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HOUSE BILL 2513

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State of Washington                      57th Legislature                      2002 Regular Session

By Representatives Wood, Clements and Conway

Read first time 01/18/2002. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to timeshare interest reservations; adding a new  
2 section to chapter 64.36 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 64.36 RCW  
5 to read as follows:

6            (1) For the purpose of this section, "timeshare interest  
7 reservation" means a revocable right to purchase an interest in a  
8 timeshare for which an effective registration has not been obtained  
9 under this chapter.

10           (2)(a) An effective registration required by RCW 64.36.020,  
11 64.36.030, 64.36.060, and 64.36.140 is not required for any party to  
12 enter into a timeshare interest reservation. However, a promoter  
13 offering a timeshare interest reservation under this section must  
14 complete an effective registration and provide the registered  
15 disclosure document to each prospective purchaser prior to the closing  
16 of any timeshare sale.

17           (b) Any party offering a timeshare interest reservation under this  
18 section must be a promoter, or register as a promoter, and comply with  
19 subsection (3) of this section.

1 (3) Before the registration of a timeshare offering, a promoter may  
2 market and advertise its project and may accept a deposit from a  
3 prospective buyer for a timeshare interest reservation, subject to all  
4 of the requirements under this subsection.

5 (a) Before accepting any timeshare interest reservation, the  
6 promoter shall file an application for promoter registration signed by  
7 the promoter and containing the following information on a form  
8 prescribed by the director:

9 (i) The name, address, and telephone number of the promoter;

10 (ii) The name, address, and telephone number of any real estate  
11 broker retained by the promoter to promote the timeshare interest  
12 reservation program;

13 (iii) The name and address of the escrow company that will hold the  
14 deposits paid by the prospective purchaser of a timeshare interest  
15 reservation and a copy of the escrow agreement between the promoter and  
16 the escrow company;

17 (iv) The name and location of the timeshare property for which  
18 timeshare interest reservations are to be offered;

19 (v) The form to be used for accepting timeshare interest  
20 reservations, subject to approval by the department;

21 (vi) The promoter's balance sheet as of a date within four months  
22 before the filing of this application;

23 (vii) The promoter's statements of income, shareholders' equity,  
24 and material changes in financial position as of the end of the last  
25 fiscal year and the date of the last balance sheet;

26 (viii) A projected budget for the timeshare project for two years  
27 after the offering is being made, including but not limited to sources  
28 of revenue and expenses of construction, development, management,  
29 maintenance, advertising, operating reserves, interest, and any other  
30 necessary reserves;

31 (ix) A statement of the proposed selling costs per unit and the  
32 total proposed selling cost for the project, including sales  
33 commissions;

34 (x) A description of the background of the promoters for the  
35 previous ten years, including information about the business experience  
36 of the promoters and any relevant criminal convictions, civil law  
37 suits, and administrative actions relating to any promotions during  
38 that period;

1 (xi) A statement disclosing any fees in excess of the stated price  
2 per unit to be charged to the purchasers, a description of their  
3 purpose, and the method of calculation;

4 (xii) A statement disclosing when and where the promoter or an  
5 affiliate has previously sold timeshares;

6 (xiii) A statement of any liens, defects, or encumbrances on, or  
7 affecting, the title to the timeshares and if they will be removed  
8 prior to closing the sales of the timeshare interests;

9 (xiv) Any additional information to describe risks that the  
10 director considers appropriate; and

11 (xv) A certified copy of a certificate of good standing from the  
12 secretary of state showing the promoter's current authorization to do  
13 business in the state of Washington.

14 (b) The reservation deposit for a single timeshare interest shall  
15 not exceed twenty percent of the purchase price.

16 (c) Within one business day after a reservation is accepted by the  
17 promoter, the reservation deposit shall be delivered to an escrow or  
18 trust account in a federally insured depository. The account may be  
19 interest bearing at the direction of either the promoter or prospective  
20 buyer. Payment of any account fees and payment of interest moneys  
21 shall be as agreed to between the prospective buyer and promoter. All  
22 reservation deposits shall remain in the account until cancellation or  
23 termination of the timeshare interest reservation or execution of a  
24 purchase agreement.

25 (d) Within thirty calendar days of receipt by the promoter of  
26 acceptance of an effective timeshare registration by the director, or  
27 as the registration is otherwise effective under RCW 64.36.040, the  
28 promoter shall provide the prospective buyer with a copy of the  
29 disclosure documents and a copy of the proposed purchase agreement for  
30 the sale of the timeshare interest.

31 (e) A prospective buyer may cancel a timeshare interest reservation  
32 at any time before the execution of a purchase agreement by delivering  
33 written notice of termination to the promoter as provided in (i) of  
34 this subsection.

35 (f) Within ten business days after a timeshare interest reservation  
36 has been terminated for any reason, the promoter shall refund to the  
37 prospective buyer all reservation deposits made by the prospective  
38 buyer including any interest moneys earned less any account fees agreed  
39 upon, if applicable. The escrow account or trust account agent shall

1 refund to the prospective buyer all reservation deposits made by the  
2 prospective buyer including any interest moneys earned less any account  
3 fees agreed upon, if applicable, and the promoter is not available.  
4 After this refund, neither the prospective buyer nor the promoter has  
5 any obligation to the other arising out of the timeshare interest  
6 reservation.

7 (g) A prospective buyer may not transfer rights under a reservation  
8 without the prior written consent of the promoter. Any purported  
9 transfer without the consent of the promoter is voidable at the sole  
10 discretion of the promoter.

11 (h) If the director denies an application for registration of the  
12 timeshare offering on which timeshare interest reservations were taken,  
13 within ten business days of notification by the director, the promoter  
14 shall notify in writing each prospective buyer who entered into a  
15 timeshare interest reservation agreement. The promoter shall return  
16 any reservation deposits previously taken.

17 (i) Any notice required to be given must be in writing and is  
18 delivered as of: (i) The date the notice is personally delivered or  
19 sent via telecopier; (ii) one day after being sent by overnight courier  
20 service; or (iii) three days after being sent by registered or  
21 certified mail, postage prepaid.

22 (j) All notices required by this section to be given to the  
23 department, the prospective buyer, or the promoter shall be in writing  
24 and either hand delivered or sent by certified mail, return receipt  
25 requested, with postage fully prepaid. Notices sent by mail are  
26 considered delivered on the earlier of actual receipt, as evidenced by  
27 the delivery receipt, or seven calendar days after being deposited in  
28 the United States mail.

29 (k) Each timeshare interest reservation form shall contain the  
30 following statement in conspicuous type:

31 "The Washington Department of Licensing has not inspected or  
32 approved the registration of this timeshare interest reservation  
33 offering."

34 (4) The department may deny authorization to accept timeshare  
35 interest reservations under this section to any person who has  
36 violated, or is in violation of, any provision of this chapter.

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