Overview of Operations and maximizing education funding

Secretary Cynthia O'Connell, Department of the Lottery

IV. Closing Remarks/Adjourn

1 A bill to be entitled
 2 An act relating to flags; providing a short title;
 3 creating s. 256.041, F.S.; requiring a United States
 4 flag or a state flag that is purchased on or after a
 5 specified date by the state, a county, or a
 6 municipality for public use to be made in the United
 7 States; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. This act may be cited as the "All-American Flag
 12 Act."

13 Section 2. Section 256.041, Florida Statutes, is created
 14 to read:

15 256.041 Purchase of United States flag or state flag for
 16 public use.—When the state, a county, or a municipality
 17 purchases a United States flag or a state flag for public use,
 18 the flag must be made in the United States from articles,
 19 materials, or supplies, all of which are grown, produced, and
 20 manufactured in the United States. This section applies to the
 21 purchase of a flag on or after January 1, 2016.

22 Section 3. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 225 All-American Flag Act
SPONSOR(S): Cortes and others
TIED BILLS: IDEN./SIM. BILLS: SB 590

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	9 Y, 0 N	Darden	Miller
2) Government Operations Appropriations Subcommittee		White	Topp
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

Current law requires the display of the United States and state flags in certain venues, but does not specify any requirements for the manufacturing or source of materials for United States or state flags purchased by the state or local governments.

The bill requires all United States and state flags purchased by the state, a county, or a municipality for public use, after January 1, 2016, to be made in the United States entirely from domestically grown, produced, and manufactured materials.

The bill is not anticipated to have a fiscal impact on state government. The bill may have an insignificant negative fiscal impact local governments, depending on the extent to which local governments are currently purchasing flags that do not comply with the requirements of the bill and the cost difference between compliant and non-compliant flags.

The effective date of the bill is July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Display of United States and State Flags

The United States and state flags must be displayed in certain venues under current law. The United States flag must be displayed at the state capitol¹ and at every county courthouse,² public auditorium,³ polling station on election days,⁴ and on the grounds and in the classrooms of public K-20 educational institutions.⁵ The state flag must be displayed on the grounds of every public K-20 educational institution in the state.⁶ Display of the state flag is otherwise governed by protocols adopted by the Governor.⁷

Procurement of Flags

Purchases by the executive branch are regulated by the provisions of Chapter 287, F.S. The Department of Management Services (DMS) is responsible for the procurement of goods and services for all state agencies.⁸ DMS employs state-wide purchasing rules to coordinate purchases across the various agencies of the state, utilizing the buying power of the state to promote efficiency and savings in the procurement process.⁹ Agencies are defined by Chapter 287 as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government."¹⁰ State universities and colleges, including their boards of trustees, are specifically excluded from this definition of agency.¹¹

Accounting requirements for purchases vary depending on the value of the services. Formal competitive bidding is required for all contracts in excess of \$35,000.¹² For contracts between \$2,500 and \$35,000, agencies should receive informal bids when practical, but may conform to "good purchasing practices," such as written quotations or written records of telephone quotations.¹³ For contracts less than \$2,500, agencies are only required to conform to good purchasing practices.¹⁴

While there is currently no specific state law on flag procurement, most flags purchased by DMS are manufactured in the United States from domestically-sourced materials. Of the 772 flags purchased by agencies via MyFloridaMarketplace¹⁵ in fiscal year 2012-13, 682 were produced by RESPECT of Florida.¹⁶ RESPECT of Florida is a 501(c)3¹⁷ non-profit organization under contract with DMS¹⁸ to

¹ S. 256.01, F.S.

² S. 256.01, F.S.

³ S. 256.11, F.S.

⁴ S. 256.011(1), F.S.

⁵ S. 1000.06(1), F.S.

⁶ S. 1000.06(1), F.S.; *see also* S. 256.032, F.S. (requiring state flag to be displayed on grounds of every elementary and secondary public school).

⁷ S. 256.015(1), F.S.

⁸ S. 287.042(1)(a), F.S.

⁹ S. 287.032, F.S.

¹⁰ S. 287.012(1), F.S.

¹¹ S. 287.012(1), F.S. Other statutes define the word "agency" differently in different contexts. *See*, s. 120.52(1), F.S.

¹² S. 287.057, F.S.

¹³ Rule 60A-1.002(3), F.A.C.

¹⁴ Rule 60A-1.002(2), F.A.C.

¹⁵ The online procurement system operated by DMS through which agencies may make certain types of purchases, at http://www.dms.myflorida.com/business_operations/state_purchasing/myfloridamarketplace (accessed January 30, 2015).

¹⁶ HB 201 Bill Analysis, Department of Management Services, March 6, 2014.

administer the State Use Program, designed to provide employment opportunities for handicapped individuals.¹⁹ All United States and state flags sold by RESPECT are assembled in the organization's Miami employment center from materials produced in the United States.²⁰

The legislative and judicial branches have separate procurement processes. The purchase of flags for the House of Representatives and Senate are handled by each chamber's administrative offices. Procurement for the judicial branch falls under the aegis of the Office of State Courts Administrator.²¹

The procurement of goods and services by counties, municipalities, and school districts are not governed by the provisions of Chapter 287, F.S.²² Generally, flags purchased by counties, municipalities, or school districts would only be subject to local ordinance. Current law, however, does authorize the Department of State to provide state flags to schools, governmental agencies, and other groups and organizations at no cost, up to an annual cost for the Department of \$15,000 per year.²³

Current law gives a preference to Florida businesses in the awarding of competitive bids, equal to either the preference given by the lowest out-of-state vendor's home state or five percent (if no preference is given by the lowest out-of-state vendor's home state).²⁴ State agencies, universities, colleges, school districts, and other political subdivisions are required to give this preference,²⁵ but counties and municipalities are specifically excluded from the requirement.²⁶

While it is possible that some of the flags purchased by state and local governments are foreign-made, the quantity is likely to be small. The Flag Manufacturers Association of America estimates that 95 percent of United States flags are manufactured entirely in the United States.²⁷ According to the Census Bureau, 302.7 million dollars of "fabricated flags, banner, and similar emblems" were produced in the United States in 2007,²⁸ while four million dollars' worth of flags was imported in 2013.²⁹

Procurement of Flags by the Federal Government and Other States

The federal government is required to purchase domestically manufactured goods if the contract amount exceeds a minimum threshold.³⁰ These requirements can be waived by the President of the United States under the Trade Agreements Act of 1979, if a waiver is necessary for the purpose of entering into trade agreements with other countries.³¹ According to the Congressional Research Service, waivers under the Trade Agreement Act of 1979 are heavily used, resulting in little remaining scope for the Buy American Act provisions.³²

¹⁷ 26 U.S.C. s. 501(c)(3).

¹⁸ See Rule 60E-1.003, F.A.C. (authorizing DMS to designate a "Central, Non-Profit Agency" to provide services specified in ss. 413.032-413.037, F.S.).

¹⁹ Id.

²⁰ Id.

²¹ See Fla. R. Jud. Admin. 2.205(e)(2).

²² Cf. S. 287.055(2)(b), F.S. (including "a municipality, a political subdivision, a school district, or a school board" in the definition of "agency" for the purposes of procuring architectural, engineering, and surveying services).

²³ S. 256.031(1), F.S.

²⁴ S. 287.084(1)(a), F.S.

²⁵ Id.

²⁶ S. 287.084(1)(c), F.S.

²⁷ Flag Manufacturers Association of America, *FAQ's*, <http://fmaa-usa.com/info/FAQ.php> (last visited January 29, 2015).

²⁸ U.S. Census Bureau News, *Profile America Facts for Features, The Fourth of July 2013*, <http://www.census.gov/newsroom/facts-for-features/2013/cb13-ff14.html> (last visited January 29, 2015).

²⁹ U.S. Census Bureau News, *Profile America Facts for Features, The Fourth of July 2014*, <http://www.census.gov/newsroom/facts-for-features/2014/cb14-ff16.html> (last visited January 29, 2015).

³⁰ 41 U.S.C. s. 8301, *et seq.* ("Buy American Act of 1933")

³¹ 41 U.S.C. s. 2501, *et seq.*

³² *Domestic Content Restrictions: The Buy American Act and Complementary Provisions of Federal Law*, Congressional Research Service, January 6, 2014, available at <http://www.hsdl.org/?view&did=749327>.

Other provisions of federal law, however, require domestically produced goods. The Berry Amendment³³ requires a “super percentage” of certain types of goods (including flags) to be wholly domestic in origin.³⁴ Another statute prohibits the Department of Veterans Affairs from procuring burial flags that were not domestically produced and manufactured.³⁵

Several states have existing statutes requiring the use of domestically manufactured flags. Oklahoma requires all flags purchased by the state and all political subdivisions to be manufactured in the United States.³⁶ Massachusetts has a similar law that applies to all public institutions.³⁷ Arizona requires a domestically-manufactured United States flag to be displayed in all public school classrooms.³⁸ Tennessee requires any United States or state flag purchased under a state contract to be manufactured in the United States.³⁹ Minnesota prohibits the sale of United States flag produced outside the United States.⁴⁰

EFFECT OF PROPOSED CHANGES

The bill provides that the act may be cited as the “All-American Flag Act.”

The bill requires any United States or state flag purchased for public use by the state, a county, or municipality, on or after January 1, 2016, must be wholly made in the United States, including the growth of materials, production, and manufacturing.

B. SECTION DIRECTORY:

Section 1: Provides the act may be cited as “All-American Flag Act.”

Section 2: Creates s. 256.014, F.S., relating to purchase of a United States flag or state flag for public use, requiring flags purchased by the state, a county, or a municipality to be manufactured in the United States from materials grown, produced, and manufactured in the United States.

Section 3: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

³³ 10 U.S.C. s. 2533a.

³⁴ *Domestic Content Legislation: The Buy American Act and Complementary Little Buy American Provisions*, Congressional Research Service, April 25, 2012, available at <http://fas.org/sgp/crs/misc/R42501.pdf>.

³⁵ 38 U.S.C. s. 2301(h)(1).

³⁶ Okla. Stat. tit. 25, s. 158.

³⁷ Mass. Gen. Laws ch. 2, s. 6.

³⁸ Ariz. Rev. Stat. s. 15-1626(17).

³⁹ Tenn. Code Ann. s. 4-1-301(d).

⁴⁰ Minn. Stat. s. 325E.65.

None.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could have a positive economic impact on businesses selling United States and state flags that are domestically-produced and sourced. The bill could have a negative impact on businesses selling United States and state flags that are either imported or produced domestically from foreign materials.

D. FISCAL COMMENTS:

The bill is not anticipated to have a fiscal impact on state government. The bill may have an insignificant negative fiscal impact local governments, depending on the extent to which local governments are currently purchasing flags produced outside of the United States or made from foreign materials and the cost difference between those flags and domestically-produced and sourced flags. Most state government entities currently purchase their flags through the RESPECT of Florida DMS State Term Contract, whose flags are assembled in Miami from materials produced in the United States. Local governments can also purchase flags through this contract, which has competitive pricing. DMS purchases all flags through RESPECT and does not anticipate any fiscal impact as a result of the bill.⁴¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Impairment of Contract

Both the United States⁴² and Florida⁴³ constitutions prohibit the state from passing laws impairing existing contractual rights. Contractual rights are impaired to the extent the law changes the substantive rights of the parties in the existing contract.⁴⁴ For an impairment of contractual rights to be constitutionally valid, the law must balance the state's objective against the harm to the contract, intruding on the contractual right no more than is necessary to achieve the public purpose of the law.⁴⁵ The ability of the state to modify contractual obligations is most limited when a final agreement has been reached between a party and the state.⁴⁶

While the bill only applies to purchases of flags by state or local governments after January 1, 2016, it is possible the state or a local government may have existing contracts that are not compliant with the bill that extend beyond that date.

⁴¹ Email on file with the House Government Operations Appropriations Subcommittee (February 19, 2015).

⁴² U.S. Const. art. 1, § 9, cl. 10. ("No State shall . . . pass any . . . Law impairing the Obligation of Contracts.")

⁴³ Fla. Const. art. I, s. 10. ("No . . . law impairing the obligation of contracts shall be passed.")

⁴⁴ Manning v. Travelers Ins. Co., 250 So. 2d 872, 874 (Fla. 1971).

⁴⁵ Pomponio v. Claridge of Pomapano Condominium, Inc., 378 So. 2d 774, 779-80 (Fla. 1979).

⁴⁶ Chiles v. United Faculty of Fla., 615 So. 2d 671, 672 (Fla. 1993).

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires the state, counties, and municipalities to purchase American-produced and sourced United States and state flags. The bill does not require United States or state flags purchased by special districts to meet these requirements.

The bill does not contain a method of verification to ensure the flags purchased by state and local governments are manufactured in the United States from domestic materials.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to public accountancy; amending s.
 3 473.302, F.S.; revising the definition of the term
 4 "licensed audit firm"; amending s. 473.3101, F.S.;
 5 revising which firms are required to hold a public
 6 accounting license; amending s. 473.316, F.S.;
 7 revising the definition of the term "quality review"
 8 to include a peer review; providing an effective date.

9

10 Be It Enacted by the Legislature of the State of Florida:

11

12 Section 1. Subsection (7) of section 473.302, Florida
 13 Statutes, is amended to read:

14 473.302 Definitions.—As used in this chapter, the term:

15 (7) "Licensed audit firm" or "public accounting firm"
 16 means a firm licensed under s. 473.3101 that performs services
 17 described in paragraph (8)(a).

18

19 However, these terms shall not include services provided by the
 20 American Institute of Certified Public Accountants or the
 21 Florida Institute of Certified Public Accountants, or any full
 22 service association of certified public accounting firms whose
 23 plans of administration have been approved by the board, to
 24 their members or services performed by these entities in
 25 reviewing the services provided to the public by members of
 26 these entities.

27 Section 2. Paragraph (a) of subsection (1) of section
 28 473.3101, Florida Statutes, is amended to read:

29 473.3101 Licensure of sole proprietors, partnerships,
 30 corporations, limited liability companies, and other legal
 31 entities.-

32 (1) Each sole proprietor, partnership, corporation,
 33 limited liability company, or any other firm seeking to engage
 34 in the practice of public accounting, as defined in s.
 35 473.302(8)(a), in this state must file an application for
 36 licensure with the department and supply the information the
 37 board requires. An application must be made upon the affidavit
 38 of a sole proprietor, general partner, shareholder, or member
 39 who is a certified public accountant.

40 (a) The following must hold a license issued under this
 41 section:

42 1. Any firm with an office in this state which uses the
 43 title "CPA," "CPA firm," or any other title, designation, words,
 44 letters, abbreviations, or device tending to indicate that the
 45 firm practices public accounting services described in s.
 46 473.302(8)(a).

47 2. Any firm that does not have an office in this state but
 48 performs the services described in s. 473.3141(4) for a client
 49 having its home office in this state. The board shall define by
 50 rule what constitutes an office.

51 Section 3. Paragraph (d) of subsection (1) of section
 52 473.316, Florida Statutes, is amended to read:

53 473.316 Communications between the accountant and client
54 privileged.—

55 (1) For purposes of this section:

56 (d) A "quality review" is a study, appraisal, or review of
57 one or more aspects of the professional work of an accountant in
58 the practice of public accountancy which is conducted by a
59 professional organization for the purpose of evaluating quality
60 assurance required by professional standards, including a
61 quality assurance ~~or peer~~ review. The term includes a peer
62 review as defined in s. 473.3125.

63 Section 4. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 373 Public Accountancy
SPONSOR(S): Raulerson
TIED BILLS: **IDEN./SIM. BILLS:** SB 636

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 0 N	Butler	Luczynski
2) Government Operations Appropriations Subcommittee		White	Topp
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Certified Public Accountants (CPA) and firms who perform accounting services are licensed in Florida and regulated by the Board of Accountancy within the Department of Business and Professional Regulation.

The bill amends the definition of “licensed audit firm and public accounting firm” to clarify that these firms are licensed to perform the type of public accounting services described in s. 473.302(8)(a), F.S. The bill further clarifies that a firm that uses a title or other means to indicate that it performs the type of public accounting services described in s. 473.302(8)(a), F.S., which includes audits, reviews, and compilations, must be licensed.

The bill also amends the definition of “quality review” to clearly reference and includes a “peer review,” which is defined in s. 473.3125, F.S.

The bill has a significant negative fiscal impact on the Board of Accountancy due to a potential decrease in revenues from the reduction of the number of firm licenses issued due to the clarification of the definition of “licensed audit firm and public accounting firm.”

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Board of Accountancy (Board) within the Department of Business and Professional Regulation (Department) is the agency charged with regulating the practice of public accountancy. The Division of Certified Public Accounting (Division) performs for the Board all services concerning the enforcement of ch. 473, F.S., including, but not limited to, recordkeeping services, examination services, legal services, investigative services, and those services in ch. 455, F.S., necessary to perform the Board's duties under the chapter. The offices of the Division are located in Gainesville pursuant to statute.

Public Accounting Licensure

Section 473.302(8)(a), F.S., describes several of the services offered by certified public accountants (CPA) in Florida, and defines the practice of public accounting to mean:

Offering to perform or performing for the public one or more types of services involving the expression of an opinion on financial statements, the attestation as an expert in accountancy to the reliability or fairness of presentation of financial information, the utilization of any form of opinion or financial statements that provide a level of assurance, the utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed, or the expression of an opinion on the reliability of an assertion by one party for the use by a third party;

To engage in the practice of public accounting, as defined by s. 473.302(8)(a), F.S., each individual, corporation, or firm in Florida must obtain a license, provided by s. 473.3101, F.S.

For a firm in Florida to use a title such as "CPA" or "CPA Firm" or "any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm practices public accounting," such firms are required to obtain a license under s. 473.3101, F.S.¹ Further, Florida law explicitly defines both a "licensed audit firm" and a "public accounting firm" as firms that are licensed under s. 473.3101, F.S.²

Quality Review

A quality review is defined by s. 473.316, F.S., as a:

[S]tudy, appraisal, or review of one or more aspects of the professional work of an accountant in the practice of public accountancy which is conducted by a professional organization for the purpose of evaluating quality assurance required by professional standards, including a quality assurance or peer review.

Effect of the Bill

The bill clarifies that the definitions of "licensed audit firm" or "public accounting firm" in s. 473.302, F.S., describes a firm that is both licensed under s. 473.3101, F.S., and performs services as described in s. 473.302(8)(a), F.S., which includes audits, reviews, and compilations.

The bill amends a provision related to a requirement for a firm to hold a license because it uses titles or other words that tend to indicate the "firm practices public accounting" to clarify that a license is

¹ Section 473.3101(1)(b), F.S.

² Section 473.302(7), F.S.

required if those titles or other words tend to indicate the “firm practices public accounting services described in s. 473.302(8)(a).”

The bill clarifies that when s. 473.3101(1)(a)1., F.S., refers to when a firm “practices public accounting,” it means when a firm “practices public accounting services described in s. 473.302(8)(a).”

The bill clarifies that the definition of “quality review” includes a “peer review,” which is defined in s. 473.3125, F.S., as “the study, appraisal, or review by one or more independent certified public accountants of one or more aspects of the professional work of a licensee.”

B. SECTION DIRECTORY:

Section 1 amends s. 473.302, F.S., to clarify the definitions of “licensed audit firm” and “public accounting firm.”

Section 2 amends s. 473.3101, F.S., to clarify that firms that use certain titles must be licensed.

Section 3 amends s. 473.316, F.S., to clarify that a “quality review” includes a “peer review.”

Section 4 provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has a significant negative fiscal impact on the Board of Accountancy within the Department of Business and Professional Regulation.³ The bill potentially reduces the number of accountancy firms subject to the licensing fee and those subject to fines imposed by the Board of Accountancy. The Department of Business and Professional Regulation estimates the projected revenue loss as a result of the bill between \$145,152 and \$290,304.⁴

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

³ Department of Business and Professional Regulation, Agency Analysis of 2015 House Bill 373, p. 4-5 (Feb. 9, 2015).

⁴ Email from the Department of Business and Professional Regulation on file with the House Government Operation Appropriations Subcommittee (Feb. 24, 2015).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
2 Appropriations Subcommittee
3 Representative Raulerson offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
7 (7) "Licensed ~~audit~~ firm" or "public accounting firm"
8 means a sole proprietor, partnership, corporation, limited
9 liability company, firm, or any other legal entity ~~a firm~~
10 licensed under s. 473.3101.

12 However, these terms shall not include services provided by the
13 American Institute of Certified Public Accountants or the
14 Florida Institute of Certified Public Accountants, or any full
15 service association of certified public accounting firms whose
16 plans of administration have been approved by the board, to
17 their members or services performed by these entities in

Amendment No. 1

18 reviewing the services provided to the public by members of
19 these entities.

20 Section 2. Section 473.309, Florida Statutes, is amended
21 to read:

22 473.309 Practice requirements for partnerships,
23 corporations, and limited liability companies; business entities
24 practicing public accounting.—

25 (1) A partnership may not engage in the practice of public
26 accounting, as defined in s. 473.302(8)(a), or meet the
27 requirements of s. 473.3101(1)(b), unless:

28 (a) It is a form of partnership recognized by Florida law.

29 (b) Partners owning at least 51 percent of the financial
30 interest and voting rights of the partnership are certified
31 public accountants in some state. However, each partner who is a
32 certified public accountant in another state and is domiciled in
33 this state must be a certified public accountant of this state
34 and hold an active license.

35 (c) At least one general partner is a certified public
36 accountant of this state and holds an active license or, in the
37 case of a firm that must have a license pursuant to s.
38 473.3101(1)(c) ~~473.3101(1)(a)2.~~, at least one general partner is
39 a certified public accountant in some state and meets the
40 requirements of s. 473.3141(1) or (2) ~~473.3141(1)(a) or (b).~~

41 (d) All partners who are not certified public accountants
42 in any state are engaged in the business of the partnership as
43 their principal occupation.

Amendment No. 1

44 (e) It is in compliance with rules adopted by the board
45 pertaining to minimum capitalization, letters of credit, and
46 adequate public liability insurance.

47 (f) It is currently licensed as required by s. 473.3101.

48 (2) A corporation may not engage in the practice of public
49 accounting, as defined in s. 473.302(8)(a), or meet the
50 requirements of s. 473.3101(1)(b), unless:

51 (a) It is a corporation duly organized in this or some
52 other state.

53 (b) Shareholders of the corporation owning at least 51
54 percent of the financial interest and voting rights of the
55 corporation are certified public accountants in some state and
56 are principally engaged in the business of the corporation.
57 However, each shareholder who is a certified public accountant
58 in another state and is domiciled in this state must be a
59 certified public accountant of this state and hold an active
60 license.

61 (c) The principal officer of the corporation is a
62 certified public accountant in some state.

63 (d) At least one shareholder of the corporation is a
64 certified public accountant and holds an active license in this
65 state or, in the case of a firm that must have a license
66 pursuant to s. 473.3101(1)(c) ~~473.3101(1)(a)2.~~, at least one
67 shareholder is a certified public accountant in some state and
68 meets the requirements of s. 473.3141(1) or (2) ~~473.3141(1)(a)~~
69 ~~or (b).~~

Amendment No. 1

70 (e) All shareholders who are not certified public
71 accountants in any state are engaged in the business of the
72 corporation as their principal occupation.

73 (f) It is in compliance with rules adopted by the board
74 pertaining to minimum capitalization, letters of credit, and
75 adequate public liability insurance.

76 (g) It is currently licensed as required by s. 473.3101.

77 (3) A limited liability company may not engage in the
78 practice of public accounting, as defined in s. 473.302(8)(a),
79 or meet the requirements of s. 473.3101(1)(b), unless:

80 (a) It is a limited liability company duly organized in
81 this or some other state.

82 (b) Members of the limited liability company owning at
83 least 51 percent of the financial interest and voting rights of
84 the company are certified public accountants in some state.
85 However, each member who is a certified public accountant in
86 some state and is domiciled in this state must be a certified
87 public accountant of this state and hold an active license.

88 (c) At least one member of the limited liability company
89 is a certified public accountant and holds an active license in
90 this state or, in the case of a firm that must have a license
91 pursuant to s. 473.3101(1)(c) ~~473.3101(1)(a)2.~~, at least one
92 member is a certified public accountant in some state and meets
93 the requirements of s. 473.3141(1) or (2) ~~473.3141(1)(a) or (b).~~

Amendment No. 1

94 (d) All members who are not certified public accountants
95 in any state are engaged in the business of the company as their
96 principal occupation.

97 (e) It is in compliance with rules adopted by the board
98 pertaining to minimum capitalization, letters of credit, and
99 adequate public liability insurance.

100 (f) It is currently licensed as required by s. 473.3101.

101 (4) A partnership, corporation, limited liability company,
102 or any other firm is engaged in the practice of public
103 accounting if its employees are engaged in the practice of
104 public accounting. Notwithstanding any other provision of law, a
105 licensed ~~audit~~ firm may own all or part of another licensed
106 ~~audit~~ firm.

107 Section 3. Section 473.3101, Florida Statutes, is amended
108 to read:

109 473.3101 Licensure of firms or public accounting firms
110 ~~sole proprietors, partnerships, corporations, limited liability~~
111 ~~companies, and other legal entities.~~

112 (1) The following must hold a license issued under this
113 section: ~~Each sole proprietor, partnership, corporation, limited~~
114 ~~liability company, or any other firm seeking to engage in the~~
115 ~~practice of public accounting, as defined in s. 473.302(8)(a),~~
116 ~~in this state must file an application for licensure with the~~
117 ~~department and supply the information the board requires. An~~
118 ~~application must be made upon the affidavit of a sole~~

Amendment No. 1

119 ~~proprietor, general partner, shareholder, or member who is a~~
120 ~~certified public accountant.~~

121 (a) Any firm with an office in this state which performs
122 services as defined in s. 473.302(8) (a) or ~~The following must~~
123 ~~hold a license issued under this section.~~

124 (b)~~1.~~ Any firm with an office in this state which uses the
125 title "CPA," "CPA firm," or any other title, designation, words,
126 letters, abbreviations, or device tending to indicate that it is
127 a CPA firm. The board shall define by rule what constitutes a
128 CPA firm ~~the firm practices public accounting.~~

129 (c)~~2.~~ Any firm that does not have an office in this state
130 but performs the services described in s. 473.3141(4) for a
131 client having its home office in this state. The board shall
132 define by rule what constitutes an office.

133 (2) An applicant for licensure under this section must
134 file an application for licensure with the department and supply
135 the information the board requires. An application must be made
136 upon the affidavit of a sole proprietor, general partner,
137 shareholder, or member who is a certified public accountant.

138 (3) ~~(b)~~ A firm that is not subject to the requirements of
139 paragraph (1) (c) subparagraph (a)2. may perform other
140 professional services while using the title "CPA," "CPA firm,"
141 or any other title, designation, words, letters, abbreviations,
142 or device tending to indicate that the firm practices public
143 accounting in this state without a license issued under this
144 section only if:

Amendment No. 1

145 (a)1. It performs such services through an individual with
146 practice privileges granted under s. 473.3141; and

147 (b)2. It can lawfully do so in the state where the
148 individual with practice privileges has his or her principal
149 place of business.

150 (4)(2) The board shall determine whether the firm or
151 public accounting ~~sole proprietor, partnership, corporation,~~
152 ~~limited liability company, or any other~~ firm meets the
153 requirements for practice and, pending that determination, may
154 certify to the department the firm or public accounting firm
155 ~~partnership, corporation, or limited liability company~~ for
156 provisional licensure.

157 (5)(3) Each license must be renewed every 2 years. Each
158 firm or public accounting ~~sole proprietor, partnership,~~
159 ~~corporation, limited liability company, or any other~~ firm
160 licensed under this section must notify the department within 1
161 month after any change in the information contained in the
162 application on which its license is based.

163 Section 4. Paragraph (d) of subsection (1) of section
164 473.316, Florida Statutes, is amended to read:

165 473.316 Communications between the accountant and client
166 privileged.—

167 (1) For purposes of this section:

168 (d) A "quality review" is a study, appraisal, or review of
169 one or more aspects of the professional work of an accountant in
170 the practice of public accountancy which is conducted by a

Amendment No. 1

171 professional organization for the purpose of evaluating quality
172 assurance required by professional standards, including a
173 quality assurance ~~or peer~~ review. The term includes a peer
174 review as defined in s. 473.3125.

175 Section 5. Paragraph (a) of subsection (1) and subsection
176 (4) of section 473.3125, Florida Statutes, is amended to read:
177 473.3125 Peer review.—

178 (1) As used in this section, the term:

179 (a) "Licensee" means a licensed firm or public accounting
180 sole proprietor, partnership, corporation, limited liability
181 company, or any other firm as defined in s. 473.302(7) and
182 engaged in the practice of public accounting as defined in s.
183 473.302(8) (a) that is required to be licensed under s. 473.3101.

184 (4) Effective January 1, 2015, a licensed firm or public
185 accounting sole proprietor, partnership, corporation, limited
186 liability company, or other firm as defined in s. 473.302(7) and
187 licensed under s. 473.3101 and engaged in the practice of public
188 accounting as defined in s. 473.302(8) (a), except for the
189 performance of compilations and reviews as those terms are
190 defined by the board, must be enrolled in a peer review program.

191 Section 6. Paragraph (c) of subsection (1) of section
192 473.322, Florida Statutes, is amended to read:

193 473.322 Prohibitions; penalties.—

194 (1) A person may not knowingly:

195 (c) Perform or offer to perform any services described in
196 s. 473.302(8) (a) unless such person holds an active license

Amendment No. 1

197 under this chapter and is a licensed ~~audit~~ firm, provides such
198 services through a licensed ~~audit~~ firm, or complies with ss.
199 473.3101 and 473.3141. This paragraph does not prohibit the
200 performance by persons other than certified public accountants
201 of other services involving the use of accounting skills,
202 including the preparation of tax returns and the preparation of
203 financial statements without expression of opinion thereon;
204

205 -----

T I T L E A M E N D M E N T

206 Remove everything before the enacting clause and insert:

207 An act relating to public accountancy; amending s.
208 473.302, F.S.; revising the definition of the term
209 "licensed audit firm"; amending s. 473.309, F.S.;
210 clarifying the requirements for practicing public
211 accounting; amending s. 473.3101, F.S.; revising
212 provisions related to public accounting licensure;
213 amending s. 473.316, F.S.; revising the definition of
214 the term "quality review" to include a peer review;
215 amending ss. 473.3125 and 473.322, F.S.; conforming
216 provisions; providing an effective date.
217
218

1 A bill to be entitled
2 An act relating to timeshares; amending s. 721.05,
3 F.S.; revising a definition; amending s. 721.07, F.S.;
4 revising requirements for amendments made to a
5 timeshare instrument; revising requirements for public
6 offering statements; amending s. 721.08, F.S.;
7 revising compliance requirements for the release of
8 certain escrow funds; creating s. 721.125, F.S.;
9 providing for the extension or termination of
10 timeshare plans under certain conditions; providing
11 applicability; amending s. 721.14, F.S.; authorizing
12 an owners' association and a managing entity to agree
13 to certain conditions related to the discharge of the
14 managing entity; providing for the transfer of
15 specified reservation system data upon the termination
16 of the managing entity; providing that reasonable
17 costs incurred by the terminated managing entity in
18 effecting the transfer of certain information shall be
19 reimbursed as a common expense; amending s. 721.27,
20 F.S.; revising timeshare unit annual fee requirements;
21 amending s. 721.52, F.S.; revising definitions;
22 amending s. 721.53, F.S.; revising requirements with
23 respect to subordination instruments; deleting a
24 requirement relating to court approval of trustee
25 dispositions of multisite timeshare trust property;
26 providing that a vote of the voting interests of a

27 | multisite timeshare plan is not required for
 28 | substitution or automatic deletion of multisite
 29 | timeshare trust property; repealing s. 721.54, F.S.,
 30 | relating to terms of nonspecific multisite timeshare
 31 | plans; amending s. 721.55, F.S.; revising disclosure
 32 | requirements for a multisite timeshare plan public
 33 | offering statement; amending s. 721.551, F.S.;
 34 | revising disclosure requirements for multisite
 35 | timeshare plan purchaser public offering statements;
 36 | amending s. 721.552, F.S.; revising requirements
 37 | relating to substitutions and deletions of component
 38 | site accommodations or facilities; amending s. 721.56,
 39 | F.S.; deleting provisions relating to the transfer of
 40 | specified reservation system data upon the termination
 41 | of managing entity and costs incurred by the
 42 | terminated managing entity; amending s. 721.57, F.S.;
 43 | revising language with respect to timeshare estates in
 44 | multisite timeshare plans; amending s. 721.58, F.S.;
 45 | deleting certain annual fee requirements for managing
 46 | entities of multisite timeshare plans; providing an
 47 | effective date.

48 |
 49 | Be It Enacted by the Legislature of the State of Florida:

50 |
 51 | Section 1. Subsection (34) of section 721.05, Florida
 52 | Statutes, is amended to read:

53 721.05 Definitions.—As used in this chapter, the term:
 54 (34) "Timeshare estate" means a right to occupy a
 55 timeshare unit, coupled with a freehold estate or an estate for
 56 years with a future interest in a timeshare property or a
 57 specified portion thereof, or coupled with. ~~The term includes an~~
 58 ownership interest in a condominium unit pursuant to s. 718.103,
 59 an ownership interest in a cooperative unit pursuant to s.
 60 719.103, or a direct or indirect beneficial interest in a trust
 61 that complies in all respects with ~~the provisions of~~ s.
 62 721.08(2)(c)4. or s. 721.53(1)(e), provided that the trust does
 63 not contain any personal property timeshare interests. A
 64 timeshare estate is a parcel of real property under the laws of
 65 this state.

66 Section 2. Paragraph (a) of subsection (3) and paragraph
 67 (gg) of subsection (5) of section 721.07, Florida Statutes, are
 68 amended to read:

69 721.07 Public offering statement.—Prior to offering any
 70 timeshare plan, the developer must submit a filed public
 71 offering statement to the division for approval as prescribed by
 72 s. 721.03, s. 721.55, or this section. Until the division
 73 approves such filing, any contract regarding the sale of that
 74 timeshare plan is subject to cancellation by the purchaser
 75 pursuant to s. 721.10.

76 (3)(a)1. Any change to an approved public offering
 77 statement filing shall be filed with the division for approval
 78 as an amendment prior to becoming effective. The division shall

79 have 20 days after receipt of a proposed amendment to approve or
 80 cite deficiencies in the proposed amendment. If the division
 81 fails to act within 20 days, the amendment will be deemed
 82 approved. If the proposed amendment adds a new component site to
 83 an approved multisite timeshare plan, the division's initial
 84 period in which to approve or cite deficiencies is 45 days. If
 85 the developer fails to adequately respond to any deficiency
 86 notice within 30 days, the division may reject the amendment.
 87 Subsequent to such rejection, a new filing fee pursuant to
 88 subsection (4) and a new division initial review period pursuant
 89 to this paragraph shall apply to any refiling or further review
 90 of the rejected amendment.

91 2. For filings only subject to this part, each approved
 92 amendment to the approved purchaser public offering statement,
 93 other than an amendment made only for the purpose of the
 94 addition of a phase or phases to the timeshare plan in the
 95 manner described in the timeshare instrument or any amendment
 96 that does not materially alter or modify the offering in a
 97 manner that is adverse to a purchaser, shall be delivered to a
 98 purchaser no later than 10 days prior to closing. For filings
 99 made under part II, each approved amendment to the multisite
 100 timeshare plan purchaser public offering statement, other than
 101 an amendment made only for the purpose of the addition,
 102 substitution, or deletion of a component site pursuant to part
 103 II or the addition of a phase or phases to a component site of a
 104 multisite timeshare plan in the manner described in the

105 | timeshare instrument or any amendment that does not materially
 106 | alter or modify the offering in a manner that is adverse to a
 107 | purchaser, shall be delivered to a purchaser no later than 10
 108 | days prior to closing.

109 | 3. For filings subject only to part II of this chapter,
 110 | amendments made to a timeshare instrument for a component site
 111 | located in this state are ~~not~~ required only to be delivered to
 112 | purchasers who ~~do not receive a timeshare estate or~~ an interest
 113 | in a specific multisite timeshare plan in that component site.
 114 | Amendments made to a timeshare instrument for a component site
 115 | not located in this state are not required to be delivered to
 116 | purchasers.

117 | (5) Every filed public offering statement for a timeshare
 118 | plan which is not a multisite timeshare plan shall contain the
 119 | information required by this subsection. The division is
 120 | authorized to provide by rule the method by which a developer
 121 | must provide such information to the division.

122 | (gg)1. Such other information as is necessary to fairly,
 123 | meaningfully, and effectively disclose all aspects of the
 124 | timeshare plan, including, but not limited to, any disclosures
 125 | made necessary by the operation of s. 721.03(8). ~~However,~~

126 | 2. If a developer has, in good faith, attempted to comply
 127 | with ~~the requirements of this chapter section,~~ and if, in fact,
 128 | the developer ~~he or she~~ has substantially complied with ~~the~~
 129 | ~~disclosure requirements of~~ this chapter, nonmaterial errors or
 130 | omissions are shall not be actionable, are not violations of

131 this chapter, and do not give rise to any purchaser cancellation
 132 right.

133 Section 3. Paragraph (c) of subsection (2) of section
 134 721.08, Florida Statutes, is amended to read:

135 721.08 Escrow accounts; nondisturbance instruments;
 136 alternate security arrangements; transfer of legal title.—

137 (2) One hundred percent of all funds or other property
 138 which is received from or on behalf of purchasers of the
 139 timeshare plan or timeshare interest prior to the occurrence of
 140 events required in this subsection shall be deposited pursuant
 141 to an escrow agreement approved by the division. The funds or
 142 other property may be released from escrow only as follows:

143 (c) Compliance with conditions.—

144 1. Timeshare licenses.—If the timeshare plan is one in
 145 which timeshare licenses are to be sold and no cancellation or
 146 default has occurred, the escrow agent may release the escrowed
 147 funds or other property to or on the order of the developer upon
 148 presentation of:

149 a. An affidavit by the developer that all of the following
 150 conditions have been met:

151 (I) Expiration of the cancellation period.

152 (II) Completion of construction.

153 (III) Closing.

154 (IV) Either:

155 (A) Execution, delivery, and recordation by each

156 interestholder of the nondisturbance and notice to creditors

157 instrument, as described in this section; or

158 (B) Transfer by the developer of legal title to the
 159 subject accommodations and facilities, or all use rights
 160 therein, into a trust satisfying the requirements of
 161 subparagraph 4. and the execution, delivery, and recordation by
 162 each other interestholder of the nondisturbance and notice to
 163 creditors instrument, as described in this section.

164 b. A certified copy of each recorded nondisturbance and
 165 notice to creditors instrument.

166 c. One of the following:

167 (I) A copy of a memorandum of agreement, as defined in s.
 168 721.05, together with satisfactory evidence that the original
 169 memorandum of agreement has been irretrievably delivered for
 170 recording to the appropriate official responsible for
 171 maintaining the public records in the county in which the
 172 subject accommodations and facilities are located. The original
 173 memorandum of agreement must be recorded within 180 days after
 174 the date on which the purchaser executed her or his purchase
 175 agreement.

176 (II) A notice delivered for recording to the appropriate
 177 official responsible for maintaining the public records in each
 178 county in which the subject accommodations and facilities are
 179 located notifying all persons of the identity of an independent
 180 escrow agent or trustee satisfying the requirements of
 181 subparagraph 4. that shall maintain separate books and records,
 182 in accordance with good accounting practices, for the timeshare

183 plan in which timeshare licenses are to be sold. The books and
 184 records shall indicate each accommodation and facility that is
 185 subject to such a timeshare plan and each purchaser of a
 186 timeshare license in the timeshare plan.

187 2. Timeshare estates.—If the timeshare plan is one in
 188 which timeshare estates are to be sold and no cancellation or
 189 default has occurred, the escrow agent may release the escrowed
 190 funds or other property to or on the order of the developer upon
 191 presentation of:

192 a. An affidavit by the developer that all of the following
 193 conditions have been met:

194 (I) Expiration of the cancellation period.

195 (II) Completion of construction.

196 (III) Closing.

197 b. If the timeshare estate is sold by agreement for deed,
 198 a certified copy of the recorded nondisturbance and notice to
 199 creditors instrument, as described in this section.

200 c. Evidence that each accommodation and facility:

201 (I) Is free and clear of the claims of any
 202 interestholders, other than the claims of interestholders that,
 203 through a recorded instrument, are irrevocably made subject to
 204 the timeshare instrument and the use rights of purchasers made
 205 available through the timeshare instrument;

206 (II) Is the subject of a recorded nondisturbance and
 207 notice to creditors instrument that complies with subsection (3)
 208 and s. 721.17; or

209 (III) Has been transferred into a trust satisfying the
 210 requirements of subparagraph 4.

211 d. Evidence that the timeshare estate:

212 (I) Is free and clear of the claims of any
 213 interestholders, other than the claims of interestholders that,
 214 through a recorded instrument, are irrevocably made subject to
 215 the timeshare instrument and the use rights of purchasers made
 216 available through the timeshare instrument; or

217 (II) Is the subject of a recorded nondisturbance and
 218 notice to creditors instrument that complies with subsection (3)
 219 and s. 721.17.

220 3. Personal property timeshare interests.—If the timeshare
 221 plan is one in which personal property timeshare interests are
 222 to be sold and no cancellation or default has occurred, the
 223 escrow agent may release the escrowed funds or other property to
 224 or on the order of the developer upon presentation of:

225 a. An affidavit by the developer that all of the following
 226 conditions have been met:

227 (I) Expiration of the cancellation period.

228 (II) Completion of construction.

229 (III) Closing.

230 b. If the personal property timeshare interest is sold by
 231 agreement for transfer, evidence that the agreement for transfer
 232 complies fully with s. 721.06 and this section.

233 c. Evidence that one of the following has occurred:

234 (I) Transfer by the owner of the underlying personal

235 | property of legal title to the subject accommodations and
 236 | facilities or all use rights therein into a trust satisfying the
 237 | requirements of subparagraph 4.; or

238 | (II) Transfer by the owner of the underlying personal
 239 | property of legal title to the subject accommodations and
 240 | facilities or all use rights therein into an owners' association
 241 | satisfying the requirements of subparagraph 5.

242 | d. Evidence of compliance with the provisions of
 243 | subparagraph 6., if required.

244 | e. If a personal property timeshare plan is created with
 245 | respect to accommodations and facilities that are located on or
 246 | in an oceangoing vessel, including a "documented vessel" or a
 247 | "foreign vessel," as defined and governed by 46 U.S.C., chapter
 248 | 301:

249 | (I) In making the transfer required in sub-subparagraph
 250 | c., the developer shall use as its transfer instrument a
 251 | document that establishes and protects the continuance of the
 252 | use rights in the subject accommodations and facilities in a
 253 | manner that is enforceable by the trust or owners' association.

254 | (II) The transfer instrument shall comply fully with the
 255 | provisions of this chapter, shall be part of the timeshare
 256 | instrument, and shall contain specific provisions that:

257 | (A) Prohibit the vessel owner, the developer, any manager
 258 | or operator of the vessel, the owners' association or the
 259 | trustee, the managing entity, or any other person from incurring
 260 | any liens against the vessel except for liens that are required

261 for the operation and upkeep of the vessel, including liens for
 262 fuel expenditures, repairs, crews' wages, and salvage, and
 263 except as provided in sub-sub-subparagraphs 4.b.(III) and
 264 5.b.(III). All expenses, fees, and taxes properly incurred in
 265 connection with the creation, satisfaction, and discharge of any
 266 such permitted lien, or a prorated portion thereof if less than
 267 all of the accommodations on the vessel are subject to the
 268 timeshare plan, shall be common expenses of the timeshare plan.

269 (B) Grant a lien against the vessel in favor of the
 270 owners' association or trustee to secure the full and faithful
 271 performance of the vessel owner and developer of all of their
 272 obligations to the purchasers.

273 (C) Establish governing law in a jurisdiction that
 274 recognizes and will enforce the timeshare instrument and the
 275 laws of the jurisdiction of registry of the vessel.

276 (D) Require that a description of the use rights of
 277 purchasers be posted and displayed on the vessel in a manner
 278 that will give notice of such rights to any party examining the
 279 vessel. This notice must identify the owners' association or
 280 trustee and include a statement disclosing the limitation on
 281 incurring liens against the vessel described in sub-sub-sub-
 282 subparagraph (A).

283 (E) Include the nondisturbance and notice to creditors
 284 instrument for the vessel owner and any other interestholders.

285 (F) The owners' association created under subparagraph 5.
 286 or trustee created under subparagraph 4. shall have access to

287 any certificates of classification in accordance with the
 288 timeshare instrument.

289 (III) If the vessel is a foreign vessel, the vessel must
 290 be registered in a jurisdiction that permits a filing evidencing
 291 the use rights of purchasers in the subject accommodations and
 292 facilities, offers protection for such use rights against
 293 unfiled and inferior claims, and recognizes the document or
 294 instrument creating such use rights as a lien against the
 295 vessel.

296 (IV) In addition to the disclosures required by s.
 297 721.07(5), the public offering statement and purchase contract
 298 must contain a disclosure in conspicuous type in substantially
 299 the following form:

300 The laws of the State of Florida govern the offering of this
 301 timeshare plan in this state. There are inherent risks in
 302 purchasing a timeshare interest in this timeshare plan because
 303 the accommodations and facilities of the timeshare plan are
 304 located on a vessel that will sail into international waters and
 305 into waters governed by many different jurisdictions. Therefore,
 306 the laws of the State of Florida cannot fully protect your
 307 purchase of an interest in this timeshare plan. Specifically,
 308 management and operational issues may need to be addressed in
 309 the jurisdiction in which the vessel is registered, which is
 310 (insert jurisdiction in which vessel is registered). Concerns of
 311 purchasers may be sent to (insert name of applicable regulatory
 312 agency and address).

313 4. Trust.—

314 a. If the subject accommodations or facilities, or all use
 315 rights therein, are to be transferred into a trust in order to
 316 comply with this paragraph, such transfer shall take place
 317 pursuant to this subparagraph. If the accommodations or
 318 facilities included in such transfer are subject to a lease, the
 319 unexpired term of the lease must be disclosed as the term of the
 320 timeshare plan pursuant to s. 721.07(5)(f)4.

321 b. Prior to the transfer ~~by each interestholder~~ of the
 322 subject accommodations and facilities, or all use rights
 323 therein, to a trust, any lien or other encumbrance against such
 324 accommodations and facilities, or use rights therein, shall be
 325 made subject to a nondisturbance and notice to creditors
 326 instrument pursuant to subsection (3). No transfer pursuant to
 327 this subparagraph shall become effective until the trustee
 328 accepts such transfer and the responsibilities set forth herein.
 329 A trust established pursuant to this subparagraph shall comply
 330 with the following provisions:

331 (I) The trustee shall be an individual or a business
 332 entity authorized and qualified to conduct trust business in
 333 this state. Any corporation authorized to do business in this
 334 state may act as trustee in connection with a timeshare plan
 335 pursuant to this chapter. The trustee must be independent from
 336 any developer or managing entity of the timeshare plan or any
 337 interestholder of any accommodation or facility of such plan.

338 (II) The trust shall be irrevocable so long as any

339 purchaser has a right to occupy any portion of the timeshare
 340 property pursuant to the timeshare plan.

341 (III) The trustee shall not convey, hypothecate, mortgage,
 342 assign, lease, or otherwise transfer or encumber in any fashion
 343 any interest in or portion of the timeshare property with
 344 respect to which any purchaser has a right of use or occupancy
 345 unless the timeshare plan is terminated pursuant to the
 346 timeshare instrument, or such conveyance, hypothecation,
 347 mortgage, assignment, lease, transfer, or encumbrance is
 348 approved by a vote of two-thirds of all voting interests of the
 349 timeshare plan. Subject to s. 721.552, a vote of the voting
 350 interests of the timeshare plan is not required for substitution
 351 or automatic deletion of accommodations or facilities. and such
 352 decision is declared by a court of competent jurisdiction to be
 353 in the best interests of the purchasers of the timeshare plan.
 354 The trustee shall notify the division in writing within 10 days
 355 after receiving notice of the filing of any petition relating to
 356 obtaining such a court order. The division shall have standing
 357 to advise the court of the division's interpretation of the
 358 statute as it relates to the petition.

359 (IV) All purchasers of the timeshare plan or the owners'
 360 association of the timeshare plan shall be the express
 361 beneficiaries of the trust. The trustee shall act as a fiduciary
 362 to the beneficiaries of the trust. The personal liability of the
 363 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
 364 and 736.1015. The agreement establishing the trust shall set

365 | forth the duties of the trustee. The trustee shall be required
366 | to furnish promptly to the division upon request a copy of the
367 | complete list of the names and addresses of the owners in the
368 | timeshare plan and a copy of any other books and records of the
369 | timeshare plan required to be maintained pursuant to s. 721.13
370 | that are in the possession, custody, or control of the trustee.
371 | All expenses reasonably incurred by the trustee in the
372 | performance of its duties, together with any reasonable
373 | compensation of the trustee, shall be common expenses of the
374 | timeshare plan.

375 | (V) The trustee shall not resign upon less than 90 days'
376 | prior written notice to the managing entity and the division. No
377 | resignation shall become effective until a substitute trustee,
378 | approved by the division, is appointed by the managing entity
379 | and accepts the appointment.

380 | (VI) The documents establishing the trust arrangement
381 | shall constitute a part of the timeshare instrument.

382 | (VII) For trusts holding property in a timeshare plan
383 | located outside this state, the trust and trustee holding such
384 | property shall be deemed in compliance with the requirements of
385 | this subparagraph if such trust and trustee are authorized and
386 | qualified to conduct trust business under the laws of such
387 | jurisdiction and the agreement or law governing such trust
388 | arrangement provides substantially similar protections for the
389 | purchaser as are required in this subparagraph for trusts
390 | holding property in a timeshare plan in this state.

391 (VIII) The trustee shall have appointed a registered agent
 392 in this state for service of process. In the event such a
 393 registered agent is not appointed, service of process may be
 394 served pursuant to s. 721.265.

395 5. Owners' association.—

396 a. If the subject accommodations or facilities, or all use
 397 rights therein, are to be transferred into an owners'
 398 association in order to comply with this paragraph, such
 399 transfer shall take place pursuant to this subparagraph.

400 b. Before ~~Prior to~~ the transfer ~~by each interestholder~~ of
 401 the subject accommodations and facilities, or all use rights
 402 therein, to an owners' association, any lien or other
 403 encumbrance against such accommodations and facilities, or use
 404 rights therein, shall be made subject to a nondisturbance and
 405 notice to creditors instrument pursuant to subsection (3). No
 406 transfer pursuant to this subparagraph shall become effective
 407 until the owners' association accepts such transfer and the
 408 responsibilities set forth herein. An owners' association
 409 established pursuant to this subparagraph shall comply with the
 410 following provisions:

411 (I) The owners' association shall be a business entity
 412 authorized and qualified to conduct business in this state.
 413 Control of the board of directors of the owners' association
 414 must be independent from any developer or managing entity of the
 415 timeshare plan or any interestholder.

416 (II) The bylaws of the owners' association shall provide

417 | that the corporation may not be voluntarily dissolved without
 418 | the unanimous vote of all owners of personal property timeshare
 419 | interests so long as any purchaser has a right to occupy any
 420 | portion of the timeshare property pursuant to the timeshare
 421 | plan.

422 | (III) The owners' association shall not convey,
 423 | hypothecate, mortgage, assign, lease, or otherwise transfer or
 424 | encumber in any fashion any interest in or portion of the
 425 | timeshare property with respect to which any purchaser has a
 426 | right of use or occupancy, unless the timeshare plan is
 427 | terminated pursuant to the timeshare instrument, or unless such
 428 | conveyance, hypothecation, mortgage, assignment, lease,
 429 | transfer, or encumbrance is approved by a vote of two-thirds of
 430 | all voting interests of the association and such decision is
 431 | declared by a court of competent jurisdiction to be in the best
 432 | interests of the purchasers of the timeshare plan. The owners'
 433 | association shall notify the division in writing within 10 days
 434 | after receiving notice of the filing of any petition relating to
 435 | obtaining such a court order. The division shall have standing
 436 | to advise the court of the division's interpretation of the
 437 | statute as it relates to the petition.

438 | (IV) All purchasers of the timeshare plan shall be members
 439 | of the owners' association and shall be entitled to vote on
 440 | matters requiring a vote of the owners' association as provided
 441 | in this chapter or the timeshare instrument. The owners'
 442 | association shall act as a fiduciary to the purchasers of the

443 | timeshare plan. The articles of incorporation establishing the
 444 | owners' association shall set forth the duties of the owners'
 445 | association. All expenses reasonably incurred by the owners'
 446 | association in the performance of its duties, together with any
 447 | reasonable compensation of the officers or directors of the
 448 | owners' association, shall be common expenses of the timeshare
 449 | plan.

450 | (V) The documents establishing the owners' association
 451 | shall constitute a part of the timeshare instrument.

452 | (VI) For owners' associations holding property in a
 453 | timeshare plan located outside this state, the owners'
 454 | association holding such property shall be deemed in compliance
 455 | with the requirements of this subparagraph if such owners'
 456 | association is authorized and qualified to conduct owners'
 457 | association business under the laws of such jurisdiction and the
 458 | agreement or law governing such arrangement provides
 459 | substantially similar protections for the purchaser as are
 460 | required in this subparagraph for owners' associations holding
 461 | property in a timeshare plan in this state.

462 | (VII) The owners' association shall have appointed a
 463 | registered agent in this state for service of process. In the
 464 | event such a registered agent cannot be located, service of
 465 | process may be made pursuant to s. 721.265.

466 | 6. Personal property subject to certificate of title.—If
 467 | any personal property that is an accommodation or facility of a
 468 | timeshare plan is subject to a certificate of title in this

469 state pursuant to chapter 319 or chapter 328, the following
 470 notation must be made on such certificate of title pursuant to
 471 s. 319.27(1) or s. 328.15(1):

472 The further transfer or encumbrance of the property subject to
 473 this certificate of title, or any lien or encumbrance thereon,
 474 is subject to the requirements of section 721.17, Florida
 475 Statutes, and the transferee or lienor agrees to be bound by all
 476 of the obligations set forth therein.

477 7. If the developer has previously provided a certified
 478 copy of any document required by this paragraph, she or he may
 479 for all subsequent disbursements substitute a true and correct
 480 copy of the certified copy, provided no changes to the document
 481 have been made or are required to be made.

482 8. In the event that use rights relating to an
 483 accommodation or facility are transferred into a trust pursuant
 484 to subparagraph 4. or into an owners' association pursuant to
 485 subparagraph 5., all other interestholders, including the owner
 486 of the underlying fee or underlying personal property, must
 487 execute a nondisturbance and notice to creditors instrument
 488 pursuant to subsection (3).

489 Section 4. Section 721.125, Florida Statutes, is created
 490 to read:

491 721.125 Extension or termination of timeshare plans.—
 492 (1) Unless the timeshare instrument provides otherwise,
 493 the vote or written consent, or both, of 60 percent of all
 494 voting interests in a timeshare plan may extend or terminate the

495 term of the timeshare plan at any time. If the term of a
 496 timeshare plan is extended pursuant to this section, all rights,
 497 privileges, duties, and obligations created under applicable law
 498 or the timeshare instrument continue in full force to the same
 499 extent as if the extended termination date of the timeshare plan
 500 were the original termination date of the timeshare plan. If a
 501 timeshare plan is terminated pursuant to this section, the
 502 termination has immediate effect pursuant to applicable law and
 503 the timeshare instrument as if the effective date of the
 504 termination were the original date of termination.

505 (2) If a termination or extension vote or consent pursuant
 506 to subsection (1) is proposed for a component site of a
 507 multisite timeshare plan located in this state, the proposed
 508 termination or extension is effective only if the person
 509 authorized to make additions or substitutions of accommodations
 510 and facilities pursuant to the timeshare instrument also
 511 approves the termination or extension.

512 (3) This section applies only to a timeshare plan that has
 513 been in existence for at least 25 years as of the effective date
 514 of the termination or extension vote or consent required by
 515 subsection (1).

516 Section 5. Subsection (4) of section 721.14, Florida
 517 Statutes, is amended to read:

518 721.14 Discharge of managing entity.—

519 (4) (a) An owners' association and a manager or management
 520 firm may, in the management contract or other written document,

521 | agree to the transition procedures and related time periods to
 522 | be followed in the event the manager or management firm is
 523 | discharged pursuant to this section. If there is no written
 524 | agreement between the parties that covers the matters set forth
 525 | in paragraphs (b) and (c), the provisions of paragraphs (b) and
 526 | (c) shall apply.

527 | (b) Within 90 days after the date that the manager or
 528 | management firm is notified by the owners' association of a
 529 | successful termination vote pursuant to subsection (1), the
 530 | terminated managing entity shall transfer to the owners'
 531 | association or new manager or management firm all relevant data
 532 | held by the managing entity and related to any reservation
 533 | system for the timeshare plan, including, but not limited to:

534 | 1. The names, addresses, and reservation status of all
 535 | accommodations.

536 | 2. The names and addresses of all purchasers of timeshare
 537 | interests.

538 | 3. All outstanding confirmed reservations and reservation
 539 | requests.

540 | 4. Such other records and information as is necessary to
 541 | permit the uninterrupted operation and administration of the
 542 | timeshare plan. However, the information required to be
 543 | transferred does not include private information of the
 544 | terminated managing entity that is not directly related to
 545 | operation and management of the timeshare plan.

546 | (c) All reasonable costs incurred by the terminated

547 managing entity in effecting the transfer of information
 548 required by this subsection shall be reimbursed to the
 549 terminated managing entity as a common expense of the timeshare
 550 plan within 10 days after the completed transfer of the data
 551 described in paragraph (b). ~~This section shall not apply to~~
 552 ~~personal property timeshare plans.~~

553 Section 6. Section 721.27, Florida Statutes, is amended to
 554 read:

555 721.27 Annual managing entity fee for each timeshare unit
 556 ~~in plan.~~ For each timeshare unit ~~On January 1 of each year, each~~
 557 ~~managing entity of a timeshare plan~~ located in this state, the
 558 managing entity shall collect as a common expense and pay to the
 559 division on January 1 of each year an annual fee of \$2 for each
 560 7 days of annual use availability that exist within the
 561 timeshare plan at that time, ~~subject to any limitations on the~~
 562 ~~amount of such annual fee pursuant to s. 721.58.~~ Only one fee
 563 shall be due and payable for any 7 days of annual use
 564 availability that are included within both a single site
 565 timeshare plan under this part and a multisite timeshare plan
 566 under part II of this chapter. If any portion of the annual fee
 567 is not paid by March 1, the managing entity may be assessed a
 568 penalty pursuant to s. 721.26.

569 Section 7. Subsections (5) and (7) of section 721.52,
 570 Florida Statutes, are amended to read:

571 721.52 Definitions.—As used in this chapter, the term:
 572 (5) "Nonspecific multisite timeshare plan" means a

573 | multisite timeshare plan ~~containing timeshare licenses or~~
 574 | ~~personal property timeshare interests,~~ with respect to which a
 575 | purchaser receives a right to use all of the accommodations and
 576 | facilities, if any, of the multisite timeshare plan through the
 577 | reservation system, but no specific right to use any particular
 578 | accommodations and facilities for the remaining term of the
 579 | multisite timeshare plan in the event that the reservation
 580 | system is terminated for any reason prior to the expiration of
 581 | the term of the multisite timeshare plan.

582 | (7) "Specific multisite timeshare plan" means a multisite
 583 | timeshare plan ~~containing timeshare licenses or personal~~
 584 | ~~property timeshare interests,~~ with respect to which a purchaser
 585 | receives a specific right to use accommodations and facilities,
 586 | if any, at one component site of a multisite timeshare plan,
 587 | together with use rights in the other accommodations and
 588 | facilities of the multisite timeshare plan created by or
 589 | acquired through the reservation system.

590 | Section 8. Paragraph (e) of subsection (1) of section
 591 | 721.53, Florida Statutes, is amended to read:

592 | 721.53 Subordination instruments; alternate security
 593 | arrangements.—

594 | (1) With respect to each accommodation or facility of a
 595 | multisite timeshare plan, the developer shall provide the
 596 | division with satisfactory evidence that one of the following
 597 | has occurred with respect to each interestholder prior to
 598 | offering the accommodation or facility as a part of the

599 multisite timeshare plan:

600 (e) The interestholder has transferred the subject
 601 accommodation or facility or all use rights therein to a trust
 602 that complies with this paragraph. If the accommodation or
 603 facility included in such transfer is subject to a lease, the
 604 unexpired term of the lease must be disclosed as the term of
 605 that component site pursuant to s. 721.55(4)(a). Prior to such
 606 transfer, any lien or other encumbrance against such
 607 accommodation or facility shall be made subject to a
 608 nondisturbance and notice to creditors instrument pursuant to
 609 paragraph (a) or a subordination and notice to creditors
 610 instrument pursuant to paragraph (b). No transfer pursuant to
 611 this paragraph shall become effective until the trust accepts
 612 such transfer and the responsibilities set forth herein. A trust
 613 established pursuant to this paragraph shall comply with the
 614 following provisions:

615 1. The trustee shall be an individual or a business entity
 616 authorized and qualified to conduct trust business in this
 617 state. Any corporation authorized to do business in this state
 618 may act as trustee in connection with a timeshare plan pursuant
 619 to this chapter. The trustee must be independent from any
 620 developer or managing entity of the timeshare plan or any
 621 interestholder of any accommodation or facility of such plan.
 622 The same trustee may hold the accommodations and facilities, or
 623 use rights therein, for one or more of the component sites of
 624 the timeshare plan.

625 2. The trust shall be irrevocable so long as any purchaser
 626 has a right to occupy any portion of the timeshare property
 627 pursuant to the timeshare plan.

628 3. The trustee shall not convey, hypothecate, mortgage,
 629 assign, lease, or otherwise transfer or encumber in any fashion
 630 any interests in or portion of the timeshare property with
 631 respect to which any purchaser has a right of use or occupancy
 632 unless the timeshare plan is terminated pursuant to the
 633 timeshare instrument, or the timeshare property held in trust is
 634 deleted from a multisite timeshare plan pursuant to s.
 635 721.552(3), or such conveyance, hypothecation, mortgage,
 636 assignment, lease, transfer, or encumbrance is approved by vote
 637 of two-thirds of all voting interests of the timeshare plan.
 638 Subject to s. 721.552, a vote of the voting interests of the
 639 timeshare plan is not required for substitution or automatic
 640 deletion of accommodations or facilities ~~and such decision is~~
 641 ~~declared by a court of competent jurisdiction to be in the best~~
 642 ~~interests of the purchasers of the timeshare plan.~~

643 4. All purchasers of the timeshare plan or the owners'
 644 association of the timeshare plan shall be express beneficiaries
 645 of the trust. The trustee shall act as a fiduciary to the
 646 beneficiaries of the trust. The personal liability of the
 647 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
 648 and 736.1015. The agreement establishing the trust shall set
 649 forth the duties of the trustee. The trustee shall be required
 650 to furnish promptly to the division upon request a copy of the

651 complete list of the names and addresses of the owners in the
 652 timeshare plan and a copy of any other books and records of the
 653 timeshare plan required to be maintained pursuant to s. 721.13
 654 that are in the possession of the trustee. All expenses
 655 reasonably incurred by the trustee in the performance of its
 656 duties, together with any reasonable compensation of the
 657 trustee, shall be common expenses of the timeshare plan.

658 5. The trustee shall not resign upon less than 90 days'
 659 prior written notice to the managing entity and the division. No
 660 resignation shall become effective until a substitute trustee,
 661 approved by the division, is appointed by the managing entity
 662 and accepts the appointment.

663 6. The documents establishing the trust arrangement shall
 664 constitute a part of the timeshare instrument.

665 7. For trusts holding property in component sites located
 666 outside this state, the trust holding such property shall be
 667 deemed in compliance with the requirements of this paragraph, if
 668 such trust is authorized and qualified to conduct trust business
 669 under the laws of such jurisdiction and the agreement or law
 670 governing such trust arrangement provides substantially similar
 671 protections for the purchaser as are required in this paragraph
 672 for trusts holding property in a component site located in this
 673 state.

674 8. The trustee shall have appointed a registered agent in
 675 this state for service of process. In the event such a
 676 registered agent is not appointed, service of process may be

677 served pursuant to s. 721.265.

678 Section 9. Section 721.54, Florida Statutes, is repealed.

679 Section 10. Paragraphs (a) and (h) of subsection (4),
680 subsection (5), and paragraph (l) of subsection (7) of section
681 721.55, Florida Statutes, are amended to read:

682 721.55 Multisite timeshare plan public offering
683 statement.—Each filed public offering statement for a multisite
684 timeshare plan shall contain the information required by this
685 section and shall comply with the provisions of s. 721.07,
686 except as otherwise provided therein. The division is authorized
687 to provide by rule the method by which a developer must provide
688 such information to the division. Each multisite timeshare plan
689 filed public offering statement shall contain the following
690 information and disclosures:

691 (4) A text, which shall include, where applicable, the
692 information and disclosures set forth in paragraphs (a)-(l).

693 (a) A description of the multisite timeshare plan,
694 including its term, legal structure, ~~and~~ form of ownership, and
695 ~~For multisite timeshare plans in which the purchaser will~~
696 ~~receive a timeshare estate pursuant to s. 721.57 and for~~
697 ~~specific multisite timeshare plans, the description must also~~
698 ~~include~~ the term of each component site within the multisite
699 timeshare plan. The term of each component site that is shorter
700 than the term of the multisite timeshare plan must be disclosed
701 in conspicuous type.

702 (h) A description of the purchaser's liability for common

703 expenses of the multisite timeshare plan, including the
 704 following:

705 1. A description of the common expenses of the plan,
 706 including the method of allocation and assessment of such common
 707 expenses, whether component site common expenses and real estate
 708 taxes are included within the total common expense assessment of
 709 the multisite timeshare plan, and, if not, the manner in which
 710 timely payment of component site common expenses and real estate
 711 taxes shall be accomplished.

712 2. A description of any cap imposed upon the level of
 713 common expenses payable by the purchaser.

714 a. In no event shall the total common expense assessment
 715 for the multisite timeshare plan in a given calendar year exceed
 716 125 percent of the total common expense assessment for the plan
 717 in the previous calendar year.

718 b. Component site common expenses and ad valorem taxes
 719 shall not be included in calculating the total common expense
 720 assessment under sub-subparagraph a.

721 3. A description of the entity responsible for the
 722 determination of the common expenses of the multisite timeshare
 723 plan, as well as any entity which may increase the level of
 724 common expenses assessed against the purchaser at the multisite
 725 timeshare plan level.

726 4. A description of the method used to collect common
 727 expenses, including the entity responsible for such collections,
 728 and the lien rights of any entity for nonpayment of common

729 expenses. If the common expenses of any component site are
 730 collected by the managing entity of the multisite timeshare
 731 plan, a statement to that effect together with the identity and
 732 address of the escrow agent required by s. 721.56(3).

733 5. If the purchaser will receive an interest in a
 734 nonspecific multisite timeshare plan, a statement that a
 735 multisite timeshare plan budget is attached to the public
 736 offering statement as an exhibit pursuant to paragraph (7)(c).
 737 The multisite timeshare plan budget shall comply with the
 738 provisions of s. 721.07(5)(t).

739 6. If the developer intends to guarantee the level of
 740 assessments for the multisite timeshare plan, such guarantee
 741 must be based upon a good faith estimate of the revenues and
 742 expenses of the multisite timeshare plan. The guarantee must
 743 include a description of the following:

744 a. The specific time period, measured in one or more
 745 calendar or fiscal years, during which the guarantee will be in
 746 effect.

747 b. A statement that the developer will pay all common
 748 expenses incurred in excess of the total revenues of the
 749 multisite timeshare plan, if the developer is to be excused from
 750 the payment of assessments during the guarantee period.

751 c. The level, expressed in total dollars, at which the
 752 developer guarantees the assessments. If the developer has
 753 reserved the right to extend or increase the guarantee level, a
 754 disclosure must be included to that effect.

755 7. If required under applicable law, the developer shall
 756 also disclose the following matters for each component site:

757 a. Any limitation upon annual increases in common
 758 expenses;

759 b. The existence of any bad debt or working capital
 760 reserve; and

761 c. The existence of any replacement or deferred
 762 maintenance reserve.

763 (5) (a) Such other information as the division determines
 764 is necessary to fairly, meaningfully, and effectively disclose
 765 all aspects of the multisite timeshare plan, including, but not
 766 limited to, any disclosures made necessary by the operation of
 767 s. 721.03(8). ~~However,~~

768 (b) If a developer has, in good faith, attempted to comply
 769 with ~~the requirements of this chapter section,~~ and if, in fact,
 770 the developer has substantially complied with ~~the disclosure~~
 771 ~~requirements of this chapter,~~ nonmaterial errors or omissions
 772 are not actionable, are not violations of this chapter, and do
 773 not give rise to any purchaser cancellation right shall not be
 774 actionable.

775 (7) The following documents shall be included as exhibits
 776 to the filed public offering statement, if applicable:

777 (1)1. If the multisite timeshare plan contains any
 778 component sites located in this state, the information required
 779 by s. 721.07(5) pertaining to each such component site unless
 780 exempt pursuant to s. 721.03.

781 2. If the purchaser will receive ~~a timeshare estate~~
 782 ~~pursuant to s. 721.57, or~~ an interest in a specific multisite
 783 timeshare plan, ~~in a~~ component site located outside of this
 784 state but which is offered in this state, the information
 785 required by s. 721.07(5) pertaining to that component site,
 786 provided, however, that the provisions of s. 721.07(5)(t) shall
 787 only require disclosure of information related to the estimated
 788 budget for the timeshare plan and purchaser's expenses as
 789 required by the jurisdiction in which the component site is
 790 located.

791 Section 11. Paragraph (c) of subsection (2) of section
 792 721.551, Florida Statutes, is amended to read:

793 721.551 Delivery of multisite timeshare plan purchaser
 794 public offering statement.—

795 (2) The developer shall furnish each purchaser with the
 796 following:

797 (c) If the purchaser will receive ~~a timeshare estate~~
 798 ~~pursuant to s. 721.57, or~~ an interest in a specific multisite
 799 timeshare plan, ~~in a~~ component site located in this state, the
 800 developer shall also furnish the purchaser with the information
 801 required to be delivered pursuant to s. 721.07(6)(a) and (b) for
 802 that ~~the~~ component site ~~in which the purchaser will receive an~~
 803 ~~estate or interest in a specific multisite timeshare plan.~~

804 Section 12. Subsection (2) and paragraph (c) of subsection
 805 (3) of section 721.552, Florida Statutes, are amended to read:

806 721.552 Additions, substitutions, or deletions of

807 component site accommodations or facilities; purchaser remedies
 808 for violations.—Additions, substitutions, or deletions of
 809 component site accommodations or facilities may be made only in
 810 accordance with the following:

811 (2) SUBSTITUTIONS.—

812 (a) Substitutions are available only for nonspecific
 813 multisite timeshare plans. Specific multisite timeshare plans ~~or~~
 814 ~~plans offering timeshare estates pursuant to s. 721.57~~ may not
 815 contain an accommodation substitution right.

816 (b) The timeshare instrument shall provide for the
 817 following:

818 1. The basis upon which new accommodations and facilities
 819 may be substituted for existing accommodations and facilities of
 820 the multisite timeshare plan; by whom substitutions may be made;
 821 and the basis upon which the determination may be made to cause
 822 such substitutions to occur.

823 2. The replacement accommodations and facilities must
 824 provide purchasers with an opportunity to enjoy a substantially
 825 similar or improved vacation experience as compared to ~~as was~~
 826 the experience available at ~~with~~ the replaced accommodation or
 827 facility. In determining whether the replacement accommodations
 828 and facilities will provide a substantially similar or improved
 829 vacation experience, all relevant factors must be considered,
 830 including, but not limited to, some or all of the following:
 831 size, capacity, furnishings, maintenance, location (geographic,
 832 topographic, and scenic), demand, and availability for purchaser

833 use, and recreational capabilities.

834 3. The extent, if any, to which purchasers will have the
835 right to consent to any proposed substitutions.

836 (c) No substitutions may be made during the first year
837 after the developer begins to offer the multisite timeshare
838 plan.

839 (d)1. If the timeshare instrument provides that the
840 developer, acting unilaterally, is the person authorized to make
841 substitutions, the developer may not substitute ~~No more than 25~~
842 percent of the available accommodations in the multisite
843 timeshare plan at a given component site may undergo
844 substitution in a given calendar year pursuant to paragraph (e)
845 if the amount of such substituted accommodations provides more
846 than 10 percent of the total annual use availability in the
847 multisite timeshare plan calculated in 7-day increments in which
848 substitution is permitted. This paragraph shall be interpreted
849 to permit the substitution of an entire component site over a 4-
850 year period.

851 2. If the timeshare instrument provides that the managing
852 entity is the person authorized to make substitutions, and the
853 managing entity is under common ownership or control with the
854 developer, the managing entity may not substitute available
855 accommodations in the multisite timeshare plan in a given
856 calendar year pursuant to paragraph (e) if the amount of such
857 substituted accommodations provides more than 10 percent of the
858 total annual use availability in the multisite timeshare plan

859 | calculated in 7-day increments.

860 | 3. If the timeshare instrument provides that the managing
 861 | entity is the person authorized to make substitutions, and the
 862 | managing entity is not under common ownership or control with
 863 | the developer, the managing entity may not substitute available
 864 | accommodations in the multisite timeshare plan in a given
 865 | calendar year pursuant to paragraph (e) if the amount of such
 866 | substituted accommodations provides more than 25 percent of the
 867 | total annual use availability in the multisite timeshare plan
 868 | calculated in 7-day increments.

869 | 4. If the person authorized to make substitutions
 870 | receives, within 21 days after the date of the notice of
 871 | substitution required by paragraph (e), a written objection to
 872 | the proposed substitution from at least 10 percent of all
 873 | purchasers in the multisite timeshare plan, a meeting of the
 874 | purchasers must be conducted by the managing entity within 30
 875 | days after the end of such 21-day period. The proposed
 876 | substitution is ratified unless it is rejected by a majority of
 877 | purchasers voting in person or by proxy at the meeting, provided
 878 | that at least 25 percent of all purchasers cast votes. This
 879 | subparagraph does not apply if the timeshare instrument provides
 880 | that purchasers do not have the right to consent to any proposed
 881 | substitutions.

882 | 5. This paragraph does not apply if the proposed
 883 | substitution is approved in advance pursuant to paragraph (f).

884 | (e) The person authorized to make substitutions shall

885 | notify all purchasers of the multisite timeshare plan in writing
 886 | of her or his intention to delete accommodations or facilities
 887 | ~~at a given component site~~ and to substitute them with other
 888 | specified accommodations or facilities pursuant to this
 889 | subsection. This notice must be given at least 6 months in
 890 | advance of the date that the proposed substitution will occur;
 891 | must state the last day after the end of the 6-month period on
 892 | which reservations will be accepted from purchasers for use of
 893 | the accommodations to be deleted; and must state that purchasers
 894 | shall have 21 days after the date of the notice of substitution
 895 | to file a written objection with the person authorized to make
 896 | substitutions, ~~and the notice must inform the purchasers that~~
 897 | ~~they may reserve the use of the accommodations to be deleted~~
 898 | ~~during this 6-month period. At the end of the 6-month period,~~
 899 | The person authorized to make substitutions may delete
 900 | accommodations for substitution only after such accommodations
 901 | have no pending purchaser use reservations ~~to the extent that~~
 902 | ~~they were not reserved during the 6-month period.~~

903 | (f) The person authorized to make substitutions may make
 904 | unlimited substitutions ~~If the managing entity of a multisite~~
 905 | ~~timeshare plan includes an owners' association composed of all~~
 906 | ~~purchasers or a corporation which owns or controls the~~
 907 | ~~accommodations and facilities of the plan, the board of~~
 908 | ~~administration of either of which is comprised of a majority of~~
 909 | ~~board members elected by purchasers other than the developer,~~
 910 | ~~and if such managing entity has the right to make substitutions~~

911 ~~pursuant to the timeshare instrument, all of the available~~
 912 ~~accommodations at a given component site may undergo~~
 913 ~~substitution~~ in a given year without compliance with paragraphs
 914 (d) and (e) if a proposed a written plan of substitution is
 915 provided to each purchaser has been approved in advance by a
 916 majority of purchasers of the multisite timeshare plan voting in
 917 person or by proxy at a meeting called for that purpose,
 918 provided that at least 25 percent of the total number of
 919 purchasers cast votes of the board of administration and by a
 920 majority of all purchasers in the plan. The plan of substitution
 921 ~~must:~~

922 ~~1. Specifically identify the component site being replaced~~
 923 ~~and the proposed substitute component site.~~

924 ~~2. Contain information regarding prior demand for~~
 925 ~~purchaser use of the component site being replaced.~~

926 ~~3. Provide the results of a survey of purchaser attitudes~~
 927 ~~regarding the component site being replaced and the proposed~~
 928 ~~substitute component site.~~

929 ~~4. Explain the practical and business reasons for~~
 930 ~~effecting a total substitution within the given calendar year.~~

931 ~~5. Provide a plan for handling reservation requests during~~
 932 ~~the substitution period for both the component site being~~
 933 ~~replaced and the proposed substitute component site.~~

934
 935 Substitutions made pursuant to this paragraph shall not be
 936 subject to the provisions of subparagraph (b)2.

937 (g) If the person authorized to make substitutions has
 938 fully complied with the applicable provisions of this subsection
 939 and the timeshare instrument, the trustee of a timeshare trust
 940 qualified under s. 721.53(1)(e) may convey title to any
 941 accommodations and facilities that have been designated or
 942 approved for substitution as and when directed by the person
 943 authorized to make substitutions without any further vote or
 944 other authorization of the purchasers of the multisite timeshare
 945 plan.

946 (h)~~(g)~~ The person who is authorized by the timeshare
 947 instrument to make substitutions to the multisite timeshare plan
 948 pursuant to this subsection shall act as a fiduciary in such
 949 capacity in the best interests of the purchasers of the plan as
 950 a whole and shall adhere to the demand balancing standard set
 951 forth in s. 721.56(6) in connection with such substitutions.
 952 Substitutions that are otherwise permitted may be made only so
 953 long as a one-to-one use right to use night requirement ratio is
 954 maintained at all times.

955 (3) DELETIONS.—

956 (c) Automatic deletion.—The timeshare instrument may
 957 provide that a component site will be automatically deleted upon
 958 the expiration of its term ~~in a timeshare plan other than a~~
 959 ~~nonspecific multisite timeshare plan~~ or as otherwise provided in
 960 the timeshare instrument. However, the timeshare instrument must
 961 also provide that in the event a component site is deleted from
 962 the plan in this manner, a sufficient number of purchasers of

963 | the plan will also be deleted, or a sufficient number of
 964 | replacement accommodations and facilities that comply with
 965 | subparagraph (2)(b)2. will be substituted for the deleted
 966 | accommodations and facilities, so as to maintain no greater than
 967 | a one-to-one use right to use night requirement ratio.

968 | Section 13. Subsection (5) of section 721.56, Florida
 969 | Statutes, is amended to read:

970 | 721.56 Management of multisite timeshare plans;
 971 | reservation systems; demand balancing.-

972 | ~~(5)(a)1. The reservation system is a facility of any~~
 973 | ~~nonspecific multisite timeshare plan. The reservation system is~~
 974 | ~~not a facility of any specific multisite timeshare plan, nor is~~
 975 | ~~it a facility of any multisite timeshare plan in which timeshare~~
 976 | ~~estates are offered pursuant to s. 721.57.~~

977 | ~~2. The reservation system of any multisite timeshare plan~~
 978 | ~~shall include any computer software and hardware employed for~~
 979 | ~~the purpose of enabling or facilitating the operation of the~~
 980 | ~~reservation system.~~ Nothing contained in this part shall
 981 | preclude a manager or management firm that is serving as
 982 | managing entity of a multisite timeshare plan from providing in
 983 | its contract with the purchasers or owners' association of the
 984 | multisite timeshare plan or in the timeshare instrument that the
 985 | manager or management firm owns the reservation system and that
 986 | the managing entity shall continue to own the reservation system
 987 | in the event the purchasers discharge the managing entity
 988 | pursuant to s. 721.14.

989 ~~(b) In the event of a termination of a managing entity of~~
 990 ~~a nonspecific multisite timeshare plan, which managing entity~~
 991 ~~owns the reservation system, irrespective of whether the~~
 992 ~~termination is voluntary or involuntary and irrespective of the~~
 993 ~~cause of such termination, in addition to any other remedies~~
 994 ~~available to purchasers in this part, the terminated managing~~
 995 ~~entity shall, prior to such termination, establish a trust~~
 996 ~~meeting the criteria set forth in this paragraph. It is the~~
 997 ~~intent of the Legislature that this trust arrangement provide~~
 998 ~~for an adequate period of continued operation of the reservation~~
 999 ~~system of the multisite timeshare plan, during which period the~~
 1000 ~~new managing entity shall make provision for the acquisition of~~
 1001 ~~a substitute reservation system.~~

1002 ~~1. The trust shall be established with an independent~~
 1003 ~~trustee. Both the terminated managing entity and the new~~
 1004 ~~managing entity shall attempt to agree on an acceptable trustee.~~
 1005 ~~In the event they cannot agree on an acceptable trustee, they~~
 1006 ~~shall each designate a nominee, and the two nominees shall~~
 1007 ~~select the trustee.~~

1008 ~~2. The terminated managing entity shall take all steps~~
 1009 ~~necessary to enable the trustee or the trustee's designee to~~
 1010 ~~operate the reservation system in the same manner as provided in~~
 1011 ~~the timeshare instrument and the public offering statement. The~~
 1012 ~~trustee may, but shall not be required to, contract with the~~
 1013 ~~terminated managing entity for the continued operation of the~~
 1014 ~~reservation system. In the event the trustee elects to contract~~

1015 ~~with the terminated managing entity, that managing entity shall~~
 1016 ~~be required to operate the reservation system and shall be~~
 1017 ~~entitled to payment for that service. The payment shall in no~~
 1018 ~~event exceed the amount previously paid to the terminated~~
 1019 ~~managing entity for operation of the reservation system.~~

1020 ~~3. The trust shall remain in effect for a period of no~~
 1021 ~~longer than 1 year following the date of termination of the~~
 1022 ~~managing entity.~~

1023 ~~4. Nothing contained in this subsection shall abrogate or~~
 1024 ~~otherwise interfere with any proprietary rights in the~~
 1025 ~~reservation system that have been reserved by the discharged~~
 1026 ~~managing entity, in its management contract or otherwise, so~~
 1027 ~~long as such proprietary rights are not asserted in a manner~~
 1028 ~~that would prevent the continued operation of the reservation~~
 1029 ~~system as contemplated in this subsection.~~

1030 ~~(c) In the event of a termination of a managing entity of~~
 1031 ~~a timeshare estate or specific multisite timeshare plan, which~~
 1032 ~~managing entity owns the reservation system, irrespective of~~
 1033 ~~whether the termination is voluntary or involuntary and~~
 1034 ~~irrespective of the cause of such termination, in addition to~~
 1035 ~~any other remedies available to purchasers in this part, the~~
 1036 ~~terminated managing entity shall, prior to such termination,~~
 1037 ~~promptly transfer to each component site managing entity all~~
 1038 ~~relevant data contained in the reservation system with respect~~
 1039 ~~to that component site, including, but not limited to:~~

1040 ~~1. The names, addresses, and reservation status of~~

1041 ~~component site accommodations.~~
 1042 ~~2. The names and addresses of all purchasers of timeshare~~
 1043 ~~interests at that component site.~~
 1044 ~~3. All outstanding confirmed reservations and reservation~~
 1045 ~~requests for that component site.~~
 1046 ~~4. Such other component site records and information as~~
 1047 ~~are necessary, in the reasonable discretion of the component~~
 1048 ~~site managing entity, to permit the uninterrupted operation and~~
 1049 ~~administration of the component site, provided that a given~~
 1050 ~~component site managing entity shall not be entitled to any~~
 1051 ~~information regarding other component sites or regarding the~~
 1052 ~~terminated multisite timeshare plan managing entity.~~
 1053
 1054 ~~All reasonable costs incurred by the terminated managing entity~~
 1055 ~~in effecting the transfer of information required by this~~
 1056 ~~paragraph shall be reimbursed to the terminated managing entity~~
 1057 ~~on a pro rata basis by each component site, and the amount of~~
 1058 ~~such reimbursement shall constitute a common expense of each~~
 1059 ~~component site.~~
 1060 Section 14. Section 721.57, Florida Statutes, is amended
 1061 to read:
 1062 721.57 Offering of timeshare estates in specific multisite
 1063 timeshare plans; required provisions in the timeshare
 1064 instrument.-
 1065 (1) In addition to meeting all the requirements of part I,
 1066 timeshare estates offered in a specific multisite timeshare plan

1067 must meet the requirements of subsection (2). Any offering of
 1068 timeshare estates in a specific multisite timeshare plan that
 1069 does not comply with these requirements shall be deemed to be an
 1070 offering of a timeshare license.

1071 (2) The timeshare instrument of a specific multisite
 1072 timeshare plan in which timeshare estates are offered, ~~other~~
 1073 ~~than a trust meeting the requirements of s. 721.08,~~ must contain
 1074 or provide for all of the following matters:

1075 (a) The purchaser will receive a timeshare estate as
 1076 defined in s. 721.05 in one of the component sites of the
 1077 specific multisite timeshare plan. The use rights in the other
 1078 component sites of the multisite timeshare plan shall be made
 1079 available to the purchaser through the reservation system
 1080 pursuant to the timeshare instrument.

1081 (b) In the event that the reservation system is terminated
 1082 or otherwise becomes unavailable for any reason prior to the
 1083 expiration of the term of the specific multisite timeshare plan:

1084 1. The purchaser will be able to continue to use the
 1085 accommodations and facilities of the component site in which she
 1086 or he has been conveyed a timeshare estate in the manner
 1087 described in the timeshare instrument for that component site
 1088 for the remaining term of the timeshare estate; and

1089 2. Any use rights in that component site which had
 1090 previously been made available through the reservation system to
 1091 purchasers of the specific multisite timeshare plan who were not
 1092 offered a timeshare estate at that component site will terminate

1093 when the reservation system is terminated or otherwise becomes
 1094 unavailable for any reason.

1095 Section 15. Section 721.58, Florida Statutes, is amended
 1096 to read:

1097 721.58 Filing fee, ~~annual fee.~~

1098 ~~(1)~~ The developer of the multisite timeshare plan shall
 1099 pay the filing fee required by s. 721.07(4)(a); however, the
 1100 maximum amount of such filing fee shall be \$25,000 or the total
 1101 filing fee due with respect to the timeshare units in the
 1102 multisite timeshare plan that are located in this state pursuant
 1103 to s. 721.07(4)(a), whichever is greater.

1104 ~~(2) The managing entity of the multisite timeshare plan~~
 1105 ~~shall pay the annual fee required by s. 721.27; provided,~~
 1106 ~~however, that the maximum amount of such annual fee shall be~~
 1107 ~~\$25,000 or the total annual fee due with respect to the~~
 1108 ~~timeshare units in the multisite timeshare plan that are located~~
 1109 ~~in this state calculated pursuant to s. 721.07(4)(a), whichever~~
 1110 ~~is greater.~~

1111 Section 16. This act shall take effect July 1, 2015.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
 2 Appropriations Subcommittee
 3 Representative Eisnaugle offered the following:

Amendment (with title amendment)

Remove lines 553-568

T I T L E A M E N D M E N T

Remove lines 19-20 and insert:

reimbursed as a common expense;

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
2 Appropriations Subcommittee
3 Representative Eisnaugle offered the following:

Amendment (with title amendment)

Remove lines 1095-1110

T I T L E A M E N D M E N T

Remove lines 44-46 and insert:
multistate timeshare plans; providing an

27 | references thereto; reenacting s. 658.12(4), F.S., to
 28 | incorporate the amendment made to s. 660.33, F.S., in
 29 | references thereto; providing an effective date.

30 |

31 | Be It Enacted by the Legislature of the State of Florida:

32 |

33 | Section 1. Paragraph (q) of subsection (1) of section
 34 | 655.005, Florida Statutes, is amended to read:

35 | 655.005 Definitions.—

36 | (1) As used in the financial institutions codes, unless
 37 | the context otherwise requires, the term:

38 | (q) "Main office" or "principal office" of a financial
 39 | institution means the main business office designated in its
 40 | articles of incorporation or bylaws, or redesignated in a
 41 | relocation application filed with the office, at an identified
 42 | location approved by the office in the case of a state financial
 43 | institution, or by the appropriate federal regulatory agency in
 44 | the case of a federal financial institution. With respect to the
 45 | trust department of a bank or association that has trust powers,
 46 | the terms mean the office or place of business of the trust
 47 | department at an identified location, which need not be the same
 48 | location as the main office of the bank or association, approved
 49 | by the office in the case of a state bank or association, or by
 50 | the appropriate federal regulatory agency in the case of a
 51 | national bank or federal association. The "main office" or
 52 | "principal office" of a trust company means the office

53 designated or provided for in its articles of incorporation, at
 54 an identified location as approved by the relevant chartering
 55 authority.

56 Section 2. Subsection (2) of section 655.047, Florida
 57 Statutes, is amended to read:

58 655.047 Assessments; financial institutions.—

59 (2) If mailed, the ~~mailing of a~~ semiannual assessment must
 60 be received by the office postmarked on or before January 31 and
 61 July 31 of each year. If transmitted through a wire transfer, an
 62 automated clearinghouse, or other electronic means approved by
 63 the office, the semiannual assessment must be transmitted to the
 64 office on or before January 31 and July 31 of each year. The
 65 office may levy a late payment penalty of up to \$100 per day or
 66 part thereof that a semiannual assessment payment is overdue,
 67 unless it is excused for good cause. However, for intentional
 68 late payment of a semiannual assessment, the office shall levy
 69 an administrative fine of up to \$1,000 a day for each day the
 70 semiannual assessment is overdue.

71 Section 3. Subsection (1) of section 655.60, Florida
 72 Statutes, is amended to read:

73 655.60 Appraisals.—

74 (1) The office is authorized to cause appraisals to be
 75 made ~~appraisals~~ of real estate or other property held by a ~~any~~
 76 state financial institution, subsidiary, or service corporation
 77 or securing the assets of the state financial institution,
 78 subsidiary, or service corporation if ~~when~~ specific facts or

79 information with respect to real estate or other property held,
 80 secured loans, or lending, or when in its opinion the state
 81 financial institution's policies, practices, operating results,
 82 and trends give evidence that the state financial institution's
 83 appraisals or evaluations of ability to make payments may be
 84 excessive, that lending or investment may be of a marginal
 85 nature, that appraisal policies and loan practices may not
 86 conform with generally accepted and established professional
 87 standards, or that real estate or other property held by the
 88 state financial institution, subsidiary, or service corporation
 89 or assets secured by real estate or other property are
 90 overvalued. In lieu of causing such appraisals to be made, the
 91 office may accept any appraisal caused to be made by an
 92 appropriate state or federal regulatory agency or other insuring
 93 agency or corporation of a state financial institution. Unless
 94 otherwise ordered by the office, an appraisal of real estate or
 95 other property pursuant to this section must be made by a
 96 licensed or certified appraiser ~~or appraisers selected by the~~
 97 ~~office, and the cost of such appraisal shall be paid promptly by~~
 98 ~~such state financial institution, subsidiary, or service~~
 99 ~~corporation directly to such appraiser or appraisers upon~~
 100 ~~receipt by the state financial institution of a statement of~~
 101 ~~such cost bearing the written approval of the office.~~ A copy of
 102 the report of each appraisal caused to be made by the office
 103 pursuant to this section shall be furnished to the state
 104 financial institution, subsidiary, or service corporation within

105 a reasonable time, not exceeding 60 days, following the
 106 completion of the ~~such~~ appraisal and may be furnished to the
 107 insuring agency or corporation or federal or state regulatory
 108 agency.

109 Section 4. Paragraph (f) of subsection (1) of section
 110 658.19, Florida Statutes, is amended to read:

111 658.19 Application for authority to organize a bank or
 112 trust company.—

113 (1) A written application for authority to organize a
 114 banking corporation or a trust company shall be filed with the
 115 office by the proposed directors and shall include:

116 (f) Such detailed financial, business, and biographical
 117 information as the commission or office may reasonably require
 118 for each proposed director, ~~president, chief~~ executive officer
 119 ~~(if other than the president)~~, and, if applicable, trust officer
 120 ~~(if applicable)~~.

121 Section 5. Subsection (1) of section 660.33, Florida
 122 Statutes, is amended to read:

123 660.33 Trust service offices.—

124 (1) In addition to its principal office and any branch
 125 trust company authorized under s. 658.26 ~~s. 660.32~~, a trust
 126 company or a trust department with its principal place of doing
 127 business in this state may maintain one or more trust service
 128 offices at the location of any bank, association, or credit
 129 union that ~~which~~ is organized under the laws of this state or
 130 under the laws of the United States with its principal place of

131 | doing business in this state. However, a trust service office
 132 | may be established only after the trust company or ~~the~~ trust
 133 | department has secured the consent of a majority of the
 134 | stockholders or members entitled to vote on such proposal at a
 135 | meeting of stockholders or members, and of a majority of the
 136 | board of directors, of the bank, association, or credit union at
 137 | which a trust service office is proposed to be maintained, and
 138 | after a certificate of authorization has been issued to the
 139 | trust company or ~~the~~ trust department by the office.

140 | Section 6. Section 663.08, Florida Statutes, is amended to
 141 | read:

142 | 663.08 Certification of capital accounts.—Before opening
 143 | an office in this state, and annually thereafter so long as a
 144 | bank office is maintained in this state, an international
 145 | banking corporation licensed pursuant to ss. 663.01-663.14 shall
 146 | certify to the office the amount of its capital accounts,
 147 | expressed in the currency of the jurisdiction of its
 148 | incorporation. The dollar equivalent of these amounts, as
 149 | determined by the office, shall be deemed to be the amount of
 150 | its capital accounts. The annual certification of capital
 151 | accounts must be received by the office on or before June 30 of
 152 | each year.

153 | Section 7. For the purpose of incorporating the amendment
 154 | made by this act to section 655.005, Florida Statutes, in a
 155 | reference thereto, subsection (8) of section 655.960, Florida
 156 | Statutes, is reenacted to read:

157 655.960 Definitions; ss. 655.960-655.965.—As used in this
 158 section and ss. 655.961-655.965, unless the context otherwise
 159 requires:

160 (8) "Financial institution office" means a main office or
 161 principal office, as defined in s. 655.005, and a branch or
 162 branch office as defined in s. 658.12(4).

163 Section 8. For the purpose of incorporating the amendment
 164 made by this act to section 655.005, Florida Statutes, in a
 165 reference thereto, paragraph (a) of subsection (1) of section
 166 663.302, Florida Statutes, is reenacted to read:

167 663.302 Applicability of state banking laws.—

168 (1)(a) International development banks shall be subject to
 169 the following provisions of chapter 655 as though such
 170 international development banks were state banks:

- 171 1. Section 655.005, relating to definitions.
- 172 2. Section 655.012, relating to general supervisory powers
 173 of the office.
- 174 3. Section 655.016, relating to liability.
- 175 4. Section 655.031, relating to administrative enforcement
 176 guidelines.
- 177 5. Section 655.032, relating to investigations; etc.
- 178 6. Section 655.0321, relating to hearings and proceedings.
- 179 7. Section 655.033, relating to cease and desist orders.
- 180 8. Section 655.034, relating to injunctions.
- 181 9. Section 655.037, relating to removal of financial
 182 institution-affiliated party.

183 | 10. Section 655.041, relating to administrative fines.

184 | 11. Section 655.043, relating to articles of
185 | incorporation.

186 | 12. Section 655.044, relating to accounting practices.

187 | 13. Section 655.045, relating to examinations, reports,
188 | and internal audits.

189 | 14. Section 655.049, relating to deposit of fees and
190 | assessments.

191 | 15. Section 655.057, relating to records.

192 | 16. Section 655.071, relating to international banking
193 | facilities.

194 | 17. Section 655.50, relating to reports of transactions
195 | involving currency.

196 | Section 9. For the purpose of incorporating the amendment
197 | made by this act to section 658.19, Florida Statutes, in a
198 | reference thereto, subsection (1) of section 658.165, Florida
199 | Statutes, is reenacted to read:

200 | 658.165 Banker's banks; formation; applicability of
201 | financial institutions codes; exceptions.—

202 | (1) If authorized by the office, a corporation may be
203 | formed under the laws of this state for the purpose of becoming
204 | a banker's bank. An application for authority to organize a
205 | banker's bank is subject to ss. 658.19, 658.20, and 658.21,
206 | except that s. 658.20(1)(b) and (c) and the minimum stock
207 | ownership requirements for the organizing directors provided in
208 | s. 658.21(2) do not apply.

209 Section 10. For the purpose of incorporating the amendment
 210 made by this act to section 658.19, Florida Statutes, in a
 211 reference thereto, subsection (3) of section 665.013, Florida
 212 Statutes, is reenacted to read:

213 665.013 Applicability of chapter 658.—The following
 214 sections of chapter 658, relating to banks and trust companies,
 215 are applicable to an association to the same extent as if the
 216 association were a "bank" operating thereunder:

217 (3) Section 658.19, relating to application for authority
 218 to organize a bank or trust company.

219 Section 11. For the purpose of incorporating the amendment
 220 made by this act to section 658.19, Florida Statutes, in a
 221 reference thereto, subsection (3) of section 667.003, Florida
 222 Statutes, is reenacted to read:

223 667.003 Applicability of chapter 658.—Any state savings
 224 bank is subject to all the provisions, and entitled to all the
 225 privileges, of the financial institutions codes except where it
 226 appears, from the context or otherwise, that such provisions
 227 clearly apply only to banks or trust companies organized under
 228 the laws of this state or the United States. Without limiting
 229 the foregoing general provisions, it is the intent of the
 230 Legislature that the following provisions apply to a savings
 231 bank to the same extent as if the savings bank were a "bank"
 232 operating under such provisions:

233 (3) Section 658.19, relating to application for authority
 234 to organize a bank or trust company.

235 Section 12. For the purpose of incorporating the amendment
 236 made by this act to section 660.33, Florida Statutes, in a
 237 references thereto, subsection (4) of section 658.12, Florida
 238 Statutes, is reenacted to read:

239 658.12 Definitions.—Subject to other definitions contained
 240 in the financial institutions codes and unless the context
 241 otherwise requires:

242 (4) "Branch" or "branch office" of a bank means any office
 243 or place of business of a bank, other than its main office and
 244 the facilities and operations authorized by ss. 658.26(4) and
 245 660.33, at which deposits are received, checks are paid, or
 246 money is lent. With respect to a bank that has a trust
 247 department, the terms have the meanings herein ascribed to a
 248 branch or a branch office of a trust company and mean any office
 249 or place of business of a trust company, other than its main
 250 office and its trust service offices established pursuant to s.
 251 660.33, where trust business is transacted with its customers.

252 Section 13. This act shall take effect October 1, 2015.



Legislative Committee Overview

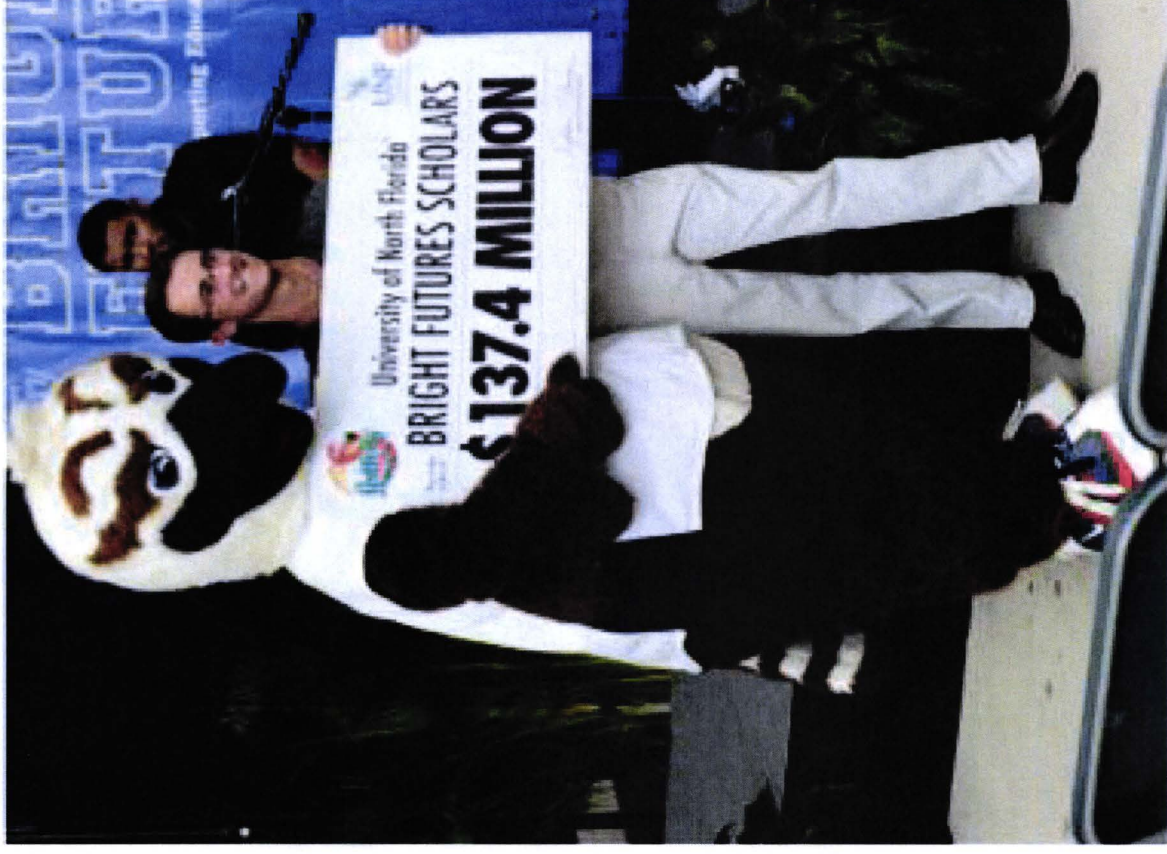
Secretary Cynthia O'Connell

Purpose

“... to operate the state lottery...so as to maximize revenues [for the Educational Enhancement Trust Fund] in a manner consistent with the dignity of the state and the welfare of its citizens.”

Intent

“That the lottery games be operated by a department of state government that functions as much as possible in the manner of an entrepreneurial business enterprise.”



The Florida Lottery is a dependable source of revenue for public education and an economic engine for the state.

Since 1988, over \$27 billion has been transferred to the Educational Enhancement Trust Fund (EETF) funding new school construction and providing more than 700,000 Bright Futures scholarships.

Lottery sales also directly benefit the Florida economy by way of prize payouts to players, commissions and bonuses to retailers, marketing reinvestment and stronger relationships with local businesses of all sizes.



How Each Lottery Dollar is Spent

Ticket Vendor Fees: 1 cent

Prizes: 64 cents

Over \$44.8 billion in prize payouts to date

Education: 28 cents

Over \$27 billion to Florida students and schools life to date



Operations: 1 cent

Includes advertising, staff and all office operations as of 6/30/2014

Retailer Commissions 6 cents

Over \$4.4 billion to Florida businesses life to date

FY2011 - FY2015 Performance

- Three consecutive fiscal year sales records, representing 38% growth and approximately \$1.5 billion in incremental sales
- Surpassed \$27 billion in total transfers to the Educational Enhancement Trust Fund (EETF)
- Surpassed 700,000 Bright Futures scholarships funded since the program began
- Successfully positioned/rebranded Florida Lottery to align with mission and modernize the “face” to players
- Strengthened ties to education
- Outperformed peer lotteries in sales growth and operational efficiency
- Met or exceeded internal and Revenue Estimating Conference (REC) revenue and EETF transfer goals
- Operated efficiently, increasing sales and contributions on a relatively flat marketing budget
- Worked with the highest level of integrity and security possible



FY2011 v FY2014 Performance Comparison

	FY2010-FY2011		FY2013-FY2014		3-Year +/-
	Dept. Goal	Actual	Dept. Goal	Actual	
Sales	\$3.97B	\$4.00B	\$5.25B	\$5.36B	+34%
EETF Transfers	\$1.16B	\$1.19B	\$1.44B	\$1.49B	+25%
Admin Costs	6.2%	4.2%	< 5%	3.53%	-16%
Admin Positions	—	13.7%	< 12%	11.91%	-13%

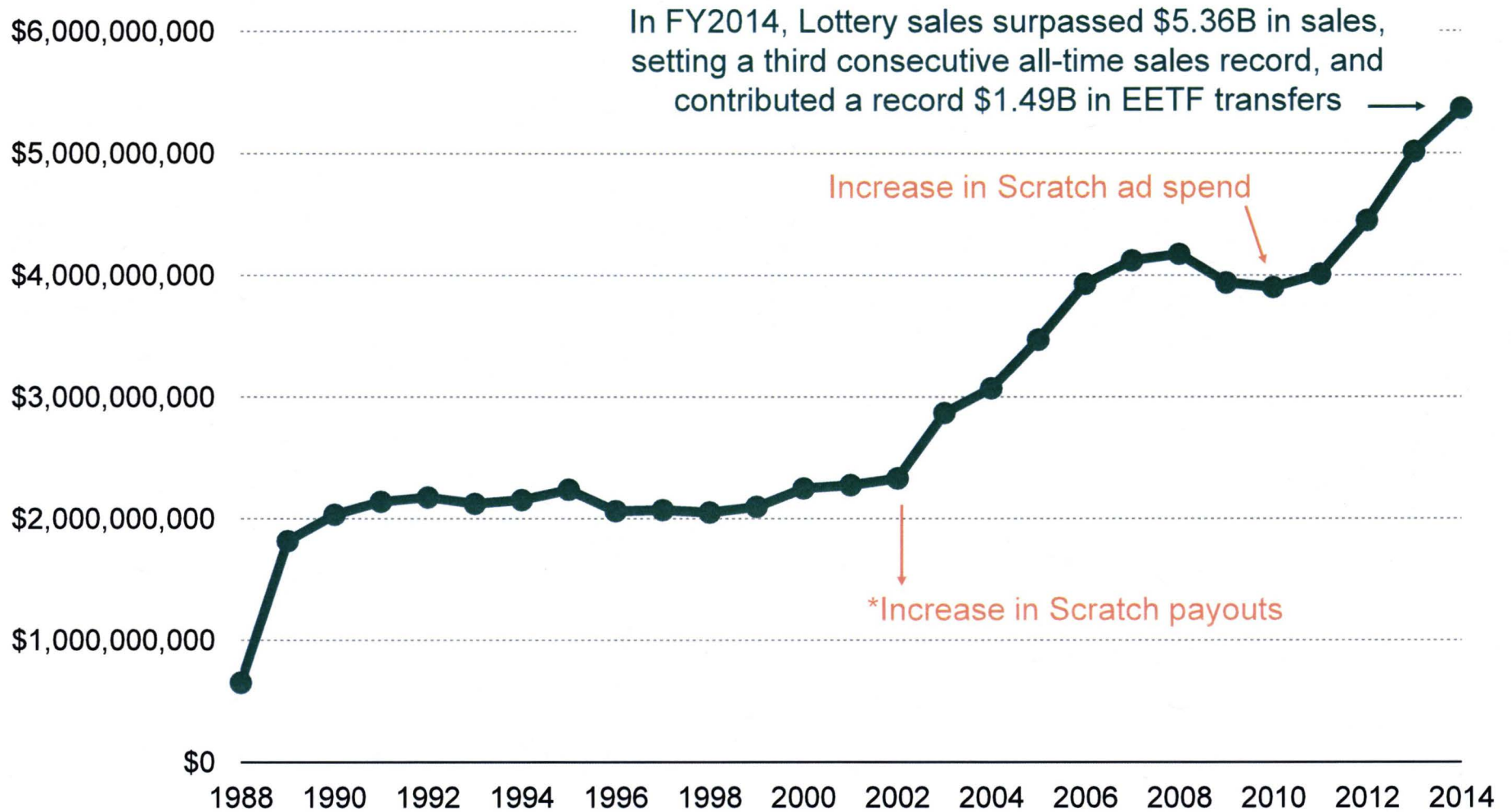
Source: Dept. of Lottery Long Range Program Plan (LRPP) - Admin Costs are comprised of Staff, office costs, equipment leases, OCO costs, and Gaming System Vendor expenses.



SALES PERFORMANCE



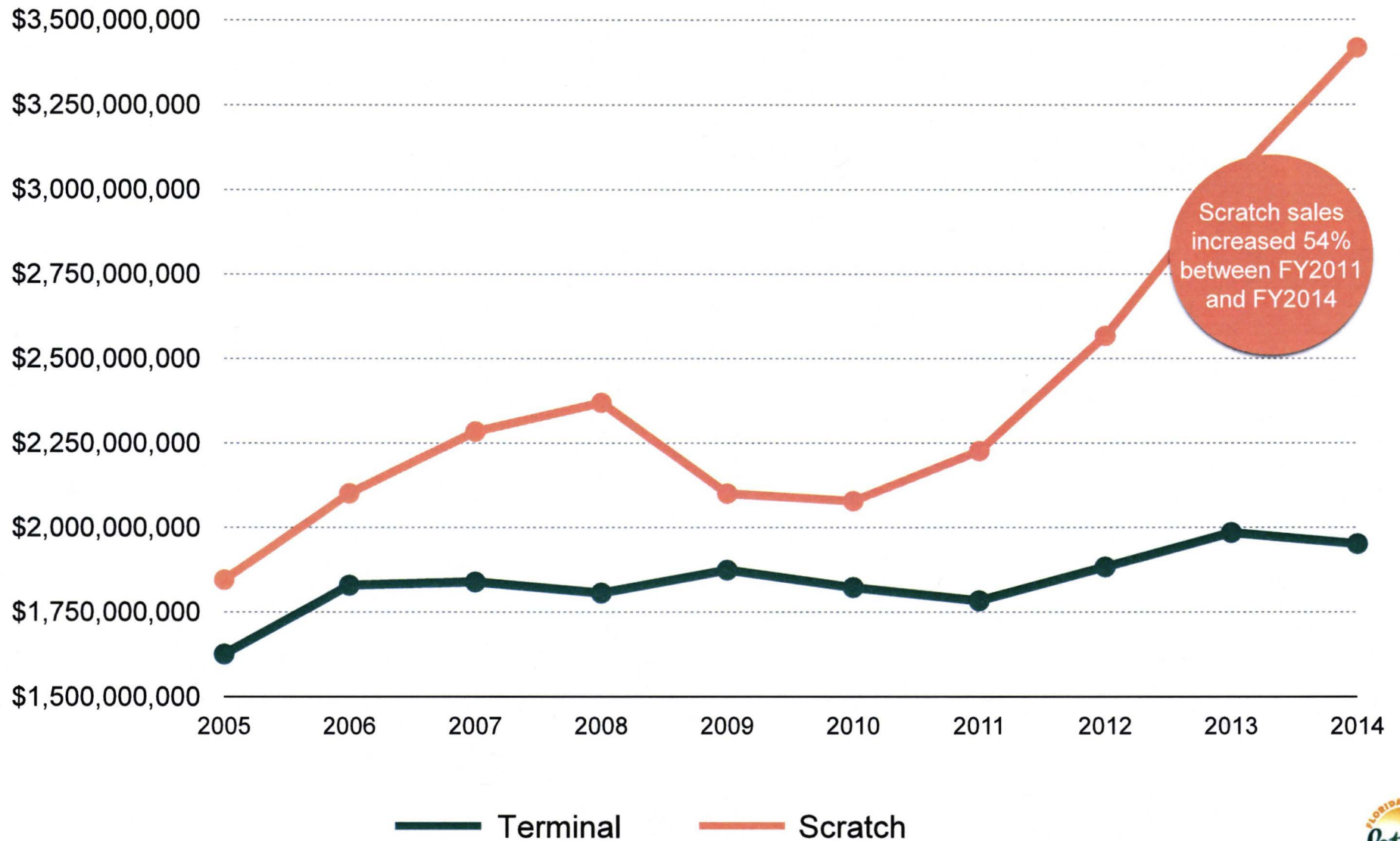
FY1988-FY2014 Sales Trend



*In 2002 the Legislature granted the Department variable prize payout authority for "Scratch -Off products for the purpose of increasing the Lottery's annual scratch sales.



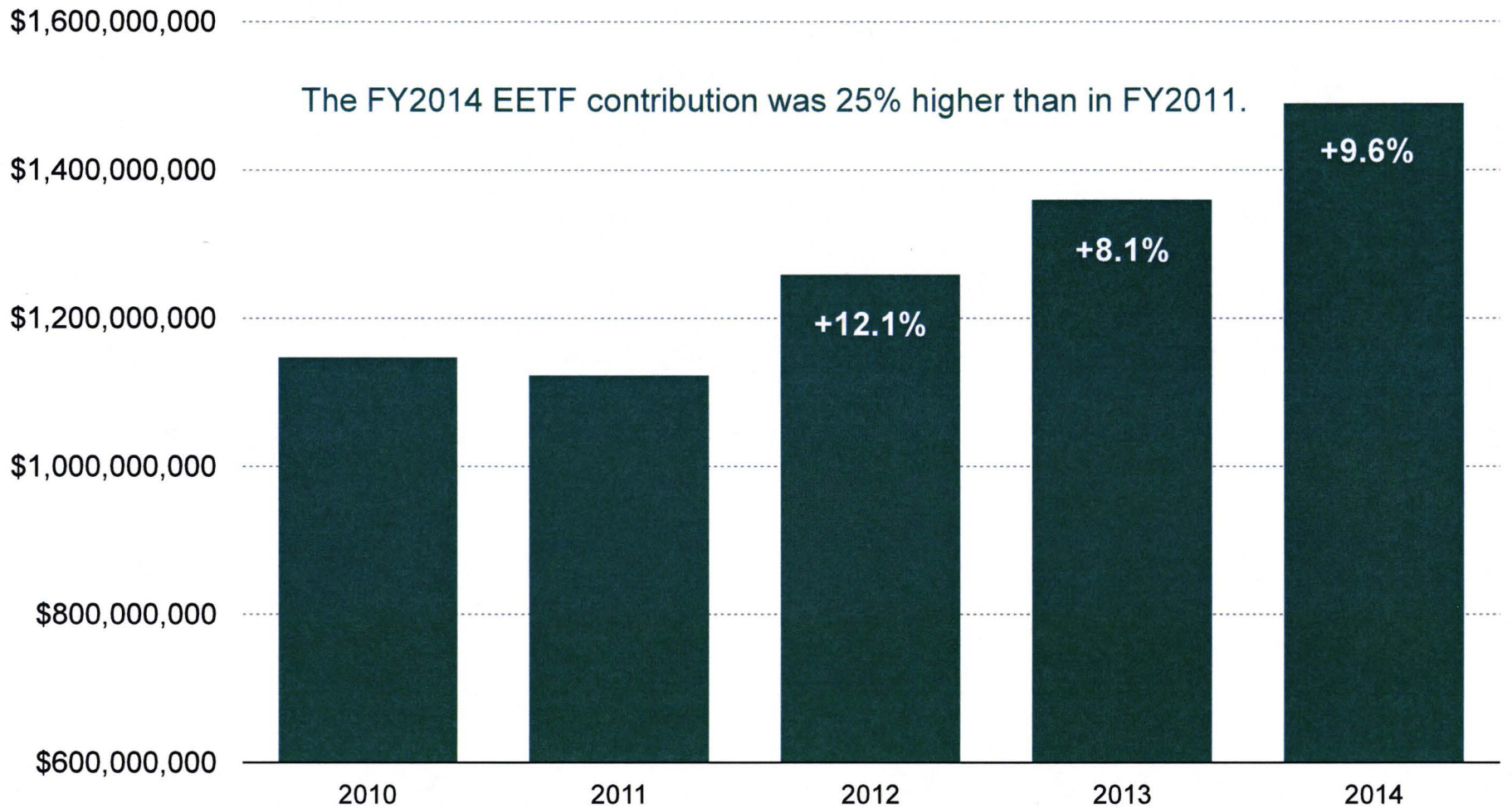
FY2005-FY2014 Sales, Terminal v. Scratch



EDUCATION TRANSFERS



FY2010 - FY2014 EETF Transfers



EETF Transfers v. Other States

	FY14 Government Revenues (millions)
New York*	\$3,173
Florida	\$1,490
California	\$1,357
Texas	\$1,220
Pennsylvania	\$1,081
Massachusetts	\$ 971
New Jersey	\$ 950
Georgia	\$ 940
Ohio*	\$ 904
Michigan	\$ 763

Source: 2014 LaFlur's Lottery Data

*Data for New York and Ohio include revenues generated from the operation of Video Lottery Terminals (VLT's) as well as traditional Lottery games



ADVERTISING SPEND



Business Cycle



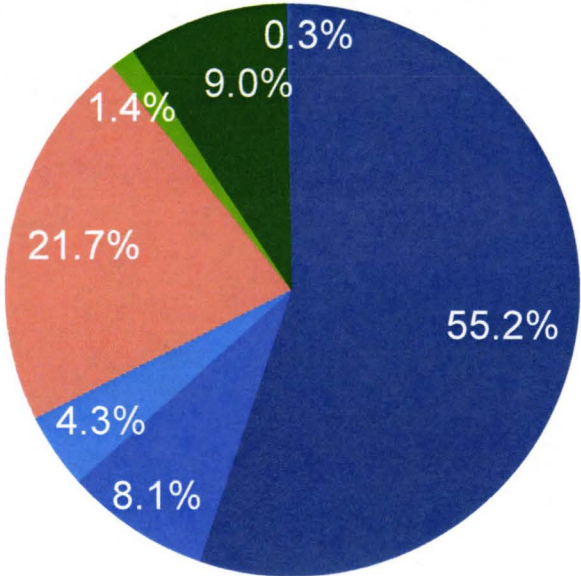
The Role of Advertising

Advertising is one, albeit a very important, factor that drives sales.

While the appeal and quality of our products, jackpots, sales and merchandising efforts, economic conditions and others all contribute to the success of the Florida Lottery, advertising is a crucial component to maximizing sales and contributions to the EETF.



FY2015 Ad Spending by Medium



TV	\$12,717,503
Radio	\$ 1,875,410
Traffic	\$ 985,749
*Out of Home (OOH)	\$ 4,994,089
*OOH Other	\$ 328,780
Digital/On-Line	\$ 2,074,810
Print	\$ 66,247

■ TV ■ Radio ■ Traffic ■ OOH ■ OOH Other ■ Digital ■ Print

*Out of Home (OOH) media is comprised mostly of Billboards. OOH other would include printed posters/signage displayed in public areas.



ADVERTISING EFFICIENCY & EFFECTIVENESS



Ad Efficiency v. Other States

	Ad Budget as % of Sales
Florida	.70%
Texas	.80%
Ohio	.90%
Pennsylvania	1.00%
New York	1.30%
California	1.30%
Illinois	1.60%

Ad Efficiency v. Other Product Categories

Florida Lottery*	0.75%
Bottled/Canned Soft Drinks	3.60%
Sugar & Confectionary Products	4.10%
Beverages	6.10%
Food & Related Products	13.3%

*As an entertainment brand that competes for consumers' discretionary spending in the retail environment, the Florida Lottery boasts an advertising to sales ratio that is unmatched by other product categories available in the retail environment.

FY 2013 data

Source: Advertising Budgets and Ratios 33rd Edition. Published by Schonfeld & Associates, Inc.



ADVERTISING ALLOCATION



A Wide Range of Games to Support

FLORIDA[®]
LOTTO
with **XTRA**

SCRATCH!
OFFS!

FLORIDA
POWERBALL
POWERPLAY[™]

CASH 3[®]

Lucky
Money
with *ezmatch*

FANTASY 5[™]
with *ezmatch*

Play 4[™]

FLORIDA
OMEGA
MILLIONS[™]
with **MEGAPLIER**[™]

MILLIONAIRE
RAFFLE



What products to advertise?

The Lottery has a comprehensive strategic planning process for advertising decision-making that includes:

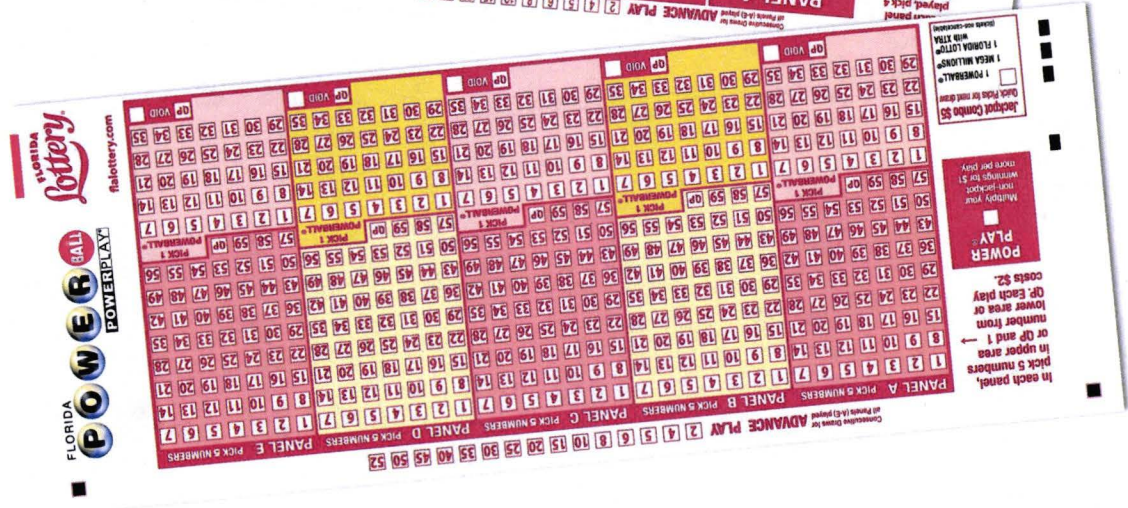
- Developing a product marketing program every fiscal year to enhance education transfers
- Consideration of historic sales data of similar “type” game performance in–state and in other lottery states; review demographic growth opportunities
- A product planning calendar establishes when each new game and product enhancements are going to be introduced in order to achieve established sales goals
- The results of quarterly research online tracking to examine the marketplace performance and public awareness



Rationale - Terminal v. Scratch Advertising

Terminal games are:

- Traditionally more of a planned purchase
- Primarily driven by jackpot amounts, therefore outdoor billboards are a good fit
- Some players have “favorite numbers” they play for weekly or daily drawings



Rationale - Terminal v. Scratch Advertising

Scratch games are supported by media campaigns because they:

- Are typically more of an impulse purchase
- Have specific lifecycle/promotional windows that require advertising to stimulate awareness and trial
- Are greater in number as they can be tailored for different player interests





SUMMARY

Summary

The advertising investment in Instant Product “Scratch-Off” sales is driven by four insights/strategies:

- Increased Scratch Game sales are needed to counter the current player fatigue and potentially the product lifecycle decline of Terminal games such as Powerball
- Advertising is an inherent requirement of the Scratch product category — multiple product launches, retail competition and relatively short lifecycles
- The Scratch product category lends itself to advertising — product names and designs, brand partnerships, etc.
- Scratch products are responsive to advertising

The shift to additional Scratch Game advertising has yielded direct benefits — record sales and record EETF contributions — without undermining support for Terminal games





Questions