

HOUSE BILL REPORT

ESSB 5492

As Reported by House Committee On:

Commerce & Labor

Title: An act relating to timeshares.

Brief Description: Revising provisions for sale of timeshares.

Sponsors: Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Mulliken, Keiser and Winsley).

Brief History:

Committee Activity:

Commerce & Labor: 3/31/03, 4/2/03 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)

- Authorizes the sale of timeshare interests in certain projects not yet completed.
- Clarifies requirements for holding purchasers' funds in escrow.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Chandler, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse, Holmquist, Hudgins and McCoy.

Staff: Matt Cooper (786-7106).

Background:

A *timeshare interest* is a right to occupy a unit of real property during three or more separate periods over a term of at least three years. A *timeshare interest reservation* is a revocable right to purchase a timeshare interest in a project that has not been completed. A *promoter* is any person directly or indirectly instrumental in organizing a timeshare offering.

The Department of Licensing, Business and Professions Division (Department) regulates the advertisement and sale of timeshares. That regulation includes: 1) registration with

the Department of a *timeshare offering* prior to advertising or solicitation of a timeshare project; 2) registration with the Department of a *timeshare interest reservation* prior to the sale of any timeshare interest reservation; and 3) the *promoter's* disclosure of information necessary to fully inform a prospective purchaser prior to the sale of a timeshare.

Timeshare promoters can sell both timeshare interests and timeshare interest reservations. In order to sell a timeshare interest, the project must be complete, the offering registered with the Department, and the promoter's disclosure filed. In order to sell timeshare interest reservations, the project need not be complete, but the offering must be registered with the Department and the promoter's disclosure filed.

Timeshare Offering Registration

Prior to advertising, offering, or selling a timeshare interest or timeshare interest reservation, the offering must be registered with the Department. The application must disclose detailed information on the project and the cost of the units.

Timeshare Disclosure Document

A *disclosure document* must be filed with the timeshare offering registration. In this document, promoters must provide information on their business, their background, the timeshare management, and the sales contract.

Timeshare Interest Reservation

Timeshare promoters may pre-sell a revocable right to purchase a timeshare which has not been completed. A promoter may market and advertise a timeshare project and may accept a reservation deposit from a prospective purchaser for up to 20 percent of the projected purchase price of the timeshare interest.

Prior to offering a timeshare interest reservation, the offering must be registered with the Department and the promoter's disclosure filed. The promoter must provide a registered disclosure document to each prospective purchaser. Once the timeshare project is completed, the promoter must submit an updated registration and disclosure for Department approval.

If a promoter accepts a timeshare interest reservation deposit, it must be deposited in an insured escrow account within one business day. Deposits must remain in the account until the reservation is cancelled or a purchase agreement is executed.

A prospective buyer may cancel a timeshare interest reservation at any time before signing a purchase agreement. If a prospective buyer cancels a timeshare interest reservation, the promoter has 10 days to refund the deposit plus any interest earned, less any applicable account fees (maximum of 1 percent of the deposit).

If a promoter raises the selling price above that in the timeshare reservation agreement,

the purchaser may cancel the agreement and the promoter must refund the deposit and the account fees.

Summary of Amended Bill:

Promoters may sell timeshare interests in incomplete projects under certain circumstances. Projects must be at least 20 percent complete and must be completed within two years of the date of registration. Any incomplete projects offered for sale must be registered with the Department using current procedures.

Promotional materials for incomplete projects must disclose that the project is still under construction and the last possible estimated date of completion for the project.

Promoters must protect purchasers' funds by posting a bond or depositing the funds into a trust or escrow account which may be released to the promoter only after construction is complete, closing has occurred, and the buyer's cancellation period has expired.

Purchasers may request a full refund if the project is not completed either within two years of registration of the project or on the estimated date of completion, whichever is earlier. Purchasers may also receive a refund if the completed project is materially and adversely different from what was promised in the offer.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill makes changes in sales of timeshares in incomplete projects, how purchasers' funds may be held, when refunds must be made to purchasers, and financial disclosures by promoters.

The amendment allows for the sale of timeshares in projects under construction as soon as the project is registered with the Department, rather than requiring that projects be 20 percent complete before offering timeshare interests for sale.

Purchasers must be able to occupy the timeshare within two years of the date of purchase or receive a full refund, rather than two years from the date of registration.

The amendment clarifies the requirements for escrow accounts and provides that purchasers' funds may be held in escrow, or a promoter may post a bond in the amount equal to that which would otherwise be held in escrow.

The amended bill provides that purchasers may void the purchase of a timeshare if the building or amenities are materially and adversely different from those agreed to at the time of purchase.

Promoters must disclose their intent to borrow against purchasers' funds held in escrow or timeshare property in written advertising only, rather than all advertising and solicitations.

Appropriation: None.

Fiscal Note: Requested on March 27, 2003.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill is the same as the House bill previously passed by this committee. This bill has been negotiated by the industry, the Department of Licensing, and the Attorney General's Office and will make positive changes in the timeshare laws that will add stability and predictability to timeshare companies and consumers. Encouraging this industry is good for the Washington economy.

The parties to the negotiations have worked out agreements on nearly all the issues. There will be a new amendment proposed to this bill regarding the last few issues that were outstanding. The changes will be agreed to and will benefit the industry and the consumers of Washington.

Testimony Against: None.

Testified: Senator Mulliken, prime sponsor; Steve Gano, American Resort Development Association and Trend West Resorts; Laura Watson, Attorney General's Office; and Randy Renfrow, Department of Licensing.