
SENATE BILL 5492

State of Washington

58th Legislature

2003 Regular Session

By Senators Mulliken, Keiser and Winsley

Read first time 01/28/2003. Referred to Committee on Financial Services, Insurance & Housing.

1 AN ACT Relating to timeshares; amending RCW 64.36.020; and adding
2 new sections to chapter 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) Before the registration of a timeshare offering, a deposit may
7 be accepted from a prospective buyer for a timeshare interest
8 reservation if all of the following requirements are met:

9 (a) Before accepting any nonbinding timeshare interest reservation,
10 the prospective seller shall mail or deliver, or provide in written,
11 CD-ROM, or other electronic format as approved by the department of
12 licensing, written notice of the seller's intention to accept
13 nonbinding timeshare interest reservations to the department. The
14 notice must include:

15 (i) The name, address, and telephone number of the prospective
16 seller;

17 (ii) The name, address, and telephone number of any real estate
18 broker retained by the prospective seller to promote the nonbinding
19 timeshare interest reservation program;

1 (iii) The name and location of the timeshare property for which
2 nonbinding timeshare interest reservations are to be offered; and

3 (iv) The form to be used for accepting nonbinding timeshare
4 interest reservations, subject to approval by the department.

5 (b) The reservation deposit for a single timeshare interest may not
6 exceed twenty percent of the purchase price.

7 (c) Within one business day after a reservation is accepted by the
8 prospective seller, the reservation deposit must be delivered to an
9 escrow or trust account in a federally insured depository. The account
10 may be interest bearing at the direction of either the prospective
11 seller or prospective buyer. Payment of any account fees and payment
12 of interest moneys must be as agreed to between the prospective buyer
13 and the prospective seller. All reservation deposits must remain in
14 the account until cancellation or termination of the nonbinding
15 timeshare interest reservation or execution of a purchase agreement.

16 (d) Within thirty calendar days of receipt by the prospective
17 seller of acceptance of registration by the department or as otherwise
18 deemed effective pursuant to RCW 64.36.040, the prospective seller
19 shall provide the prospective buyer with a copy of the disclosure
20 documents and a copy of the proposed purchase agreement for the sale of
21 the timeshare interest.

22 (e) A prospective buyer may cancel a nonbinding timeshare interest
23 reservation at any time before the execution of a purchase agreement by
24 delivering written notice of termination to the prospective seller as
25 provided in (i) of this subsection.

26 (f) Within five business days after a nonbinding timeshare interest
27 reservation has been terminated for any reason, the prospective seller
28 shall refund to the prospective buyer all reservation deposits made by
29 the prospective buyer including any interest moneys earned less any
30 account fees agreed upon if applicable. The escrow account or trust
31 account agent shall refund to the prospective buyer all reservation
32 deposits made by the prospective buyer including any interest moneys
33 earned less any account fees agreed upon if the prospective seller is
34 not available. After this refund, neither the prospective buyer nor
35 the prospective seller has any obligation to the other arising out of
36 the nonbinding timeshare interest reservation.

37 (g) A prospective buyer may not transfer rights under a reservation

1 without the prior written consent of the prospective seller, and any
2 purported transfer without the consent of the prospective seller is
3 voidable at the sole discretion of the prospective seller.

4 (h) If the department denies an application for registration on the
5 timeshare offering on which nonbinding timeshare interest reservations
6 were taken, within five business days of notification by the
7 department, the prospective seller shall notify in writing each
8 prospective buyer who entered into a nonbinding timeshare interest
9 reservation agreement. The prospective seller shall return any
10 reservation deposits previously taken.

11 (i) All notices required by this section to be given to the
12 department, the prospective buyer, or the prospective seller must be in
13 writing and either hand delivered or sent by certified mail, return
14 receipt requested with postage fully prepaid. Notices sent by mail are
15 deemed delivered on the earlier of actual receipt, as evidenced by the
16 delivery receipt, or seven calendar days after being deposited in the
17 United States mail.

18 (j) Each nonbinding timeshare interest reservation form must
19 contain the following statement in conspicuous type:

20 **The Washington Department of Licensing has not inspected or**
21 **approved the registration of this timeshare offering.**

22 (2) The department may deny authorization to accept nonbinding
23 timeshare interest reservations under this section to any person who
24 has violated or is in violation of any provision of this chapter.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.36 RCW
26 to read as follows:

27 (1) An effective registration pursuant to this chapter is required
28 for any party to offer to sell a timeshare interest.

29 (2) In order to obtain registration approval authorizing the sale
30 of incomplete projects, promoters offering interests in incomplete
31 timeshare accommodations must provide evidence that the accommodations
32 will be completed or that purchaser's funds will be fully protected
33 until the accommodations are complete.

34 (a) Assurance for completion must be in the form of a completion
35 bond, irrevocable letter of credit, or other assurance acceptable to
36 the department of licensing including, without limitation, any

1 financial assurance posted in another state or jurisdiction, which
2 assurance covers the cost to complete the accommodations in which the
3 timeshare interest is located.

4 (b) Assurance for protection of purchaser funds are acceptable if
5 purchaser funds are held in an escrow or trust account acceptable to
6 the department until the timeshare accommodations are complete or upon
7 the posting of an escrow or trust bond sufficient to cover all
8 purchaser funds received until the timeshare accommodations are
9 complete. An escrow or trust bond acceptable to the department may be
10 posted at any time by a promoter, and any funds held in an escrow or
11 trust account may be released upon the posting of such bond, provided
12 adequate disclosures have been provided to a purchaser. For purposes
13 of this section, the department has the discretion to approve escrow or
14 trust accounts or escrow or trust bonds that are posted in another
15 state or jurisdiction.

16 (3) The types of documentation that are required for evidence of
17 completion of construction include a certificate of occupancy, a
18 certificate of substantial completion or an equivalent public safety
19 inspection from an agency in the applicable jurisdiction, or other
20 evidence of completion acceptable to the department or as provided by
21 rule.

22 **Sec. 3.** RCW 64.36.020 and 1983 1st ex.s. c 22 s 2 are each amended
23 to read as follows:

24 (1) Except as provided in section 1 of this act, a timeshare
25 offering registration must be effective before any advertisement,
26 solicitation of an offer, or any offer or sale of a timeshare may be
27 made in this state.

28 (2) An applicant shall apply for registration by filing with the
29 director:

30 (a) A copy of the disclosure document prepared in accordance with
31 RCW 64.36.140 and signed by the applicant;

32 (b) An application for registration prepared in accordance with RCW
33 64.36.030;

34 (c) An irrevocable consent to service of process signed by the
35 applicant;

36 (d) The prescribed registration fee; and

1 (e) Any other information the director may by rule require in the
2 protection of the public interest.
3 (3) The registration requirements do not apply to:
4 (a) An offer, sale, or transfer of not more than one timeshare in
5 any twelve-month period;
6 (b) A gratuitous transfer of a timeshare;
7 (c) A sale under court order;
8 (d) A sale by a government or governmental agency;
9 (e) A sale by forfeiture, foreclosure, or deed in lieu of
10 foreclosure; or
11 (f) A sale of a timeshare property or all timeshare units therein
12 to any one purchaser.
13 (4) The director may by rule or order exempt any potential
14 registrant from the requirements of this chapter if the director finds
15 registration is unnecessary for the protection of the public interest.

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