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ENGROSSED SUBSTITUTE SENATE BILL 5492

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State of Washington

58th Legislature

2003 Regular Session

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

READ FIRST TIME 02/28/03.

1 AN ACT Relating to timeshares; and adding a new section to chapter  
2 64.36 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

17 (b) Construction on the project must have begun and be at least  
18 twenty percent complete and must be completed no later than within two  
19 years of the date of the initial offer to sell the timeshare interest;

1 (c) The promoter must establish an escrow or trust account for the  
2 purpose of protecting the funds or other property paid, pledged, or  
3 deposited by purchasers;

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

7 (e) The promoter's solicitations, advertisements, and promotional  
8 materials and the timeshare interest purchase agreement must clearly  
9 and conspicuously provide for and disclose the last possible estimated  
10 date for completion of construction.

11 (2) The timeshare interest purchase agreement must contain the  
12 following language in fourteen point bold face type: "If the project  
13 is not completed by [estimated date of completion], the purchaser has  
14 the right to void the purchase agreement and is entitled to a full,  
15 unqualified refund of all moneys paid."

16 (3) One hundred percent of all funds or other property that is  
17 received from or on behalf of purchasers of timeshare interests prior  
18 to the occurrence of events required in this section must be deposited  
19 pursuant to an escrow or trust agreement approved by the director.  
20 Funds may be released from the escrow or trust account to the purchaser  
21 if the purchaser cancels within the cancellation period, or to the  
22 promoter only when all three of the following conditions occur:

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

24 (b) Closing has occurred; and

25 (c) Construction is complete and the facility is ready to occupy.

26 (4) In lieu of depositing purchaser funds into an escrow or trust  
27 account, the promoter may post with the department a bond equal to the  
28 amount of Washington resident purchaser funds or other property. The  
29 amount of the bond must be adjusted upwards as the promoter makes  
30 additional sales and must at all times equal the amount of funds or  
31 other property that have been paid by Washington resident purchasers.

32 (5) Any purchaser has the right to void the timeshare purchase  
33 agreement and request a full, unqualified refund if construction of the  
34 timeshare project is not completed within two years from the date of  
35 the initial offer to sell the timeshare interest or by the last  
36 estimated date of construction contained in the timeshare purchase  
37 agreement, whichever is earlier.

1           (6) If the completed timeshare project is materially and adversely  
2 different from the project that was promised to purchasers at the time  
3 that the purchase agreements were signed, the director may declare any  
4 or all of the purchaser contracts void. Before declaring the contracts  
5 void, the director shall give the promoter the opportunity for a  
6 hearing in accordance with chapters 34.05 and 18.235 RCW.

7           (7) If the promoter intends to or does pledge or borrow against  
8 funds or properties, which are held in trust or escrow or protected by  
9 a bond, to help finance in whole or in part the construction of the  
10 timeshare project or to help pay for operating costs, this must be  
11 fully, plainly, and conspicuously disclosed in all advertising, in all  
12 written or oral solicitations for the sale of the timeshare interests,  
13 in the registration with the director, and in the purchase agreement or  
14 contract.

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

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