

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1442**

58th Legislature  
2003 Regular Session

Passed by the House April 22, 2003  
Yeas 97 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate April 17, 2003  
Yeas 45 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1442** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1442**

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AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

**State of Washington                      58th Legislature                      2003 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by  
Representatives Wood and Chandler)

READ FIRST TIME 02/28/03.

1            AN ACT Relating to timeshares; and adding a new section to chapter  
2 64.36 RCW.

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

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

17            (b) Construction on the project must have begun by the time the  
18 irrevocable purchase agreement is signed and the purchaser must have

1 the right to occupy the unit and use all contracted for amenities no  
2 later than within two years of the date that the irrevocable purchase  
3 agreement is signed;

4 (c) The promoter must establish an independent third-party escrow  
5 account for the purpose of protecting the funds or other property paid,  
6 pledged, or deposited by purchasers;

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

10 (e) The promoter's solicitations, advertisements, and promotional  
11 materials and the timeshare interest purchase agreement must clearly  
12 and conspicuously provide for and disclose the last possible estimated  
13 date for completion of construction of any building the promoter is  
14 contractually obligated to the purchaser to complete.

15 (2) The timeshare interest purchase agreement must contain the  
16 following language in fourteen-point bold face type: "If the building  
17 in which the timeshare interest is located and all contracted for  
18 amenities are not completed by [estimated date of completion], the  
19 purchaser has the right to void the purchase agreement and is entitled  
20 to a full, unqualified refund of all moneys paid."

21 (3) One hundred percent of all funds or other property that is  
22 received from or on behalf of purchasers of timeshare interests prior  
23 to the occurrence of events required in this section must be deposited  
24 pursuant to a third-party escrow agreement approved by the director.  
25 For purposes of this section, "purchasers" includes all persons  
26 solicited, offered, or who purchased a timeshare interest by a promoter  
27 within the state of Washington. An escrow agent shall maintain the  
28 account only in such a manner as to be under the direct supervision and  
29 control of the escrow agent. The escrow agent has a fiduciary duty to  
30 each purchaser to maintain the escrow accounts in accordance with good  
31 accounting practices and to release the purchaser's funds or other  
32 property from escrow only in accordance with this chapter. If the  
33 escrow agent receives conflicting demands for funds or property held in  
34 escrow, the escrow agent shall immediately notify the department of  
35 licensing of the dispute and the department shall determine if and how  
36 the funds should be distributed. If the purchaser, promoter, or escrow  
37 agent disagrees with the department's determination, the parties have  
38 the right to request an administrative hearing under chapter 34.05 RCW.

1 Funds may be released from the escrow account to the purchaser if the  
2 purchaser cancels within the cancellation period, or to the promoter  
3 only when all three of the following conditions occur:

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

5 (b) Closing has occurred; and

6 (c) Construction is complete and the building is ready to occupy.

7 (4) In lieu of depositing purchaser funds into an escrow account,  
8 the promoter may post with the department a bond in an amount equal to  
9 or greater than the amount that would otherwise be required to be  
10 placed into the escrow account.

11 (5) Any purchaser has the right to void the timeshare purchase  
12 agreement and request a full, unqualified refund if construction of the  
13 building in which the timeshare interest is located or all contracted  
14 for amenities are not completed within two years from the date that the  
15 irrevocable purchase agreement is signed or by the last estimated date  
16 of construction contained in the irrevocable purchase agreement,  
17 whichever is earlier.

18 (6) If the completed timeshare building or contracted for amenities  
19 are materially and adversely different from the building or amenities  
20 that were promised to purchasers at the time that the purchase  
21 agreements were signed, the director may declare any or all of the  
22 purchaser contracts void. Before declaring the contracts void, the  
23 director shall give the promoter the opportunity for a hearing in  
24 accordance with chapters 34.05 and 18.235 RCW.

25 (7) If the promoter intends to or does pledge or borrow against  
26 funds or properties, that are held in escrow or protected by a bond, to  
27 help finance in whole or in part the construction of the timeshare  
28 project or to help pay for operating costs, this must be fully,  
29 plainly, and conspicuously disclosed in all written advertising, in all  
30 written solicitations for the sale of the timeshare interests, in the  
31 registration with the director, and in the purchase agreement or  
32 contract.

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

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