



Substitute Senate Bill No. 897

Public Act No. 09-156

AN ACT CONCERNING TIME SHARES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective January 1, 2010*) Sections 1 to 28, inclusive, of this act shall be known and may be cited as the "Time Share Act".

Sec. 2. (NEW) (*Effective January 1, 2010*) As used in sections 1 to 28, inclusive, of this act:

(1) "Accommodation" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or any other private or commercial structure that: (A) Is affixed to real property; (B) is designed for occupancy or use by one or more individuals; and (C) is part of a time share plan.

(2) "Advertisement" means any written, oral or electronic communication directed or targeted at individuals in this state that contains a promotion, inducement or offer to sell a time share interest, including, but not limited to, brochures, pamphlets, radio or television transcripts, telephone or electronic media or direct mail. "Advertisement" does not include: (A) Any stockholder communication, including an annual report or interim financial report,

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proxy material, registration statement, securities prospectus, time share disclosure statement or other material required to be delivered to a prospective purchaser by a state or federal governmental entity; (B) any oral or written statement disseminated by a developer to broadcast or print media, except the following shall be considered an advertisement: (i) Paid advertising or promotional material relating to plans for acquiring or developing time share property; and (ii) the rebroadcast or other dissemination of any oral statements by a developer to a prospective purchaser or the distribution or other dissemination of written statements, including newspaper or magazine articles or press releases, by a developer to prospective purchasers; (C) the offering of a time share interest in a national publication or by electronic media that is not specifically targeted to any individual located in this state; (D) any audio, written or visual publication or material relating to the availability of any accommodations for transient rental if (i) a sales presentation is not a term or condition of the availability of the accommodations, and (ii) the failure of the transient renter to take a tour of the time share property or attend a sales presentation does not result in a reduction in the level of services or an increase in the rental price that would otherwise be available to the renter; or (E) any follow-up communication with a person relating to a promotion if the person previously received an advertisement relating to the promotion that complied with section 10 of this act.

(3) "Amenities" means all recreational facilities made available to purchasers in a time share plan.

(4) "Assessment" means the amount assessed against or collected from a purchaser by an association or its managing entity in a fiscal year to cover expenditures, charges, reserves or liabilities related to the operation of a time share plan or time share properties managed by the same managing entity.

(5) "Association" means a council or association composed of all

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owners of a time share interest.

(6) "Bonus time" means a program for the nonguaranteed use of accommodations or amenities at one or more time share properties under common management that allows reservations by owners of the time share properties for unreserved accommodations or amenities during a period of not more than thirty days before the desired reservation dates.

(7) "Closing agent" means a title agent, a bonded escrow company, a financial institution whose accounts are insured by a governmental agency or instrumentality, or an attorney (A) admitted to the bar of the state in which the closing occurs, (B) who is not an employee of the developer or of an affiliated entity under common ownership and control of the developer, and (C) who is responsible for the receipt and disbursement of funds in accordance with sections 1 to 28, inclusive, of this act.

(8) "Commissioner" means the Commissioner of Consumer Protection.

(9) "Component site" means a specific geographic location where accommodations that are part of a multisite time share plan are located. Separate phases of a single time share property in a specific geographic location and under common management shall be deemed a single component site.

(10) "Conspicuous type" means: (A) (i) Type in upper and lower case letters two point sizes larger than the largest nonconspicuous type, exclusive of headings, on the page on which it appears, but not less than ten-point type, or (ii) where the use of ten-point type would be impractical or impossible with respect to a particular piece of written advertising material, a different style of type or print that is conspicuous under the circumstances; and (B) separated on all sides

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from other type and print.

(11) "Department" means the Department of Consumer Protection.

(12) "Developer" means: (A) Any person, excluding a sales agent, who creates a time share plan, is in the business of selling time share interests or employs a sales agent to sell time share interests; or (B) any person who succeeds in the developer's interest by sale, lease, assignment, mortgage or other transfer if such person (i) offers not less than twelve time share interests in a particular time share plan, and (ii) is in the business of selling time share interests or employs a sales agent to sell time share interests.

(13) "Dispose" or "disposition" means a voluntary transfer of any legal or equitable time share interest, but does not include the transfer or release of a real estate lien or of a security interest.

(14) "Exchange company" means any person who owns or operates an exchange program.

(15) "Exchange disclosure statement" means a written statement that includes the information required by section 12 of this act.

(16) "Exchange program" means any method, arrangement or procedure for the voluntary exchange of time share interests among purchasers or owners.

(17) "Managing entity" means the association or person responsible for operating and maintaining a time share property.

(18) "Multisite time share plan" means a plan in which a time share purchaser has:

(A) A specific time share interest, which is the right to use and occupy accommodations at a specific time share property and the right to use and occupy accommodations at one or more other component

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sites created by or acquired solely through the reservation system of the time share plan; or

(B) A nonspecific time share interest, which is the right to use and occupy accommodations at more than one component site created by or acquired solely through the reservation system of the time share plan but which does not include a right to use and occupy a particular accommodation.

(19) "Offering" or "offer" means any advertisement, inducement or solicitation and any attempt to encourage a person to purchase a time share interest.

(20) "Project instrument" means a time share instrument or one or more recordable documents, by whatever name denominated, applying to the whole of a time share project and containing restrictions or covenants regulating the use, occupancy or disposition of units in a project, including a declaration for a condominium, association articles of incorporation, association bylaws and rules for a condominium in which a time share plan is created.

(21) "Promotion" means any program, activity or contest, or any gift, prize or other item of value, used to induce any person to attend a time share sales presentation.

(22) "Purchaser" means any person, other than a developer, who acquires a legal or equitable interest in a time share by means of a voluntary transfer other than as a security for an obligation.

(23) "Reservation system" means the method, arrangement or procedure by which a purchaser, in order to reserve the use and occupancy of an accommodation of a multisite time share plan for one or more time share periods, is required to compete with other purchasers in the same multisite time share plan, regardless of whether the reservation system is operated and maintained by the multisite

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time share plan, a managing entity, exchange company or any other person. If a purchaser is required to use an exchange program as the purchaser's principal means of obtaining the right to use and occupy the accommodations and facilities of the plan, such arrangement is considered a reservation system. If the exchange company uses a mechanism to exchange time share periods among members of the exchange program, the use of the mechanism is not considered a reservation system of a multisite time share plan.

(24) "Sales agent" means a person who, directly or through the person's employees, agents or independent contractors, sells or offers to sell time share interests in a time share plan to any individual located in this state.

(25) "Single-site time share plan" means a time share plan in which a time share purchaser's right to use and occupy accommodations is limited to a single time share property. A single-site time share plan that includes bonus time or a program under which the owner of a time share interest at a specific time share property may exchange a time share period for another time share period at the same or another time share property under common management shall not transform the single-site time share plan into a multisite time share plan.

(26) "Time share disclosure statement" means a written statement that includes the information required by section 11 of this act.

(27) "Time share estate" means an arrangement under which the purchaser receives a right to occupy a time share property and a real estate interest in the time share property.

(28) "Time share interest" means a time share estate or time share use.

(29) "Time share instrument" means a master deed, master lease, declaration or any other instrument used in the creation of a time share

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plan.

(30) "Time share period" means the period of time within which the purchaser of a time share interest is entitled to the exclusive possession, occupancy and use of an accommodation.

(31) "Time share plan" means any arrangement, plan, scheme or similar method, excluding an exchange program but including a membership agreement, sale, lease, deed, license or right-to-use agreement, by which a purchaser, in exchange for consideration, receives an ownership right in or the right to use accommodations on a recurring basis for a period of time less than a year during a given year, but not necessarily consecutive years, regardless of whether the period of time is determined in advance.

(32) "Time share property" means: (A) One or more accommodations and any related amenities subject to the same time share instrument; and (B) any other property or property rights appurtenant to such accommodations and amenities.

(33) "Time share unit" means an accommodation of a time share plan that is divided into time share periods. Any time share unit in which a door or doors connecting two or more separate rooms are capable of being locked to create two or more private dwellings shall only constitute one time share unit for purposes of sections 1 to 28, inclusive, of this act, unless the time share instrument provides that time share interests may be separately conveyed in such locked-off portions.

(34) "Time share use" means any arrangement under which the purchaser receives a right to occupy a time share property, but under which the purchaser does not receive a real estate interest in the time share property.

(35) "Time share resale" means the sale or transfer of a time share

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interest that was previously sold to a purchaser.

(36) "Time share resale broker" means a person who acts for another person or entity and for a fee, commission or other valuable consideration, offers in this state to advertise, list for sale, sell, exchange, buy or rent or offers or attempts to negotiate a sale, exchange, purchase or rental of twelve or more time share resales in any twelve-month period, or who is registered as a time share resale broker pursuant to the provisions of sections 1 to 28, inclusive, of this act.

Sec. 3. (NEW) (*Effective January 1, 2010*) (a) Sections 1 to 28, inclusive, of this act shall apply to the following:

(1) Time share plans with accommodations or amenities in this state;

(2) Time share plans without accommodations or amenities in this state, if those time share plans are sold or offered to be sold to any individual located within this state. Time share plans without accommodations or amenities in this state that are sold or offered to any individual located within this state are subject only to sections 2 to 4, inclusive, subsection (d) of section 6, sections 7 to 22, inclusive, and section 26 of this act; and

(3) Exchange programs as specified in subdivision (16) of section 2 of this act.

(b) Sections 1 to 28, inclusive, of this act shall not apply to the offering of sale of the following:

(1) Time share plans, whether or not an accommodation is located in this state, consisting of seven or fewer time share interests. Use of an exchange program by owners of time share interests to secure access to other accommodations shall not affect this exemption;

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(2) Time share plans, whether or not an accommodation is located in this state, the use of which extends over any period of three years or less; or

(3) A time share interest, whether or not an accommodation is located in this state, under which the prospective purchaser's total financial obligation will be equal to or less than three thousand dollars during the term of ownership of the time share interest.

(c) An offering or disposition is exempt from the provisions of sections 1 to 28, inclusive, of this act if it is:

(1) A gratuitous offering or disposition of a time share interest;

(2) A disposition pursuant to a court order;

(3) A disposition by a governmental agency;

(4) A disposition by foreclosure or deed in lieu of foreclosure;

(5) An offering or disposition by an association of its own time share interest acquired through foreclosure, deed in lieu of foreclosure or gratuitous transfer;

(6) An offering or disposition of all time share interests in a time share plan to not more than five persons;

(7) An offering or disposition of a time share interest in a time share property situated wholly outside this state under a contract executed wholly outside this state, if there has been no offering to the purchaser within this state;

(8) An offering or disposition of a time share interest to a purchaser who is not a resident of this state under a contract executed wholly outside this state, if there has been no offering to the purchaser within this state;

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(9) The offering or disposition of a time share interest by a purchaser who acquired the interest for the purchaser's personal use; or

(10) The offering or disposition of a rental of an accommodation for a period of three years or less.

(d) An offering or disposition of a time share interest in a time share property located outside of this state to a purchaser who currently owns a time share interest from the same developer or from an affiliated entity under common ownership and control with the developer is exempt from the provisions of sections 1 to 28, inclusive, of this act if:

(1) The developer or affiliated entity has a time share plan currently registered with the department that was originally approved within the previous seven years from the date of the offer or disposition; and

(2) The developer or affiliated entity making such offer or disposition:

(A) Complies in all material respects with the provisions of section 10, subsections (c) and (d) of section 14, section 15, subsection (q) of section 17, subdivision (2) of subsection (a) of section 18 and subsections (b) to (d), inclusive, of section 18 of this act;

(B) Provides the purchaser with all time share disclosure documents required to be provided to purchasers as if the offer or disposition occurred in the state or jurisdiction where the time share property is located;

(C) Includes a notice in the contract for purchase that is the same as or substantially similar to that required in subsection (a) of section 15 of this act and a right of rescission of not less than five days;

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(D) Provides the purchaser, either in the disclosure documents provided pursuant to this subdivision or in supplementary or additional materials, all of the following if the state or jurisdiction where the time share property is located does not require such disclosure documents:

(i) A description of the type of time share plan offered, including the duration and operation of the plan;

(ii) A description of the existing or proposed accommodations and amenities, including the type and number of time share interests in the accommodations expressed in use increments applicable to the time share plan, a categorization by numbers of bedrooms for each type of accommodation and, if the accommodations or amenities are proposed or incomplete, a schedule for commencement, completion and availability of the accommodations;

(iii) A description of the method and timing for performing maintenance on the accommodations;

(iv) Copies of the declaration, association articles of incorporation, association bylaws and association rules and regulations, if applicable; and

(v) The current annual budget for the time share plan.

(3) By making any offering or disposition pursuant to this subsection, the developer is deemed to consent to the jurisdiction of the Department of Consumer Protection in the event of a dispute with the purchaser in connection with the offering or disposition.

(e) For the purposes of sections 1 to 28, inclusive, of this act, the term "vacation ownership" may be used synonymously for "time share" in advertisements or in disclosures regarding a time share interest or time share plan.

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Sec. 4. (NEW) (*Effective January 1, 2010*) The following communications are exempt from sections 1 to 28, inclusive, of this act if they are delivered to a person who has previously executed a contract for the purchase of, or is an owner of, a time share interest in a time share plan:

(1) Any communication addressed to and relating to the account of the person; or

(2) Any audio, written or visual publication or material relating to an exchange company or program if the person is a member of that exchange company or program.

Sec. 5. (NEW) (*Effective January 1, 2010*) (a) The developer of a time share plan any part of which is located in this state shall properly record the time share instrument in the land records of all towns where an accommodation is located. When a person expressly declares an intent to subject the property to a time share plan through the recordation of a time share instrument that sets forth the information provided in subsections (b) and (c) of this section, that property shall be established thenceforth as a time share plan.

(b) The declaration made in a time share instrument recorded under this section shall include:

(1) A legal description of the time share property, including a ground plan indicating the location of each existing or proposed building included in the time share plan;

(2) A description of each existing or proposed accommodation, including the location and square footage of each unit and an interior floor plan of each existing or proposed building;

(3) A description of any amenities furnished or to be furnished to the purchaser;

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(4) A statement of the fractional or percentage part that each time share interest bears to the entire time share plan;

(5) A statement that the time share property is part of a multisite time share plan, if applicable; and

(6) Any additional information consistent with this section.

(c) Any sales agent who offers a time share interest created under this section shall be licensed as a real estate broker or real estate salesperson as set forth in section 20-312 of the general statutes, unless exempt from licensure under chapter 392 of the general statutes. The following need not be licensed pursuant to section 20-312 of the general statutes: (1) An exchange company that is exchanging time share periods, or (2) a person who only distributes literature pertaining to a time share or advertises a time share, provided a sales agent or a real estate broker or real estate salesperson licensed under section 20-312 of the general statutes transacts the sale of such time share interest.

Sec. 6. (NEW) (*Effective January 1, 2010*) (a) Once a property is established as a time share plan, each time share interest may be individually conveyed or encumbered and shall be entirely independent of all other time share interests in the same time share property. Any title or interest in a time share interest may be recorded.

(b) Any time share interest may be jointly or commonly owned by more than one person.

(c) A time share estate may be jointly or commonly owned in the same manner as any other real property interest in this state.

(d) An action for partition of a time share unit shall not be maintained during the term of a time share plan.

Sec. 7. (NEW) (*Effective January 1, 2010*) (a) Except as provided by

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sections 1 to 28, inclusive, of this act, a developer may not offer or dispose of a time share interest unless such time share plan is registered with the Department of Consumer Protection.

(b) Before a registration application for a time share plan is submitted or completed, a developer or any person acting on the developer's behalf may accept a reservation and a deposit from a prospective purchaser if the deposit is placed in an escrow account with a closing agent and if the deposit is fully refundable at any time at the request of the purchaser. The deposit shall not be forfeited unless the purchaser affirmatively creates a binding obligation by a subsequent written instrument consisting of a binding contract to purchase, in which case the release of funds shall be governed by subsections (a) to (o), inclusive, of section 17 of this act.

(c) A developer or any person acting on the developer's behalf may not offer or dispose of a time share interest during any period within which there is in effect an order by the commissioner or by any court of competent jurisdiction revoking or suspending the registration of the time share plan of which such time share interest is a part.

(d) At the developer's request, the department may authorize the developer to conduct presales before a time share plan is registered if the registration application is administratively complete, as determined by the commissioner or as established by department regulations. The authorization for presales shall permit the developer to offer and dispose of time share interests during the period the registration application is in process. To obtain a presales authorization, the developer shall:

(1) Submit a written request to the department for an authorization to conduct presales;

(2) Submit an administratively complete application for registration,

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including an application fee of three hundred dollars and any exhibits required by the department; and

(3) Provide evidence acceptable to the department that all funds received by the developer will be placed with a closing agent with instructions requiring the funds to be retained until a registration application is complete as determined by the department.

(e) After the final time share disclosure statement is approved by the commissioner, the developer shall:

(1) Give each purchaser and prospective purchaser a copy of the final time share disclosure statement; and

(2) Provide the purchaser with a second opportunity to cancel the purchase contract, as provided in subsections (c) and (d) of section 14 of this act, if the commissioner determines that a materially adverse change exists between the disclosures contained in the proposed time share disclosure statement and the final time share disclosure statement.

(f) The requirements of sections 1 to 28, inclusive, of this act shall remain in effect during the period the developer offers or disposes of time share interests of the time share plan registered with the department. The developer shall notify the department in writing when the developer ceases to offer the time share plan in this state.

Sec. 8. (NEW) (*Effective January 1, 2010*) (a) An application for registration filed under this section shall include a time share disclosure statement required by section 11 of this act and any exchange disclosure statement required by section 12 of this act, recorded copies of all time share instruments and other information as may be required by the commissioner. If the time share property is a newly developed property, recorded copies of the time share instruments shall be provided promptly after recorded copies are

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available from the entity with which the instruments are recorded.

(b) If existing or proposed accommodations are in a condominium or similar development, the application for registration shall contain the project condominium instruments of that development and affirmatively indicate that the creation and disposition of time share interests are not prohibited by those instruments. If the project instruments do not expressly authorize the creation and disposition of time share interests, the application shall contain evidence that existing owners of the condominium development were provided written notice not later than sixty days before the application for registration that time share interests would be created and sold. If the project instruments prohibit the creation or disposition of time share interests, the application shall contain a certification by the authorized representative of all existing owners that the project instruments have been properly amended to permit such creation and disposition.

(c) The commissioner may accept an abbreviated registration application from a developer of a time share plan for any accommodations in the plan that are located outside this state.

(d) A developer of a time share plan with any accommodation located in this state shall not file an abbreviated application unless:

(1) The developer is a (A) successor in interest after a merger or acquisition, or (B) joint venture in which the previous developer or its affiliate is a partner or a member; and

(2) The previous developer registered the time share plan in this state preceding the merger, acquisition or joint venture.

(e) A developer filing an abbreviated application shall provide:

(1) The legal name and any assumed names and the principal office location, mailing address, telephone number and primary contact

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person of the developer;

(2) The name, location, mailing address, telephone number and primary contact person of the time share plan;

(3) The name and address of the developer's authorized or registered agent for service of process in this state if the developer is not domiciled in this state;

(4) The name, primary office location, mailing address and telephone number of the managing entity of the time share plan;

(5) A declaration stating whether the time share plan is a single-site time share plan or a multisite time share plan;

(6) If the plan is a multisite time share plan, a declaration stating whether the plan consists of specific time share interests or nonspecific time share interests;

(7) A statement disclosing each jurisdiction in which the time share plan is approved or accepted and a statement disclosing each jurisdiction in which the time share plan is pending;

(8) A disclosure of each jurisdiction in which the developer or the managing entity has been denied registration of the time share plan or, during the five-year period before the registration application date, was the subject of a final adverse disposition in a disciplinary proceeding;

(9) If requested by the commissioner, copies of any disclosure documents required to be provided to purchasers or filed with any jurisdiction that approved or accepted the time share plan;

(10) Any other information requested by the commissioner or required by statute or departmental regulation or policy; and

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(11) The appropriate filing fee, as determined by the commissioner.

(f) In lieu of physically providing the items listed in subsection (e) of this section, a developer filing an abbreviated application may provide a statement or statements certifying that any or all of the items required by subsection (e) of this section are available to be viewed electronically, at no cost to the department, through an electronic registry, web site or other electronic means approved by the commissioner. The method for accessing said items shall be clearly disclosed in each such certification.

(g) A foreign developer shall not file an abbreviated application unless the state in which such developer is registered has registration and disclosure requirements that are substantially similar to, or more stringent than, the requirements of this section.

(h) The commissioner shall investigate all matters relating to the application and the commissioner may require a personal inspection of the proposed time share property by any persons designated from the department. All direct expenses incurred by the department in inspecting the property shall be borne by the applicant. The commissioner may require the applicant to pay an advance deposit sufficient to cover those expenses.

(i) The developer shall file amendments to the registration reporting to the commissioner any materially adverse change in any document contained in the registration not later than thirty days after the developer knows or reasonably should know of the change. The developer may continue to offer and dispose of time share interests under the existing registration pending review of the amendments by the commissioner if the materially adverse change is disclosed to prospective purchasers. The commissioner may charge a fee of up to three hundred dollars for the processing of an amendment.

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Sec. 9. (NEW) (*Effective January 1, 2010*) (a) The commissioner may adopt regulations, in accordance with chapter 54 of the general statutes, and prescribe and publish forms necessary to carry out the provisions of sections 1 to 28, inclusive, of this act. The commissioner may suspend or revoke the registration of, place on probation, or reprimand any person subject to sections 1 to 28, inclusive, of this act, impose a civil penalty of not more than five thousand dollars for each violation of sections 1 to 28, inclusive, of this act, or take any other disciplinary action authorized by sections 1 to 28, inclusive, of this act if, after notice and hearing, the commissioner determines that a developer or person subject to sections 1 to 28, inclusive, of this act has materially violated any provision of sections 1 to 28, inclusive, of this act or chapter 735a of the general statutes. Nothing in sections 1 to 28, inclusive, of this act shall be construed to limit or deny any rights or remedies provided by law.

(b) The commissioner may authorize specific employees to conduct hearings and issue proposed or final decisions in contested cases, and establish reasonable fees for forms and documents the department provides to the public and for the filing or registration of documents required by sections 1 to 28, inclusive, of this act.

(c) If the commissioner initiates a disciplinary proceeding under this section, a person is entitled to a hearing before the commissioner or a hearing officer appointed by the commissioner. Any party aggrieved by a decision made by a hearing officer may appeal to the commissioner in accordance with chapter 54 of the general statutes.

(d) The commissioner may authorize the Attorney General to file a suit in the judicial district of New Britain to prevent a violation of sections 1 to 28, inclusive, of this act or for any other appropriate relief.

(e) A developer's compliance with sections 1 to 28, inclusive, of this act exempts the parties' offer, disposition, exchange and management

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of time share interests subject to said sections from: (1) The registration provisions of chapter 672a of the general statutes, unless otherwise sold as a security; (2) compliance with the provisions of chapter 740 of the general statutes; (3) compliance with the provisions of chapter 828 of the general statutes; and (4) compliance with the provisions of sections 20-329a to 20-329n, inclusive, of the general statutes.

(f) The commissioner may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, specifying the requirements for the issuance and renewal of a developer's registration under sections 1 to 28, inclusive, of this act, including, but not limited to, (1) the form required for application for registration or a renewal of registration, and (2) any supporting documentation required for registration or renewal of registration.

(g) The commissioner shall issue or renew a registration under sections 1 to 28, inclusive, of this act for a period not to exceed twenty-four months.

(h) The commissioner shall assess and collect a fee of seven hundred dollars for the issuance or renewal of a registration under sections 1 to 28, inclusive, of this act.

(i) The commissioner may assess and collect a late fee if the commissioner has not received the registration fee or supporting documentation required before the sixty-first day after the date a registration is issued or renewed under this section.

(j) Failure to pay a renewal fee shall be a violation of sections 1 to 28, inclusive, of this act.

Sec. 10. (NEW) (*Effective January 1, 2010*) (a) An advertisement shall not materially misrepresent:

(1) Facts or create false or misleading impressions regarding the

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time share plan;

(2) The size, nature, extent, qualities or characteristics of the accommodations or amenities;

(3) The amount or period of time during which the accommodations or amenities will be available to any purchaser;

(4) The nature or extent of any services incident to the time share plan; or

(5) The conditions under which a purchaser may exchange the right to use accommodations or amenities in one location for the right to use accommodations or amenities in another location.

(b) An advertisement shall not:

(1) Contain statements concerning nonspecific or not bona fide future price increases;

(2) Contain any asterisk or other reference symbol as a means of contradicting or substantially changing any previously made statement or as a means of obscuring material facts; or

(3) Describe any improvement to the time share plan that is not required to be built or that is uncompleted unless labeled in conspicuous type with words such as "need not be built", "proposed" or "under construction", with the date of promised completion, if applicable, clearly indicated.

(c) An advertisement that contains a promotion in connection with the offering of a time share interest shall include:

(1) A statement to the effect that the promotion is intended to solicit purchasers of time share interests;

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(2) The full name of the developer of the time share property; and

(3) If applicable, the full name and address of any marketing company involved in the promotion of the time share property, excluding the developer or an affiliate or subsidiary of the developer.

(d) When a promotion uses free offers, gift enterprises, drawings, sweepstakes or discounts, the rules of the promotion shall be disclosed and shall include, when applicable, the day and the year by which all prizes listed or offered will be awarded, and the method by which all prizes are to be awarded.

(e) At least one of each prize featured in a promotion shall be awarded by the day and year specified in the promotion. The developer and any marketing company involved in the promotion shall be liable for making the awards.

(f) Any promotion offering prizes, including, but not limited to, awards, gifts or anything of value regardless of whether there are any conditions or restrictions attached to the receipt of the prize, shall disclose in conspicuous type:

(1) The value of each prize;

(2) The odds of winning each prize, expressed in Arabic numerals as a fraction or a ratio, or, if the odds depend upon the number of entries received, a statement that the odds depend upon the number of any entries received; and

(3) Any conditions or restrictions that apply to the receipt of the prize or void the receipt of the prize.

(g) An advertisement containing the disclosures required by this section shall be provided in writing or electronically:

(1) At least once before a scheduled sales presentation; and

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(2) In a reasonable period before the scheduled sales presentation to ensure that the recipient receives the disclosures before leaving to attend the sales presentation.

(h) The developer shall not be required to provide the disclosures required by this section in every advertisement or other written, oral or electronic communication provided or made to a recipient before a scheduled sales presentation.

Sec. 11. (NEW) (*Effective January 1, 2010*) (a) Before a prospective purchaser signs any agreement to acquire a time share interest, the developer shall provide a time share disclosure statement to the prospective purchaser and shall obtain from the purchaser a written acknowledgement of receipt of the time share disclosure statement.

(b) The time share disclosure statement for a single-site time share plan or a multisite time share plan that includes a specific time share interest shall include:

(1) The type of time share plan offered and the name and address of the developer and the single site or specific site offered for the multisite time share plan;

(2) A description of the duration and operation of the time share plan;

(3) A description of the existing or proposed accommodations, including the type and number of time share interests in the accommodations expressed in periods of seven-day-use availability or other time increment applicable to the time share plan. The description of each type of accommodation included in the time share plan shall be categorized by the number of bedrooms, the number of bathrooms, and sleeping capacity, and shall include a statement indicating whether the accommodation contains a full kitchen, which means a kitchen that has a minimum of a dishwasher, range, sink, oven and

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refrigerator. If the accommodations are proposed or incomplete, a schedule for commencement, completion and availability of the accommodations shall be provided;

(4) A description of any existing or proposed amenities of the time share plan and, if the amenities are proposed or incomplete, a schedule for commencement, completion, and availability of the amenities;

(5) The extent to which financial arrangements have been provided for the completion of all promised accommodations and amenities that are committed to be built;

(6) A description of the method and timing for performing maintenance of the accommodations;

(7) A statement indicating that, on an annual basis, the sum of the nights that purchasers are entitled to use the accommodations does not exceed the number of nights the accommodations are available for use by the purchasers;

(8) A description of the method by which purchasers' use of the accommodations is scheduled;

(9) A statement that an association exists or is expected to be created or that such an association does not exist and is not expected to be created and, if such an association exists or is reasonably contemplated, a description of its powers and responsibilities;

(10) Relating to the single-site time share plan or the specific time share interest of a multisite time share plan, copies of the following documents, if applicable, including any amendments to the documents, unless separately provided to the purchaser simultaneously with the time share disclosure statement: (A) The declaration; (B) the association articles of incorporation; (C) the association bylaws; (D) the association rules; and (E) any lease or

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contract, excluding the purchase contract and other loan documents required to be signed by the purchaser at closing;

(11) The name and principal address of the managing entity and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it;

(12) The current annual budget, if available, or the projected annual budget for the time share plan or time share properties managed by the same managing entity if assessments are deposited in a common account. The budget shall include:

(A) A statement of the amount reserved or budgeted for repairs, replacements and refurbishment;

(B) The projected common expense liability, if any, by category of expenditure for the time share plan or time share properties managed by the same managing entity; and

(C) The assumptions on which the operating budget is based;

(13) The projected assessments and a description of the method for calculating and apportioning those assessments among purchasers;

(14) Any initial fee or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;

(15) A description of any lien, defect or encumbrance on or affecting title to the time share interest and, if applicable, a copy of each written warranty provided by the developer;

(16) A description of any bankruptcy that is pending or that has occurred within the past five years, pending civil or criminal suit, adjudication or disciplinary actions material to the time share plan of

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which the developer has knowledge;

(17) A description of any financing offered by or available through the developer;

(18) Any current or anticipated fees or charges to be paid by time share purchasers for the use of any accommodations or amenities related to the time share plan, and a statement that the fees or charges are subject to change;

(19) A description of the insurance respectively insuring the (A) time share property against damage and destruction, (B) association against liability to others, and (C) owners of time share interests against liability to others;

(20) A description of the type of insurance coverage necessary to protect the purchaser and reasonably repair or replace the accommodations and amenities;

(21) The extent to which a time share interest may become subject to a tax lien or other lien arising out of claims against purchasers of different time share interests;

(22) A description of the purchaser's right to cancel the purchase contract identified in section 14 of this act;

(23) A statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a time share interest;

(24) A statement disclosing that any deposit made in connection with the purchase of a time share interest shall be held by a closing agent until expiration of any right to cancel the contract and that if the purchaser elects to exercise the right of cancellation, any deposit shall be returned to the purchaser, as set forth in subsection (d) of section 14 of this act, or, if the commissioner accepts from the developer a surety

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bond, irrevocable letter of credit or other form of financial assurance instead of an escrow deposit, a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit or other form of financial assurance in an amount equal to or in excess of the funds that would otherwise be held by a closing agent and that if the purchaser elects to exercise the right of cancellation, any deposit shall be returned to the purchaser, as set forth in subsection (d) of section 14 of this act;

(25) If applicable, a statement that the assessments collected from the purchasers may be placed in a common account with the assessments collected from the purchasers of other time share properties managed by the same managing entity;

(26) If the time share plan provides purchasers with the opportunity to participate in an exchange program, a description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program; and

(27) Any other information the commissioner deems necessary to protect prospective purchasers or to implement sections 1 to 28, inclusive, of this act.

(c) A developer who offers a specific time share interest in a multisite time share plan also shall fully disclose the following information in written, graphic or tabular form:

(1) A description of each component site, including the name and address of each component site;

(2) A description of each type of accommodation in each component site, categorized by the number of bedrooms, the number of bathrooms, and sleeping capacity and a statement indicating whether the accommodation contains a full kitchen, which means a kitchen that has a minimum of a dishwasher, range, sink, oven and refrigerator;

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(3) A description of the amenities at each component site available for use by purchasers;

(4) A description of the reservation system, including, but not limited to:

(A) The entity responsible for operating the reservation system, its relationship to the developer and the duration of any agreement for operation of the reservation system;

(B) A summary of the rules governing access to and use of the reservation system; and

(C) The existence of and explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first-come, first-served basis;

(5) The name and principal address of the managing entity for the multisite time share plan and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it;

(6) A description of any right to make additions to, substitutions in or deletions from accommodations, amenities or component sites, and a description of the basis on which accommodations, amenities or component sites may be added to, substituted in or deleted from the multisite time share plan;

(7) A description of the purchaser's liability for any fees associated with the multisite time share plan;

(8) The location of each component site of the multisite time share plan, the historical occupancy of each component site for the prior twelve-month period, if the component site was part of the multisite

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time share plan during such twelve-month time period, as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at the time within the multisite time share plan; and

(9) Any other information the commissioner deems necessary to protect prospective purchasers or to implement sections 1 to 28, inclusive, of this act.

(d) A developer who offers a nonspecific time share interest in a multisite time share plan shall disclose the following information in written, graphic or tabular form:

(1) The name and address of the developer;

(2) A description of the type of interest and the usage rights the purchaser will receive;

(3) A description of the duration and operation of the time share plan;

(4) A description of the insurance respectively insuring the (A) time share property against damage and destruction, (B) association against liability to others, and (C) owners of time share interests against liability to others;

(5) An explanation of who holds title to the accommodations of each component site;

(6) A description of each component site, including the name and address of each component site;

(7) A description of the existing or proposed accommodations, expressed in periods of seven-day use availability or any other time increment applicable to the time share plan. The description of each

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type of accommodation included in the time share plan shall be categorized by the number of bedrooms, the number of bathrooms, and sleeping capacity, and shall include a statement indicating whether the accommodation contains a full kitchen, which means a kitchen that has a minimum of a dishwasher, range, sink, oven and refrigerator. If the accommodations are proposed or incomplete, a schedule for commencement, completion and availability of the accommodations shall be provided;

(8) A statement that an association exists or is expected to be created or that such an association does not exist and is not expected to be created and, if such an association exists or is reasonably contemplated, a description of its powers and responsibilities;

(9) If applicable, copies of the following documents applicable to the multisite time share plan, including any amendments to the documents, unless separately provided to the purchaser simultaneously with the time share disclosure statement: (A) The declaration; (B) the association articles of incorporation; (C) the association bylaws; (D) the association rules; and (E) any lease or contract, excluding the purchase contract and other loan documents required to be signed by the purchaser at closing;

(10) A description of the method and timing for performing maintenance of the accommodations;

(11) A statement indicating that, on an annual basis, the sum of the nights that purchasers are entitled to use the accommodations does not exceed the number of nights the accommodations are available for use by the purchasers;

(12) A description of amenities available for use by the purchaser at each component site;

(13) The location of each component site of the multisite time share

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plan, the historical occupancy of each component site for the prior twelve-month period, if the component site was part of the multisite time share plan during such twelve-month time period, as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at the time within the multisite time share plan;

(14) A description of the right to make any additions, substitutions, or deletions of accommodations, amenities or component sites, and a description of the basis upon which accommodations, amenities or component sites may be added to, substituted in or deleted from the multisite time share plan;

(15) A description of the reservation system that shall include all of the following:

(A) The entity responsible for operating the reservation system, its relationship to the developer and the duration of any agreement for operation of the reservation system;

(B) A summary of the rules governing access to and use of the reservation system; and

(C) The existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first-come, first-served basis;

(16) The name and principal address of the managing entity for the multisite time share plan and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it, and a description of the relationship between the multisite time share plan managing entity and the managing entity of the component sites of the multisite time share

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plan, if different from the multisite time share plan managing entity;

(17) The current annual budget of the multisite time share plan, if available, or the projected annual budget for the multisite time share plan, which shall include, but not be limited to:

(A) A statement of the amount reserved or budgeted for repairs, replacements and refurbishment;

(B) The projected common expense liability, if any, by category of expenditure for the multisite time share plan; and

(C) The assumptions on which the operating budget is based;

(18) The projected assessments and a description of the method for calculating and apportioning those assessments among purchasers of the multisite time share plan;

(19) If applicable, a statement that the assessments collected from the purchasers may be placed in a common account with the assessments collected from the purchasers of other time share properties managed by the same managing entity;

(20) Any current fees or charges to be paid by time share purchasers for the use of any amenities related to the time share plan and a statement that the fees or charges are subject to change;

(21) Any initial or special fee due from the purchaser at closing, together with a description of the purpose of and method of calculating the fee;

(22) A description of the purchaser's liability for any fees associated with the multisite time share plan;

(23) A description of any lien, defect or encumbrance on or affecting title to the time share interest and, if applicable, a copy of each written

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warranty provided by the developer;

(24) The extent to which a time share interest may become subject to a tax lien or other lien arising out of claims against purchasers of different time share interests;

(25) A description the cancellation provisions and the waiver prohibition set forth in subsections (a) to (c), inclusive, of section 14 of this act;

(26) A description of any financing offered by or available through the developer;

(27) A description of any bankruptcy of the developer that is pending or that has occurred within the past five years, pending civil or criminal suits, adjudications or disciplinary actions material to the time share plan of which the developer has knowledge;

(28) A statement disclosing any right of first refusal or other restraint on the transfer of all or a portion of a time share interest;

(29) A statement disclosing that any deposit made in connection with the purchase of a time share interest shall be held by a closing agent until expiration of any right to cancel the contract and that if the purchaser elects to exercise the right of cancellation, any deposit shall be returned to the purchaser, as set forth in subsection (d) of section 14 of this act, or, if the commissioner requires from the developer a surety bond, irrevocable letter of credit or other form of financial assurance instead of an escrow deposit, a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit or other form of financial assurance in an amount equal to or in excess of the funds that would otherwise be held by a closing agent and that if the purchaser elects to exercise the right of cancellation, any deposit shall be returned to the purchaser, as set forth in subsection (d) of section 14 of this act;

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(30) If the time share plan provides purchasers with the opportunity to participate in an exchange program, a description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program; and

(31) Any other information the commissioner determines is necessary to protect prospective purchasers or to implement the purpose of sections 1 to 28, inclusive, of this act.

(e) A developer may include any other information in a time share disclosure statement approved by the commissioner.

(f) If a time share plan is located wholly outside this state, the commissioner may permit the developer to submit a time share disclosure statement the developer is currently providing purchasers or an equivalent time share disclosure statement filed for the time share plan in another state if the current statement or the equivalent statement substantially complies with the requirements of this section. Use of an equivalent time share disclosure statement pursuant to this subsection does not exempt the developer from other requirements of this section.

Sec. 12. (NEW) (*Effective January 1, 2010*) (a) Before the signing of any agreement to purchase a time share interest in which a prospective purchaser is also offered participation in any exchange program, the developer shall deliver to the prospective purchaser the exchange disclosure statement of any exchange company whose service is advertised or offered by the developer or other person in connection with the disposition.

(b) If participation in an exchange program is offered for the first time after a disposition has occurred, any person offering that participation shall also deliver an exchange disclosure statement to the purchaser before the execution by the purchaser of any instrument

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relating to participation in the exchange program.

(c) In all cases, the person offering participation in the exchange program shall obtain from the purchaser a written acknowledgement of receipt of the exchange disclosure statement.

(d) The exchange disclosure statement shall include:

(1) The name and address of the exchange company;

(2) If the exchange company is not the developer, a statement describing the legal relationship, if any, between the exchange company and the developer;

(3) A statement indicating the conditions under which the exchange program might terminate or become unavailable;

(4) Whether membership or participation or both in the exchange program is voluntary or mandatory;

(5) A complete description of the required procedure for executing an exchange of time share periods;

(6) The fee required for membership or participation or both in the program and whether the fee is subject to change;

(7) A statement disclosing that participation in the exchange program is conditioned on compliance with the terms of a contract between the exchange company and the purchaser;

(8) A statement in conspicuous type that all exchanges are arranged on a space-available basis and that neither the developer nor the exchange company guarantees that a particular time share period can be exchanged;

(9) A description of seasonal demand and unit occupancy

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restrictions employed in the exchange program;

(10) The following information, which shall be independently audited by a certified public accountant or accounting firm in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants and reported annually:

(A) The number of purchasers currently enrolled in the exchange program;

(B) The number of accommodations and facilities that have current written affiliation agreements with the exchange program;

(C) The percentage of confirmed exchanges, which is the number of exchanges confirmed by the exchange program divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for;

(D) The number of time share periods for which the exchange program has an outstanding obligation to provide an exchange to a purchaser who relinquished a time share period during the year in exchange for a time share period in any future year; and

(E) The number of exchanges confirmed by the exchange program during the year; and

(11) A statement in boldface type that the percentage described in subparagraph (C) of subdivision (10) of subsection (d) of this section is a summary of the exchange requests entered with the exchange program in the period reported and that the percentage does not indicate the probabilities of a purchaser's being confirmed to any specific choice or range of choices.

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(e) Each exchange company offering an exchange program in this state shall file with the department the information specified in this section, together with any membership agreement and application between the purchaser and the exchange company, and the audit specified in subdivision (10) of subsection (d) of this section on or before June first of each year. An exchange company shall make its initial filing not later than twenty days prior to offering an exchange program to any purchaser in this state. Each filing shall be accompanied by an annual filing fee of five hundred dollars.

(f) Any material change in the information contained in an exchange company filing shall be filed with the department as an amendment prior to becoming effective. Each amendment filing shall be accompanied by a filing fee of one hundred dollars. An exchange program filing is required to be updated with respect to added or deleted time share properties only once each year, and such annual update shall not be deemed to be a material change to the filing.

(g) If at any time the department determines that any of the information supplied by an exchange company fails to meet the requirements of this section, the department shall undertake enforcement action against the exchange company.

Sec. 13. (NEW) (*Effective January 1, 2010*) Notwithstanding obligations placed upon any other persons pursuant to sections 1 to 28, inclusive, of this act, the developer shall supervise, manage and control all aspects of the offering of a time share interest, including, but not limited to, promotion, advertising, contracting and closing. Any violation of sections 1 to 28, inclusive, of this act that occurs during such offering activities is considered to be a violation by the developer as well as by the person actually committing the violation.

Sec. 14. (NEW) (*Effective January 1, 2010*) (a) A purchaser may cancel a purchase contract before midnight of the fifth calendar day after the

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date the purchaser signs and receives a copy of the purchase contract or receives the required time share disclosure statement, whichever is later. A developer may offer a cancellation period that is longer than five calendar days if required in the jurisdiction where the time share property is located.

(b) A purchaser shall not waive any right of cancellation under this section. A contract containing a waiver is voidable by the purchaser.

(c) If a purchaser elects to cancel a purchase contract under this section, the purchaser may do so by hand-delivering notice of cancellation to the developer, by mailing notice by prepaid United States mail or by faxing notice to the developer or to the developer's agent for service of process or by providing notice by overnight common carrier delivery service to the developer or the developer's agent for service of process.

(d) Cancellation shall be without penalty, and all payments made by the purchaser before cancellation shall be refunded and any negotiable instrument executed by the purchaser shall be returned not later than twenty business days after the date on which the developer receives a timely notice of cancellation or on or before the fifth day after the date the developer receives good funds from the purchaser, whichever is later.

Sec. 15. (NEW) (*Effective January 1, 2010*) (a) Each purchase contract shall contain the following language, in conspicuous type, or similar language or type if required by the jurisdiction in which the time share property or properties are located, with the developer's name and address, the date of the last day of the fiscal year and the address of the managing entity inserted where indicated:

"PURCHASER'S RIGHT TO CANCEL.

(1) BY SIGNING THIS CONTRACT YOU ARE INCURRING AN

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OBLIGATION TO PURCHASE A TIME SHARE INTEREST. YOU MAY, HOWEVER, CANCEL THIS CONTRACT WITHOUT PENALTY OR OBLIGATION BEFORE MIDNIGHT OF THE FIFTH CALENDAR DAY AFTER THE DATE YOU SIGN AND RECEIVE A COPY OF THE PURCHASE CONTRACT, OR RECEIVE THE REQUIRED TIME SHARE DISCLOSURE STATEMENT, WHICHEVER IS LATER.

(2) IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MAY DO SO BY EITHER HAND-DELIVERING NOTICE OF CANCELLATION TO THE DEVELOPER, BY MAILING NOTICE BY PREPAID UNITED STATES MAIL OR BY FAXING NOTICE TO THE DEVELOPER OR THE DEVELOPER'S AGENT FOR SERVICE OF PROCESS, OR BY PROVIDING NOTICE BY OVERNIGHT COMMON CARRIER DELIVERY SERVICE TO THE DEVELOPER OR THE DEVELOPER'S AGENT FOR SERVICE OF PROCESS. YOUR NOTICE OF CANCELLATION IS EFFECTIVE ON THE DATE SENT, IF MAILED OR SENT BY OVERNIGHT COMMON CARRIER, OR WHEN TRANSMITTED FROM THE PLACE OF ORIGIN, IF FAXED, TO (INSERT NAME OF DEVELOPER) AT (INSERT ADDRESS OF DEVELOPER). FOR YOUR PROTECTION, SHOULD YOU DECIDE TO CANCEL YOU SHOULD EITHER SEND YOUR NOTICE OF CANCELLATION BY CERTIFIED MAIL WITH A RETURN RECEIPT REQUESTED OR OBTAIN A SIGNED AND DATED RECEIPT IF DELIVERING IT IN PERSON OR BY OVERNIGHT COMMON CARRIER.

(3) A PURCHASER SHOULD NOT RELY ON STATEMENTS OTHER THAN THOSE INCLUDED IN THIS CONTRACT AND THE DISCLOSURE STATEMENT.

(4) SHOULD YOU CANCEL, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TWENTY

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BUSINESS DAYS FOLLOWING RECEIPT BY THE DEVELOPER OF YOUR CANCELLATION NOTICE, OR ON OR BEFORE THE FIFTH CALENDAR DAY AFTER THE DATE THE DEVELOPER RECEIVES GOOD FUNDS FROM THE PURCHASER, WHICHEVER IS LATER, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED."

(b) Immediately following the required statements in subsection (a) of this section shall be a space reserved for the signature of the purchaser.

(c) The purchase contract shall also include the following:

(1) The name and address of the developer and the address of the time share property or the address of any available time share interest being offered;

(2) The name of the person or persons primarily involved in the sales presentation on behalf of the developer;

(3) A statement disclosing the amount of the periodic assessments currently assessed against or collected from the purchasers of the time share interest;

(4) The date the purchaser signs the contract; and

(5) The following statement, in conspicuous type, or similar language or type if required by the jurisdiction in which the time share property or properties are located:

"AS A TIME SHARE OWNER, YOU HAVE A RIGHT TO REQUEST A WRITTEN ANNUAL TIME SHARE FEE AND EXPENSE STATEMENT. THIS STATEMENT IS PREPARED ANNUALLY BY THE MANAGING ENTITY AND WILL BE AVAILABLE NOT LATER THAN FIVE MONTHS AFTER (INSERT THE DATE OF THE LAST

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DAY OF THE FISCAL YEAR). YOU MAY REQUEST THE STATEMENT BY WRITING TO (INSERT NAME AND ADDRESS OF THE MANAGING ENTITY).".

(d) The information required to be provided by this section may be provided in the purchase contract or in an exhibit to the purchase contract, or it may be provided in part in both if all of the information is provided.

Sec. 16. (NEW) (*Effective January 1, 2010*) (a) An exchange company may employ seasonal demand and unit occupancy restrictions in the operation of its exchange program.

(b) A developer shall not incur any liability arising out of the use, delivery or publication to a purchaser of written information or audio-visual materials provided to such developer by the exchange company in accordance with section 12 of this act, unless the developer knows or has reason to know that the materials are inaccurate or false.

(c) No exchange company shall have any liability with respect to any violation under sections 1 to 28, inclusive, of this act arising out of the use by a developer of information relating to an exchange program other than that provided to the developer by the exchange company.

(d) An exchange company may elect to deny exchange privileges to any purchaser whose use of the accommodations of the purchaser's time share plan is denied, and no exchange program or exchange company shall be liable to any of its members or third parties on account of any such denial of exchange privileges.

(e) Except for written information or audio-visual materials provided to a developer by an exchange company, an exchange company shall not incur liability as a result of (1) a representation made by a developer that relates to any exchange program or exchange company, or (2) the use, delivery or publication by a

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developer of information that relates to an exchange program or exchange company.

Sec. 17. (NEW) (*Effective January 1, 2010*) (a) A developer or closing agent of a time share plan shall deposit in an escrow or trust account in a federally insured depository one hundred per cent of all funds received during the purchaser's cancellation period. For transactions involving the sale of time share interests in time share properties located in this state, such deposits shall be held in escrow as set forth in subsection (b) of this section.

(b) Any broker accepting moneys paid or advanced by the purchaser, lessee, prospective purchaser or prospective lessee in respect to the sale or lease of any time share interest shall comply with the following:

(1) Deposit any such moneys, in accordance with section 20-324k of the general statutes, in an escrow account acceptable to the commissioner, in a bank doing business in this state; and

(2) Maintain such moneys in such escrow account until:

(A) A proper and valid release is obtained therefor;

(B) Either party has defaulted under the contract or agreement and the commissioner or the court has made a determination as to the disposition of such money, or the seller or lessor orders the return of such money to such purchaser or lessee; or

(C) The time limits for revoking the contract or agreement, as set forth in section 14 of this act, have expired.

(c) A closing agent owes the purchaser a fiduciary duty.

(d) The closing agent and the developer shall execute an agreement that includes a statement providing that:

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(1) Funds may be disbursed to the developer from the escrow or trust account by the agent only:

(A) After the purchaser's cancellation period has expired; and

(B) As provided by the purchase contract, subject to sections 1 to 28, inclusive, of this act; and

(2) If the purchaser cancels the purchase contract as provided by the contract, the funds shall be paid to (A) the purchaser, or (B) the developer if the purchaser's funds have been refunded previously by the developer; and

(3) If a developer contracts to sell a time share interest and the construction of the building in which the time share interest is located has not been completed when the cancellation period expires, the developer shall continue to maintain all funds received from the purchaser under the purchase agreement in the escrow or trust account until construction of the building is completed. The documentation required for evidence of completion of construction includes:

(A) A certificate of occupancy;

(B) A certificate of substantial completion;

(C) Evidence of a public safety inspection from a government agency in the applicable jurisdiction; or

(D) Any other evidence acceptable to the commissioner.

(e) The funds or property constituting the escrow or trust deposit may be released from escrow only in accordance with this section.

(f) If the purchaser cancels the purchase contract as provided by the contract, the funds shall be paid to (1) the purchaser, or (2) the

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developer if the purchaser's funds have been refunded previously by the developer.

(g) If the purchaser defaults in the performance of obligations under the terms of the purchase contract, the funds shall be paid to the developer.

(h) If the developer defaults in the performance of obligations under the purchase contract, the funds shall be paid to the purchaser.

(i) If the funds of the purchaser have not been disbursed previously as provided in subsections (e) to (h), inclusive, of this section, the funds may be disbursed to the developer by the agent if acceptable evidence of completion of construction is provided.

(j) If there is a dispute relating to the funds in the escrow or trust account, the agent shall maintain the funds in the account until (1) the agent receives written directions agreed to and signed by all parties, or (2) a civil action relating to the disputed funds is filed.

(k) If a civil action is filed, the closing agent shall maintain or deposit the funds as directed by the court in which the action is filed.

(l) In lieu of the deposit of funds in an escrow or trust account as required by this section, the commissioner may accept from the developer a surety bond, irrevocable letter of credit or other form of financial assurance, including financial assurance posted in another state or jurisdiction.

(m) The amount of the financial assurance provided under subsection (l) of this section shall be in an amount equal to or greater than the amount of funds that would otherwise be placed in an escrow or trust account under subsection (a) of this section.

(n) The amount of the financial assurance provided under this

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section for time share property under construction shall be no less than:

(1) The amount equal to or more than the amount of funds that would otherwise be placed in an escrow or trust account under subsection (a) of this section; or

(2) The amount necessary to assure completion of all accommodations promised to be completed along with all furniture, fixtures and any other promised improvements as portrayed in the time share instruments or time share disclosure statement. The surety bond shall provide for the reduction of the bond amount as work is completed, provided such bond reductions have been approved by the commissioner. In the event the developer is considering future additional phases, the amount need not include the cost of completion of those phases so long as they have not been promised as part of the time share instruments.

(o) The type of surety bond provided under this section may include, but not be limited to, a completion of construction bond or escrow bond.

(p) The closing agent or developer shall make documents related to the escrow or trust account or the financial assurance provided available to the commissioner upon the commissioner's request.

(q) Excluding any encumbrance placed against a purchaser's time share interest securing the purchaser's payment of purchase money financing for the purchase, a developer shall not be entitled to the release of any escrowed funds until such developer has provided evidence satisfactory to the commissioner of one of the following:

(1) That the time share interest, together with any other property or rights to property appurtenant to the time share interest, including any amenities represented to the purchaser as being part of the time share

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plan, are free and clear of any of the claims of the developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor or person having an interest in or lien or encumbrance against the time share interest or appurtenant property or property rights;

(2) That the developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor or person having an interest in or lien or encumbrance against the time share interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the time share plan, has recorded a subordination and notice to creditors document in the jurisdiction in which the time share interest is located. The subordination document shall expressly provide that the interest holder's right, lien or encumbrance shall not adversely affect, and shall be subordinate to, the rights of the owners of the time share interests in the time share plan regardless of the date of purchase, from and after the effective date of the subordination document;

(3) That the developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor or person having an interest in or lien or encumbrance against the time share interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the time share plan, has transferred the subject accommodations or amenities or all use rights therein to a nonprofit organization or an owners' association, which purpose is to hold the subject accommodations or amenities for the use and benefit of the purchasers of the time share plan and which shall act as a fiduciary to the purchasers, provided the developer has transferred control of such organization or association to the purchasers or does not exercise such developer's voting rights in such organization or association with respect to the subject accommodations or amenities. Prior to the transfer, any lien or encumbrance against the accommodation or facility shall be made subject to a subordination

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and notice to creditors document pursuant to subdivision (2) of this subsection; or

(4) Alternative arrangements have been made that are adequate to protect the rights of the purchasers of the time share interests and are approved by the commissioner.

Sec. 18. (NEW) (*Effective January 1, 2010*) (a) Any of the following committed by a developer or other person shall be deemed an unfair trade practice under chapter 735a of the general statutes:

(1) Failing to disclose the information required to be disclosed, to the extent applicable, by sections 1 to 28, inclusive, of this act;

(2) Making false or materially misleading statements of fact concerning the characteristics of accommodations or amenities available to a consumer;

(3) Making false or materially misleading statements of fact concerning the duration that accommodations or amenities will be available to a consumer;

(4) Making false or materially misleading statements of fact concerning the conditions under which a purchaser of a time share interest may exchange the right to occupy a unit for the right to occupy a unit in the same or another time share property;

(5) Representing that a prize, gift or other benefit will be awarded in connection with a promotion with the intent not to award that prize, gift or benefit in the manner represented;

(6) Failing to provide a copy of the purchase contract to the purchaser at the time the contract is signed by the purchaser;

(7) Failing to provide the annual statement required by subsection (a) of section 21 of this act; or

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(8) Failing to maintain a one-to-one use right to use night ratio for a time share plan during a consecutive twelve-month period, as determined under subsection (c) of this section.

(b) The provisions of this section are not exclusive and are in addition to any other unfair trade practices provided for under any other law.

(c) A developer complies with the one-to-one use right to use night ratio referred to in subdivision (8) of subsection (a) of this section if the sum of the nights that purchasers are entitled to use in a given twelve-month period do not exceed the number of nights available for use by those purchasers during the same twelve-month period. No individual time share unit may be counted as providing more than three hundred sixty-five use nights per twelve-month period or more than three hundred sixty-six use nights per twelve-month period that includes February twenty-ninth. The use rights of each purchaser shall be counted without regard to whether the purchaser's use rights have been suspended for failure to pay assessments or for other reasons.

(d) A nonmaterial error or omission is not actionable if a developer has complied with sections 1 to 28, inclusive, of this act in good faith. Any nonmaterial error or omission is not sufficient to permit a purchaser to cancel a purchase contract after the period provided for cancellation expires under said sections.

Sec. 19. (NEW) (*Effective January 1, 2010*) (a) Notwithstanding any provision contained in the time share instrument or in sections 1 to 28, inclusive, of this act, the managing entity shall use due diligence to obtain the following insurance coverage as a common expense of the time share plan:

(1) Adequate casualty insurance to protect the time share property and amenities against all reasonably foreseeable perils, in such covered

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amounts and subject to such reasonable exclusions and reasonable deductibles as are consistent with the provisions of this section; and

(2) Adequate liability insurance to reasonably protect the time share property and amenities from occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership and maintenance of the time share property.

(b) In making the determination as to whether the insurance obtained pursuant to this section is adequate, the managing entity shall take into account the following factors, among others as may be applicable:

(1) Available insurance coverages and related premiums in the marketplace;

(2) Amounts of any related deductibles, types of exclusions and coverage limitations, provided, for purposes of this subdivision, a deductible of five per cent or less shall be deemed to be reasonable per se;

(3) The probable maximum loss relating to the insured time share property during the policy term;

(4) The extent to which a given peril is insurable under commercially reasonable terms;

(5) Amounts of any deferred maintenance or replacement reserves on hand;

(6) Geography and any special risks associated with the location of the time share property; and

(7) The age and type of construction of the time share property.

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(c) Notwithstanding any provision contained in this section or in the time share instrument, insurance shall be procured and maintained by the managing entity for the time share property as a common expense of the time share plan against such perils, in such coverages and subject to such reasonable deductions or reasonable exclusions as may be required by:

(1) An institutional lender to a developer, for so long as such lender holds a mortgage encumbering any interest in or lien against a portion of the time share property; or

(2) Any holder or pledge of, or any institutional lender having a security interest in, a pool of promissory notes secured by mortgages or other security interests relating to the time share plan, executed by purchasers in connection with such purchasers' acquisition of time share interests in such time share property, or any agent, underwriter, placement agent, trustee, servicer, custodian or other portfolio manager acting on behalf of such holder, pledge or institutional lender, for so long as such notes and mortgages or other security interests remain outstanding.

(d) Notwithstanding any provision contained in the time share instrument or in sections 1 to 28, inclusive, of this act, the managing entity is authorized to apply any existing reserves for deferred maintenance and capital expenditures toward payment of insurance deductibles or the repair or replacement of the time share property after a casualty without regard to the purposes for which such reserves were originally established.

(e) A copy of each policy of insurance in effect shall be made available for reasonable inspection by purchasers and their authorized agents.

Sec. 20. (NEW) (*Effective January 1, 2010*) (a) Except as provided in

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sections 1 to 28, inclusive, of this act, no developer shall (1) offer or dispose of a time share interest in a time share property that has not been registered with the Department of Consumer Protection, or (2) accept reservations and deposits from prospective purchasers.

(b) Any developer who violates the provisions of subsection (a) of this section shall be guilty of a class A misdemeanor. A developer shall not be prosecuted for more than one offense involving the same promotion, even if mailed or distributed to more than one person.

Sec. 21. (NEW) (*Effective January 1, 2010*) (a) Notwithstanding any provision of the required time share disclosure statement, project instrument, time share instrument or bylaws adopted pursuant to a time share instrument, the managing entity shall make a written annual statement of the operation of the time share plan or time share properties managed by the managing entity if assessments are deposited in a common account, to each purchaser who requests such statement not later than five months after the last day of each fiscal year. The statement shall fairly and accurately represent the collection and expenditure of assessments and include:

(1) A balance sheet;

(2) An income and expense statement;

(3) The current budget for the time share property, time share properties managed by the same managing entity or multisite time share plan required by subdivision (12) of subsection (b) of section 11 of this act or subdivision (17) of subsection (d) of section 11 of this act; and

(4) The name, address, and telephone number of a designated representative of the managing entity.

(b) At the request of an owner, the managing entity of the time share

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plan shall provide such owner with the name and address of each member of the board of directors of the owners' association, if one exists.

(c) A developer or managing entity shall have an annual independent audit of the financial statements of the time share plan or time share properties managed by the managing entity performed by a certified public accountant or an accounting firm. The audit shall be:

(1) Conducted in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants, the Governmental Accounting Standards Board, the United States General Accounting Office or other professionally recognized entities that prescribe auditing standards; and

(2) Completed not later than five months after the last day of the fiscal year of the time share plan or time share property.

(d) Knowingly furnishing false information in the annual time share fee and expense statement shall be an unfair trade practice in violation of chapter 735a of the general statutes.

(e) The managing entity of any accommodation located in this state shall post prominently in the registration area of the accommodations the following notice, with the date of the last day of the current fiscal year and the address of the managing entity inserted where indicated:

"AS A TIME SHARE OWNER YOU HAVE A RIGHT TO REQUEST A WRITTEN ANNUAL TIME SHARE FEE AND EXPENSE STATEMENT. THIS STATEMENT IS PREPARED ANNUALLY BY THE MANAGING ENTITY AND WILL BE AVAILABLE NO LATER THAN FIVE MONTHS FOLLOWING (INSERT THE DATE OF THE LAST DAY OF THE CURRENT FISCAL YEAR). YOU MAY REQUEST THE STATEMENT, BY WRITING TO (INSERT ADDRESS OF THE MANAGING ENTITY).".

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(f) On receipt of a written request filed with the commissioner by a managing entity before the date on which the statement required by this section shall be made available, the commissioner may, for good cause shown, grant the managing entity an extension of not more than thirty days in which to provide the statement.

(g) If the statement required by this section is late and an extension has not been granted under subsection (f) of this section, the commissioner may institute, through the Office of the Attorney General, an action for injunctive relief.

Sec. 22. (NEW) (*Effective January 1, 2010*) (a) A managing entity that manages two or more single-site time share plans shall not commingle the assessments collected from purchasers of one time share plan with the assessments collected from purchasers of any other single-site plan for which it is the managing entity unless the practice is disclosed in the time share disclosure statement for each time share property and an appropriate statement is included in the declaration required by section 5 of this act for each time share property.

(b) A managing entity that manages a multisite time share plan may deposit assessments collected from purchasers of one time share property into a common account with assessments collected from purchasers of other time share properties participating in the same multisite time share plan only if the practice is disclosed in the time share disclosure statement for each time share property in the multisite time share plan and an appropriate statement is included in the declaration required by section 5 of this act for each time share plan.

(c) Nothing in this section shall be construed to allow a managing entity to commingle assessments of a multisite time share plan with the assessments of a separate multisite time share plan or a time share plan that is not a part of the multisite time share plan.

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(d) In matters related to the funds of the owners of time share interests and the association, the managing entity shall have a duty to act in the best interests of each owner of a time share interest in the time share plan and the association.

Sec. 23. (NEW) (*Effective January 1, 2010*) (a) The managing entity may levy and enforce assessments on any time share interests in accordance with the time share instrument, and any such assessment shall constitute a debt of the owner of the interest at the time the assessment is made. Assessments and other monetary obligations are governed as follows:

(1) After giving notice to the time share owner and an opportunity to be heard, the managing entity may impose reasonable monetary penalties for violation of the time share instrument, as an assessment, as authorized by the time share instrument;

(2) Assessments may include personal charges and other amounts as authorized by the time share instrument;

(3) The managing entity may assign to the delinquent owners the costs of collection, including attorney fees, administrative fees, late fees, interest and penalties or as otherwise authorized by the time share instrument; and

(4) The amount of any assessment plus any other charges such as interest, collection costs, attorney fees, administrative fees, late fees, interest and penalties, as provided in the time share instrument or as otherwise provided by law, are a lien on the time share interest assessed from the time the assessment became due. Recording of the time share instrument, as set forth in section 5 of this act, shall constitute record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required. Such lien may be foreclosed in like manner as a mortgage on

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real property or in any other manner permitted by law.

(b) On the receipt of a written request, the managing entity shall furnish to an owner, purchaser or any lender who has a security interest in a time share interest or the time share property a statement setting forth the amount of unpaid assessments made against the owner's time share interest. The statement shall be furnished not later than ten business days after receipt of the request and is binding on the managing entity, the association, the board and every owner.

(c) If an association, developer or other managing entity files an action to foreclose the assessment lien on time share interests, the association, developer or other managing entity may join in the same action multiple defendant obligors and junior interest holders of separate time share interests, on compliance with all of the following:

(1) The foreclosure proceeding involves a single time share plan;

(2) The foreclosure proceeding is filed by a single plaintiff;

(3) The default and remedy provisions in the written instruments on which the foreclosure proceeding is based are substantially the same for each defendant; and

(4) The nature of the defaults alleged is the same for each defendant.

(d) In any foreclosure proceeding involving multiple defendants filed pursuant to subsection (c) of this section, the court shall sever for separate trial any count of the complaint in which a defense or counterclaim is timely raised by a defendant.

Sec. 24. (NEW) (*Effective January 1, 2010*) Notwithstanding any provision of section 23 of this act or section 36a-805 of the general statutes, any costs of collection, including reasonable collection agency fees and reasonable attorney's fees incurred in the collection of a

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delinquent assessment, shall be paid by the purchaser and shall be secured by a lien in favor of the managing entity upon the time share interest with respect to which the delinquent assessment has been incurred. In the event that the managing entity turns the matter over to a consumer collection agency, the managing entity shall advise the purchaser not later than sixty days prior to turning the matter over to the consumer collection agency that the purchaser may be liable for the fees of the consumer collection agency and that a lien may result therefrom.

Sec. 25. (NEW) (*Effective January 1, 2010*) (a) A developer or managing entity, on written request by an owner, shall make available for examination at its registered office or principal place of business and at any reasonable time or times the relevant books and records relating to the collection and expenditure of assessments.

(b) A developer or managing entity shall maintain in its records a copy of each purchase contract for an accommodation sold by the developer for a time share period unless the contract has been canceled. If a sale of the time share estate is pending, the developer shall retain a copy of the contract until a deed of conveyance, agreement for deed or lease is recorded in the real property records of the town, county or other jurisdiction in which the time share property is located.

Sec. 26. (NEW) (*Effective January 1, 2010*) (a) A time share resale broker who acts on behalf of a time share owner other than a developer or its affiliate, shall, prior to offering in this state:

(1) Be licensed as a real estate broker pursuant to the provisions of section 20-311 of the general statutes; and

(2) Comply with the provisions of sections 27 and 28 of this act and submit copies to the department of the contract and disclosures

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required by section 28 of this act.

(b) For purposes of this section, a rebuttable presumption shall exist that a person who has acquired twelve or more time share interests and offers them for resale in any twelve-month period did not acquire them for the personal use and occupancy of such person.

(c) Unless the method for resale of time shares is for the purpose of evading the provisions of sections 1 to 28, inclusive, of this act, a person shall not be deemed to be a time share resale broker if such person:

(1) Is a licensed real estate salesperson in this state who resells or offers to resell time share interests in a time share plan as an agent for a developer who is registered under sections 1 to 25, inclusive, of this act, provided such salesperson (A) delivers all disclosures required of a developer under sections 1 to 25, inclusive, of this act, or (B) complies with the provisions of section 27 of this act;

(2) Is a developer who is registered under sections 1 to 25, inclusive, of this act or is an affiliate of the developer that is also the managing entity, provided such developer or affiliated managing entity (A) delivers all disclosures required of a developer under sections 1 to 25, inclusive, of this act, or (B) complies with the provisions of section 27 of this act;

(3) Is an association that is not otherwise a developer, that sells or engages a third party to sell on its behalf, fifty or fewer time share interests in the time share plan that it governs in a given calendar year to persons who are not existing purchasers of that time share plan and such association is in compliance with section 27 of this act; or

(4) Is an exchange company that has filed pursuant to subsection (e) of section 12 of this act.

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(d) A time share resale broker who offers to resell a time share interest shall:

(1) Provide a fully executed copy of the written agreement described in subsection (a) of section 28 of this act to the time share owner on the date the owner signs the agreement; and

(2) Make the disclosures required pursuant to subsection (a) of section 28 of this act before accepting anything of value from the time share owner.

Sec. 27. (NEW) (*Effective January 1, 2010*) Before a purchaser signs any contract to purchase a time share resale, the person who is reselling the time share shall disclose in conspicuous type in the contract to purchase the time share resale the following information:

(1) The name, address and telephone number of the time share plan and the managing entity of the time share plan;

(2) The period of time or the duration of time during which the purchaser may use the time share interest;

(3) A legal description of the time share interest being acquired;

(4) The earliest date that the purchaser may use the time share interest;

(5) The name, address, telephone number and Internet web site address, if applicable, of the entity from which the governing documents of the association, if any, and the time share instrument may be obtained, together with the following disclosure:

"THERE ARE MANY IMPORTANT DOCUMENTS RELATING TO THE TIME SHARE PLAN WHICH YOU SHOULD REVIEW PRIOR TO PURCHASING A TIME SHARE INTEREST, INCLUDING THE DECLARATION OF CONDOMINIUM OR COVENANTS AND

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RESTRICTIONS; THE OWNERS' ASSOCIATION ARTICLES AND BYLAWS; THE CURRENT YEAR'S OPERATING AND RESERVE, IF ANY, BUDGETS; AND ANY RULES AND REGULATIONS AFFECTING THE USE OF THE TIME SHARE PLAN ACCOMMODATIONS AND AMENITIES.";

(6) The amount of the annual assessment for the time share interest for the current fiscal year and a statement indicating whether or not ad valorem real property taxes are included in the annual assessment;

(7) If ad valorem real property taxes are not included in the annual assessment, the amount of ad valorem real property taxes for the most recent tax year for which a bill has been issued;

(8) Whether all assessments against the time share interest are paid in full, and if not, the amount owed, and the consequences of failure to pay any assessment or real property taxes; and

(9) Any other information required to be disclosed pursuant to regulations adopted by the commissioner.

Sec. 28. (NEW) (*Effective January 1, 2010*) (a) An agreement for a time share resale entered into by a time share owner and a time share resale broker who offers to resell such owner's time share interest shall:

(1) Be in writing; and

(2) Contain disclosures in conspicuous type that set forth:

(A) Whether any person other than the time share owner may use the time share interest during the period before the time share is resold;

(B) Whether any person other than the time share owner may rent or exchange the use of the time share interest during the period before the time share is resold;

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(C) The name of any person who will receive any rents, profits or other consideration generated from the use of the time share interest during the period before the time share interest is resold;

(D) A detailed description of any relationship between the person who resells the time share interest and any other person who receives any benefit from the use of the time share interest;

(E) A description, including the amount, of any fee to be paid by the time share owner to the time share resale broker prior to the sale of the time share interest. If any such fee is charged by the time share resale broker prior to the sale of the time share interest, a statement shall be included disclosing (i) the number of time share interests sold by the time share resale broker compared to the number of time share interests listed by the time share resale broker for each of the past three years, or (ii) the ratio or percentage of the number of listings versus the number of time share interests sold for each of the past three years; and

(F) A description of the amount or percentage and procedures for paying any commissions due to the time share resale broker upon resale of the time share interest.

(b) Notwithstanding the provisions of sections 1 to 28, inclusive, of this act, any time share property established within this state on or before December 31, 2009, shall be exempt from the provisions of said sections, and shall be subject to the general statutes and the regulations of Connecticut state agencies as existed on said date.

Sec. 29. Section 47-266 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2010*):

(a) If the declaration provides that ownership or occupancy of any units, is or may be in time shares, the public offering statement shall disclose, in addition to the information required by section 47-264: (1)

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The number and identity of units in which time shares may be created; (2) the total number of time shares that may be created; (3) the minimum duration of any time shares that may be created; and (4) the extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in section 47-258.

(b) The requirements of this section are in addition to the requirements of [chapter 734b] section 11 of this act.

Sec. 30. Sections 42-103w to 42-103bb, inclusive, of the general statutes are repealed. (*Effective January 1, 2010*)

Approved June 29, 2009