

# SENATE BILL REPORT

## SHB 1442

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As Reported By Senate Committee On:  
Financial Services, Insurance & Housing, April 3, 2003

**Title:** An act relating to timeshares.

**Brief Description:** Revising provisions for sale of timeshares.

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

**Brief History:**

**Committee Activity:** Financial Services, Insurance & Housing: 3/20/03, 4/3/03 [DPA].

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### SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

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**Majority Report:** Do pass as amended.

Signed by Senators Benton, Chair; Winsley, Vice Chair; Keiser, Prentice, Reardon and Roach.

**Staff:** Elizabeth Mitchell (786-7430)

**Background:** Timeshare promoters can currently accept deposits toward the purchase of incomplete timeshares called "timeshare interest reservations" if they register with the Department of Licensing prior to accepting the deposits. The registration must include information about the promoter's business history, as well as a disclosure form about the timeshare property.

"Timeshare interest reservations" cannot exceed 20 percent of the purchase price of a timeshare, and must be deposited in an escrow account where the funds are held for the benefit of the purchaser. A buyer has the right to cancel his/her purchase at any time before the signing of a purchase agreement, and the promoter must refund the timeshare interest reservation funds within ten days of receiving a notice of cancellation. The buyer's right to cancel must be clearly specified on contracts for timeshare interest reservations.

**Summary of Amended Bill:** A party must register with the department prior to selling a timeshare interest. If a promoter seeks to enter into irrevocable purchase agreements for interests in incomplete timeshare projects, the promoter must fulfill additional requirements. These requirements include: the promoter is limited to offering or selling only fee simple deeded timeshare interests; the purchaser must have the right to occupy the unit no later than two years after the purchase agreement is signed; the promoter must establish an escrow account for funds deposited by purchasers; the promoter's promotional materials must conspicuously disclose that the project is not yet complete, and must specify the last possible estimated date for completion of construction.

Any purchaser has the right to void the timeshare purchase agreement and request a full refund if construction of the building in which the timeshare is located or all contracted-for amenities are not completed within the earlier of two years or the last estimated date of construction contained in the timeshare purchase agreement. If the completed building or amenity is materially and adversely different than the project promised to purchasers at the time that the purchase agreement was signed, the department may declare the purchase contract to be void.

The timeshare interest purchase agreement must conspicuously state that if the project is not completed by the estimated date of completion, the purchaser has the right to void the purchase agreement, and is entitled to a full refund of all monies paid.

All funds received by the promoter must be deposited into an escrow account approved by the department, with specified exceptions. Funds may be released from the escrow account to the purchaser if the purchaser cancels within the cancellation period, or to the promoter only when all three of the following conditions occur: the purchaser's cancellation period has expired; closing has occurred; and construction is complete and the facility is ready to occupy.

Instead of depositing funds into an escrow account, the promoter may post a bond with the department equal to or greater than the amount that would otherwise be required to be placed into the escrow account. The amount of the bond must at all times equal the amount of funds that have been paid by Washington resident purchasers.

If the promoter borrows or intends to borrow against funds held in an escrow account, or protected by a bond, this must be fully and conspicuously disclosed in all written or oral solicitations for the sale of the timeshare interest, in the registration with the director, and in the purchase agreement. Should the escrow agent receive conflicting demands for funds or property held in escrow, the escrow agent must immediately notify the Department of Licensing, and the department determines if and how the funds are distributed.

**Amended Bill Compared to Original Bill:** The timeshare is not required to be at least 20 percent complete in order for an irrevocable timeshare agreement to be signed. Instead of the requirement that a timeshare must be completed within two years, a purchaser must have the right to occupy the unit and use all contracted amenities within two years. The two-year period begins on the date the purchase agreement is signed, instead of the date of the initial offer to sell the timeshare interest. Provisions regarding trust accounts are deleted. Bonds must be equal to or greater than the amount that would otherwise be required to be placed into the escrow account. Should the escrow agent receive conflicting demands for funds or property held in escrow, the escrow agent must immediately notify the Department of Licensing, and the department determines if and how the funds are distributed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Interested parties are working on some language clarification, and all parties support the bill.

**Testimony Against:** None.

**Testified:** Steve Gano, ARDA (pro).