

SSB 5492 - S AMD 248
By Senator Mulliken

ADOPTED 03/19/2003

1 Strike everything after the enacting clause and insert the
2 following:

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

5 (1) An effective registration pursuant to this chapter is required
6 for any party to offer to sell a timeshare interest. A promoter who
7 offers to sell or sells revocable timeshare interests in incomplete
8 projects or facilities is limited by and must comply with all of the
9 requirements of RCW 64.36.025. If a promoter seeks to enter into
10 irrevocable purchase agreements with purchasers for timeshare interests
11 in incomplete projects or facilities, the promoter must meet the
12 requirements in this section in addition to RCW 64.36.020 and the
13 following limitations and conditions apply:

14 (a) The promoter is limited to offering or selling only fee simple
15 deeded timeshare interests;

16 (b) Construction on the project must have begun and be at least
17 twenty percent complete and must be completed no later than within two
18 years of the date of the initial offer to sell the timeshare interest;

19 (c) The promoter must establish an escrow or trust account for the
20 purpose of protecting the funds or other property paid, pledged, or
21 deposited by purchasers;

22 (d) The promoter's solicitations, advertisements, and promotional
23 materials must clearly and conspicuously disclose that "THE PROJECT IS
24 NOT YET COMPLETED; IT IS STILL UNDER CONSTRUCTION"; and

25 (e) The promoter's solicitations, advertisements, and promotional
26 materials and the timeshare interest purchase agreement must clearly
27 and conspicuously provide for and disclose the last possible estimated
28 date for completion of construction.

1 (2) The timeshare interest purchase agreement must contain the
2 following language in fourteen point bold face type: "If the project
3 is not completed by [estimated date of completion], the purchaser has
4 the right to void the purchase agreement and is entitled to a full,
5 unqualified refund of all moneys paid."

6 (3) One hundred percent of all funds or other property that is
7 received from or on behalf of purchasers of timeshare interests prior
8 to the occurrence of events required in this section must be deposited
9 pursuant to an escrow or trust agreement approved by the director.
10 Funds may be released from the escrow or trust account to the purchaser
11 if the purchaser cancels within the cancellation period, or to the
12 promoter only when all three of the following conditions occur:

13 (a) The purchaser's cancellation period has expired;

14 (b) Closing has occurred; and

15 (c) Construction is complete and the facility is ready to occupy.

16 (4) In lieu of depositing purchaser funds into an escrow or trust
17 account, the promoter may post with the department a bond equal to the
18 amount of Washington resident purchaser funds or other property. The
19 amount of the bond must be adjusted upwards as the promoter makes
20 additional sales and must at all times equal the amount of funds or
21 other property that have been paid by Washington resident purchasers.

22 (5) Any purchaser has the right to void the timeshare purchase
23 agreement and request a full, unqualified refund if construction of the
24 timeshare project is not completed within two years from the date of
25 the initial offer to sell the timeshare interest or by the last
26 estimated date of construction contained in the timeshare purchase
27 agreement, whichever is earlier.

28 (6) If the completed timeshare project is materially and adversely
29 different from the project that was promised to purchasers at the time
30 that the purchase agreements were signed, the director may declare any
31 or all of the purchaser contracts void. Before declaring the contracts
32 void, the director shall give the promoter the opportunity for a
33 hearing in accordance with chapters 34.05 and 18.235 RCW.

34 (7) If the promoter intends to or does pledge or borrow against
35 funds or properties, which are held in trust or escrow or protected by
36 a bond, to help finance in whole or in part the construction of the
37 timeshare project or to help pay for operating costs, this must be
38 fully, plainly, and conspicuously disclosed in all advertising, in all

1 written or oral solicitations for the sale of the timeshare interests,
2 in the registration with the director, and in the purchase agreement or
3 contract.

4 (8) A promoter who obtains an effective registration for a
5 revocable timeshare interest reservation must meet the requirements of
6 this section in order to complete an irrevocable purchase agreement."

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7 On page 1, line 1 of the title, after "timeshares;" strike the
8 remainder of the title and insert "and adding a new section to chapter
9 64.36 RCW."

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