
Commerce & Labor Committee

ESSB 5492

Brief Description: Revising provisions for sale of timeshares.

Sponsors: Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Mulliken, Keiser and Winsley).

Brief Summary of Engrossed Substitute Bill

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

Hearing Date: 3/31/03

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 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.

If a promoter accepts a timeshare interest reservation deposit, it must be deposited in an insured escrow account within one business day. Deposits must remain in the account until the reservation is cancelled or a purchase agreement is executed.

A prospective buyer may cancel a timeshare interest reservation at any time before signing a purchase agreement. If a prospective buyer cancels a timeshare interest reservation, the promoter has 10 days to refund the deposit plus any interest earned, less any applicable account fees (maximum of 1 percent of the deposit).

If a promoter raises the selling price above that in the timeshare reservation agreement, the purchaser may cancel the agreement and the promoter must refund the deposit and the account fees.

Summary of 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.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of the Department.

Appropriation: None.

Fiscal Note: Requested on March 27, 2003.

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