

SHB 1442 - S COMM AMD

By Committee on Financial Services, Insurance & Housing

ADOPTED 04/17/2003

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 64.36 RCW  
4 to read as follows:

5 (1) An effective registration pursuant to this chapter is required  
6 for any party to offer to sell a timeshare interest. A promoter who  
7 offers to sell or sells revocable timeshare interests in incomplete  
8 projects or facilities is limited by and must comply with all of the  
9 requirements of RCW 64.36.025. If a promoter seeks to enter into  
10 irrevocable purchase agreements with purchasers for timeshare interests  
11 in incomplete projects or facilities, the promoter must meet the  
12 requirements in this section in addition to RCW 64.36.020 and the  
13 following limitations and conditions apply:

14 (a) The promoter is limited to offering or selling only fee simple  
15 deeded timeshare interests;

16 (b) Construction on the project must have begun by the time the  
17 irrevocable purchase agreement is signed and the purchaser must have  
18 the right to occupy the unit and use all contracted for amenities no  
19 later than within two years of the date that the irrevocable purchase  
20 agreement is signed;

21 (c) The promoter must establish an independent third-party escrow  
22 account for the purpose of protecting the funds or other property paid,  
23 pledged, or deposited by purchasers;

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

27 (e) The promoter's solicitations, advertisements, and promotional  
28 materials and the timeshare interest purchase agreement must clearly  
29 and conspicuously provide for and disclose the last possible estimated

1 date for completion of construction of any building the promoter is  
2 contractually obligated to the purchaser to complete.

3 (2) The timeshare interest purchase agreement must contain the  
4 following language in fourteen-point bold face type: "If the building  
5 in which the timeshare interest is located and all contracted for  
6 amenities are not completed by [estimated date of completion], the  
7 purchaser has the right to void the purchase agreement and is entitled  
8 to a full, unqualified refund of all moneys paid."

9 (3) One hundred percent of all funds or other property that is  
10 received from or on behalf of purchasers of timeshare interests prior  
11 to the occurrence of events required in this section must be deposited  
12 pursuant to a third-party escrow agreement approved by the director.  
13 For purposes of this section, "purchasers" includes all persons  
14 solicited, offered, or who purchased a timeshare interest by a promoter  
15 within the state of Washington. An escrow agent shall maintain the  
16 account only in such a manner as to be under the direct supervision and  
17 control of the escrow agent. The escrow agent has a fiduciary duty to  
18 each purchaser to maintain the escrow accounts in accordance with good  
19 accounting practices and to release the purchaser's funds or other  
20 property from escrow only in accordance with this chapter. If the  
21 escrow agent receives conflicting demands for funds or property held in  
22 escrow, the escrow agent shall immediately notify the department of  
23 licensing of the dispute and the department shall determine if and how  
24 the funds should be distributed. If the purchaser, promoter, or escrow  
25 agent disagrees with the department's determination, the parties have  
26 the right to request an administrative hearing under chapter 34.05 RCW.  
27 Funds may be released from the escrow account to the purchaser if the  
28 purchaser cancels within the cancellation period, or to the promoter  
29 only when all three of the following conditions occur:

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

31 (b) Closing has occurred; and

32 (c) Construction is complete and the building is ready to occupy.

33 (4) In lieu of depositing purchaser funds into an escrow account,  
34 the promoter may post with the department a bond in an amount equal to  
35 or greater than the amount that would otherwise be required to be  
36 placed into the escrow account.

1 (5) Any purchaser has the right to void the timeshare purchase  
2 agreement and request a full, unqualified refund if construction of the  
3 building in which the timeshare interest is located or all contracted  
4 for amenities are not completed within two years from the date that the  
5 irrevocable purchase agreement is signed or by the last estimated date  
6 of construction contained in the irrevocable purchase agreement,  
7 whichever is earlier.

8 (6) If the completed timeshare building or contracted for amenities  
9 are materially and adversely different from the building or amenities  
10 that were promised to purchasers at the time that the purchase  
11 agreements were signed, the director may declare any or all of the  
12 purchaser contracts void. Before declaring the contracts void, the  
13 director shall give the promoter the opportunity for a hearing in  
14 accordance with chapters 34.05 and 18.235 RCW.

15 (7) If the promoter intends to or does pledge or borrow against  
16 funds or properties, that are held in escrow or protected by a bond, to  
17 help finance in whole or in part the construction of the timeshare  
18 project or to help pay for operating costs, this must be fully,  
19 plainly, and conspicuously disclosed in all written advertising, in all  
20 written solicitations for the sale of the timeshare interests, in the  
21 registration with the director, and in the purchase agreement or  
22 contract.

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

**SHB 1442** - S COMM AMD  
By Committee on Financial Services, Insurance & Housing

**ADOPTED 04/17/2003**

26 On page 1, line 1 of the title, after "timeshares;" strike the  
27 remainder of the title and insert "and adding a new section to chapter  
28 64.36 RCW."

--- END ---