
SUBSTITUTE SENATE BILL 5492

State of Washington 58th Legislature 2003 Regular Session

**By Senate Committee on Financial Services, Insurance & Housing
(originally sponsored by Senators Mulliken, Keiser and Winsley)**

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, be at least twenty
18 percent complete, and be completed no later than within two years of
19 the initial offer to sell the timeshare interest;

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

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

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

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

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

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

24 (b) Closing has occurred; and

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

26 (4) In lieu of depositing purchaser funds into an escrow or trust
27 account, the promoter may post with the department of licensing a bond
28 equal to the amount of Washington resident purchaser funds or other
29 property. The amount of the bond must be adjusted upwards as the
30 promoter makes additional sales and must at all times equal the amount
31 of funds or other property that have been paid by Washington resident
32 purchasers.

33 (5) Any purchaser has the right to void the timeshare purchase
34 agreement and request a full, unqualified refund if construction of the
35 timeshare project is not completed within the earlier of two years or
36 the last estimated date of construction contained in the timeshare
37 purchase agreement.

1 (6) If the completed timeshare project is materially and adversely
2 different than the project that was promised to purchasers at the time
3 that the purchase agreements were signed, the director may declare any
4 or all of the purchaser contracts void. Before declaring the contracts
5 void, the director must give the promoter the opportunity for a hearing
6 in accordance with chapters 34.05 and 18.235 RCW.

7 (7) If the promoter intends to or does pledge or borrow against
8 funds or properties, that are held in trust or escrow or protected by
9 a bond, to help finance in whole or in part the construction of the
10 timeshare project or to help pay for operating costs, this must be
11 fully, plainly, and conspicuously disclosed in all advertising, in all
12 written or oral solicitations for the sale of the timeshare interests,
13 in the registration with the director, and in the purchase agreement or
14 contract.

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

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