

HOUSE BILL REPORT

SHB 1442

As Amended by the Senate

Title: An act relating to timeshares.

Brief Description: Revising provisions for sale of timeshares.

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

Brief History:

Committee Activity:

Commerce & Labor: 2/3/03, 2/26/03 [DPS].

Floor Activity:

Passed House: 3/11/03, 93-0.

Senate Amended.

Passed Senate: 4/17/03, 45-0.

Brief Summary of Substitute Bill

- Authorizes the sale of timeshare interests in certain projects not yet completed.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Conway, Chair; Wood, Vice Chair; Chandler, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse, Holmquist, Hudgins, Kenney 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 interests may be sold either as an interest in one specific unit (a fee simple interest), or as an opportunity to use one of several different units during a period of time.

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.

Summary of Substitute 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.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment deletes the requirement that timeshare projects under construction be at least twenty percent finished before being offered for sale and requires that purchaser be able to occupy the purchased timeshare within two years of the date of purchase or the estimated date of completion, whichever is earlier, or receive a refund of the purchase price.

The amendment clarifies the disclosures required in advertising for the estimated completion date and financing for the project. The changes also establish requirements for holding purchasers' funds in an escrow account or posting a bond with the Department of Licensing in lieu of establishing an escrow account.

The amendment provides that purchasers may void a timeshare purchase if the building or the amenities promised at the time of sale are materially and adversely different from those in the completed project.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill is needed to refine the law on timeshares that the Legislature passed last year. These changes will bring Washington more in line with other states. Right now Washington law makes it very difficult for out-of-state companies to build projects in Washington, or sell timeshares to Washington consumers.

The timeshare industry is interested in consumer protection. If consumers are not confident that they are protected, they will not buy timeshare products and the industry will suffer.

Testimony Against: There needs to be more consumer protection measures included in this bill.

Timeshare projects should be registered with the Department before any type of interest is sold. Registration with the Department ensures that consumers get all the necessary information on a project. Informed consumers make better decisions.

Consumers' money should be protected. They should get a full refund if something happens to a project or the terms of the deal change. Promoters should not be able to use consumer funds to finance new projects. This places all the risk on the consumer. If something goes wrong, there is no way for a consumer to get his or her money out of a partially completed project.

Testified: (In support) Representative Wood, prime sponsor; and Steve Gano, American Resort Development Association.

(Opposed) Paul Silver, Attorney General's Office; and Trudie Touchette and Randy Renfrow, Department of Licensing.