

It is important that the Deputy take notice of the provisions under Code Sections 11251 and under certain subdivisions of Article 4, Management and Governance, Code Sections 11265 through 11275, allowing governing and managements documents not to include specific provisions of those Code Sections if the laws of the situs state conflict with those specific provisions. They include Section 11265(Assessment requirements), Section 11267 (Provisions for management agreements), 11272 (Information, including financial statements, to be given to time-share interests owners) and Section 11273 (Records to be made available to time-share interest owners).

Documents for Out-of-State Component Sites

Because out-of-state subdivision requirements do not often include subdivision requirements comparable to the Subdivision Map Act of California, and because the situs state may have limited regulations regarding such subdivisions, the Department may be the only regulatory agency with any subdivision review duties involving some component sites. See *Subdivision Map Act* earlier in this manual for a discussion on out-of-state subdivision maps.

There are out-of-state jurisdictions that do not have title systems similar to that of California. In those cases, preliminary title reports comparable to California's title report may not be available. Another form of title report may be submitted or an attorney's opinion of title may be provided. These "alternative" forms of assurance of title should be examined closely for validity and completeness. If the Deputy is not certain of the validity or the substance of the title document it should be referred to the Legal Section for review.

If the component site is in a foreign country, the title document should be referred to the Legal Section for review. If the language of that country is not English, both the copies of the original documents for the subdivision and English translations of those documents should be provided. These documents might include governing documents and any other documents having to do with the subdivision. The title documents should be referred to the Legal Section for review. If the Deputy is satisfied as to the validity of the English translations, the Deputy may review the documents without the assistance of Legal counsel. If the Deputy has any questions regarding the validity or meaning of the documents, those questions should be referred to the Legal Section.

EXCHANGE PROGRAMS – SECTION 11216

Pursuant to Section 11216 an exchange program is not a part of a time-share plan offering and, except as provided in this section and Section 11238, shall not be subject to either the Vacation Timeshare Ownership Act or the regulations of the commissioner. The Developer is required to make specific disclosures about the exchange program as specified in Section 11216.

The Department developed the following exchange program note, as listed in the Timeshare Plan Disclosures (Part 1) – RE622I, which is to be included in Public Reports on all time-share projects that are affiliated with exchange programs:

“This time-share project may be affiliated with one or more exchange programs whereby time-share owners may voluntarily exchange the right to use and occupy accommodations and facilities in this project with accommodations in other projects. Exchange programs are not subject to Department of Real Estate laws and regulations. Therefore, the Department of Real Estate has not evaluated any exchange program(s) included in this offering. There is no guarantee that this project will remain affiliated with any particular exchange program. Since exchange programs are unregulated, the Department recommends prospective purchasers use discretion in evaluating exchange programs offered in conjunction with time-share offerings.”