
Commerce & Labor Committee

HB 2513

Brief Description: Regulating timeshare interest reservations.

Sponsors: Representatives Wood, Clements and Conway.

Brief Summary of Bill
<ul style="list-style-type: none">· Authorizes the sale of a timeshare reservation by a promoter prior to registration of the timeshare offering.

Hearing Date: 1/28/02

Staff: Sydney Forrester (786-7120).

Background:

Timeshare Defined

A *timeshare* 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 *promoter* is any person directly or indirectly instrumental in organizing a timeshare offering. The Department of Licensing, Business and Professions Division regulates the advertisement and sale of timeshares. Regulation includes: 1) registration with the department of a *timeshare offering* prior to advertising or solicitation of a timeshare project; and 2) written disclosure of all information necessary to fully inform to a prospective purchaser prior to the sale of a timeshare.

Timeshare Offering Registration

Prior to the advertisement, solicitation of an offer, or any offer or sale of a timeshare, a timeshare offering must be registered with the department. An application for registration of a timeshare offering requires the filing of a disclosure document (see below) and a statement from the promoter disclosing the following information:

1. The promoter's financial condition;
2. A projected budget for the timeshare project, including selling costs;
3. A 10-year background description of the promoter, including any criminal convictions, civil suits, and administrative actions;
4. Any fees in excess of the stated unit price to be charged to purchasers;
5. A statement of where and when the promoter has previously sold timeshares;

6. Any liens, defects, or encumbrances affecting title to the timeshare units;
7. Copies of all timeshare documents including the Timeshare Disclosure Document; and
8. Any additional information the director considers are relevant to describe the risks.

Registration of a timeshare offering is effective on the 13 day after receipt of a completed application and fee, remains in effect for one year, and maybe renewed.

Timeshare Disclosure Document

The *disclosure document* must be filed with the timeshare offering registration and, prior to the sale of any timeshare, a promoter or salesperson must provide a prospective purchaser the disclosure document that includes the following information:

- The name and address of the promoter and affiliates;
- The location and general description of the timeshare property and units;
- A list of all units offered including types, price, number, location, duration, and maximum number of units that may be offered;
- A description of financing offered by the promoter;
- A statement of ownership of all properties in the offering;
- Copies of any agreement or lease to be signed at closing;
- The identity of the managing company;
- The selling cost per unit, and for the total project;
- A statement of where and when promoter has sold timeshares previously;
- A description of the nature and purpose of all charges, dues, fees, and other expenses to be assessed;
- A description of services the promoter provides, and anticipated expenses;
- Notice of the purchasers right to cancel the purchase agreement within seven days;
- Any restraints on transfer of the timeshare;
- A description of insurance coverage provided;
- A statement of whether timeshare owners are permitted or required to participate in any ownership association and a description of the association;
- Any additional information the director considers necessary to fully inform prospective purchasers.

The director is authorized to deny suspend or revoke a timeshare registration as a result of a violation, or in the public interest, and also may issue a cease and desist order to prevent a future violation.

Summary of Bill:

A "timeshare interest reservation" is created, which allows a promoter to pre-sell a revocable right to purchase a timeshare that has not been registered with the department. A promoter may market and advertise a timeshare project and may accept a deposit from a prospective purchaser in an amount of up to 20% of the purchase price. A promoter must file a promoter registration with the department prior to pre-selling a timeshare.

Promoter Registration

Prior to accepting a timeshare interest reservation a promoter must file an application with the department for a promoter registration that includes the following information:

1. The promoter's financial condition;
2. A projected budget for the timeshare project, including *proposed* selling costs;
3. A 10-year background description of the promoter, including any criminal convictions, civil suits, and administrative actions;
4. Any fees in excess of the stated unit price to be charged to purchasers;
5. A statement of where and when the promoter has previously sold timeshares;
6. Any liens, defects, or encumbrances affecting title to the timeshare units;
7. The form to be used to accept timeshare interest reservations;
8. A certified copy of a certificate of good standing from the Secretary of State;
9. The name, address, and telephone number of the promoter and any broker retained by the promoter;
10. The name and address of the escrow company that will receive reservation deposits and a copy of the escrow agreement;
11. The name and location of the timeshare property; and
12. Any additional information the director considers are relevant to describe the risks.

Within one day of accepting a timeshare reservation deposit, a promoter must deliver the deposit to an escrow or trust account. Deposits must remain in the account until cancellation of the reservation or execution of a purchase agreement.

Within 30 days after receipt of an effective Timeshare Offering Registration (see above) the promoter must provide the prospective buyer a copy of the Disclosure Document and the proposed purchase and sale agreement. A prospective buyer may cancel a timeshare interest reservation at any time before signing a purchase and sale agreement. Within 10 days of a termination of a timeshare interest reservation, a promoter must refund the reservation deposit plus any interest earned less any applicable account fees.

If the director denies an application for a Timeshare Offering Registration for which a timeshare interest reservation deposit was accepted, the promoter must notify each prospective buyer in writing within 10 days and return any deposits. Timeshare interest reservation forms shall contain a statement in conspicuous type: "The Washington Department of Licensing has not inspected or approved the registration of this timeshare interest reservation offering."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.