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RWH 3/7/08

§§1-36 -
C.45:15-16.50 to
45:15-16.85
§41 –
Note to §§1-40

P.L. 2006, CHAPTER 63, *approved August 2, 2006*
Senate, No. 1321 (*Second Reprint*)

1 AN ACT concerning timeshare sales, supplementing chapter 15 of
2 Title 45 of the Revised Statutes and amending P.L.1989, c.239
3 and P.L.1977, c.419.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Sections 1 through 36 of this act shall be
9 known and may be cited as the "New Jersey Real Estate Timeshare
10 Act."

11
12 2. (New section) As used in sections 1 through 36 of this act:
13 "Accommodation" means any apartment, condominium or
14 cooperative unit, cabin, lodge, hotel or motel room, or other private
15 or commercial structure containing toilet facilities therein that is
16 designed and available, pursuant to applicable law, for use and
17 occupancy as a residence by one or more individuals which is a part
18 of the timeshare property.

19 "Advertisement" means any written, oral or electronic
20 communication that is directed to or targeted to persons within the
21 State and contains a promotion, inducement or offer to sell a
22 timeshare plan, including but not limited to brochures, pamphlets,
23 radio and television scripts, electronic media, telephone and direct
24 mail solicitations and other means of promotion.

25 "Advertisement" does not mean:

26 (1) Any stockholder communication such as an annual report or
27 interim financial report, proxy material, a registration statement, a
28 securities prospectus, a registration, a property report or other
29 material required to be delivered to a prospective purchaser by an
30 agency of any state or federal government;

31 (2) Any oral or written statement disseminated by a developer to
32 broadcast or print media, other than paid advertising or promotional
33 material, regarding plans for the acquisition or development of
34 timeshare property. However, any rebroadcast or any other
35 dissemination of such oral statements to prospective purchasers by a
36 seller in any manner, or any distribution of copies of newspaper
37 magazine articles or press releases, or any other dissemination of
38 such written statement to a prospective purchaser by a seller in any
39 manner, shall constitute an advertisement; or

40 (3) Any communication addressed to and relating to the account

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted May 15, 2006.

²Senate floor amendments adopted June 22, 2006.

1 of any person who has previously executed a contract for the sale or
2 purchase of a timeshare period in a timeshare plan to which the
3 communication relates shall not be considered advertising under
4 this act, provided they are delivered to any person who
5 has previously executed a contract for the purchase of a timeshare
6 interest or is an existing owner of a timeshare interest in a timeshare
7 plan.

8 "Assessment" means the share of funds required for the payment
9 of common expenses which is assessed from time to time against
10 each timeshare interest by the association.

11 "Association" means the organized body consisting of the
12 purchasers of interests in a timeshare property.

13 "Commission" means the New Jersey Real Estate Commission.

14 "Common expense" means casualty and liability insurance, and
15 those expenses properly incurred for the maintenance, operation,
16 and repair of all accommodations constituting the timeshare plan
17 and any other expenses designated as common expenses by the
18 timeshare instrument.

19 "Component site" means a specific geographic location where
20 accommodations which are part of a multi-site timeshare plan are
21 located. Separate phases of a single timeshare property in a specific
22 geographic location and under common management shall be
23 deemed a single component site.

24 "Department" means the Department of Banking and Insurance.

25 "Developer" means and includes any person or entity, who
26 creates a timeshare plan or is in the business of selling timeshare
27 interests, or employs agents or brokers to do the same, or any
28 person or entity who succeeds to the interest of a developer by sale,
29 lease, assignment, mortgage or other transfer, except that the term
30 shall include only those persons who offer timeshare interests for
31 disposition in the ordinary course of business.

32 "Dispose" or "disposition" means a voluntary transfer or
33 assignment of any legal or equitable interest in a timeshare plan,
34 other than the transfer, assignment or release of a security interest.

35 "Escrow agent" means an independent person, including an
36 independent bonded escrow company, an independent financial
37 institution whose accounts are insured by a governmental agency or
38 instrumentality, or an independent licensed title insurance agent
39 who is responsible for the receipt and disbursement of funds in
40 accordance with this act. If the escrow agent is not located in the
41 State of New Jersey, then this person shall subject themselves to the
42 jurisdiction of the commission with respect to disputes that arise out
43 of the provisions of this act.

44 "Incidental benefit" means an accommodation, product, service,
45 discount, or other benefit which is offered to a prospective
46 purchaser of a timeshare plan or to a purchaser of a timeshare plan
47 prior to the expiration of his or her rescission period pursuant to
48 section 18 of this act and which is not an exchange program,

1 provided that:

2 (1) use or participation in the incidental benefit is completely
3 voluntary;

4 (2) no costs of the incidental benefit are included as common
5 expenses of the timeshare plan;

6 (3) the good faith represented aggregate value of all incidental
7 benefits offered by a developer to a purchaser may not exceed 20
8 percent of the actual price paid by the purchaser for his or her
9 timeshare interest; and

10 (4) the purchaser is provided a disclosure that fairly describes
11 the material terms of the incidental benefit. The term shall not
12 include an offer of the use of the accommodations of the timeshare
13 plan on a free or discounted one-time basis.

14 "Managing entity" means the person who undertakes the duties,
15 responsibilities and obligations of the management of the timeshare
16 property.

17 "Offer" means any inducement, solicitation, or other attempt,
18 whether by marketing, advertisement, oral or written presentation or
19 any other means, to encourage a person to acquire a timeshare
20 interest in a timeshare plan, for gain or profit.

21 "Person" means a natural person, corporation, limited liability
22 company, partnership, joint venture, association, estate, trust,
23 government, governmental subdivision or agency, or other legal
24 entity or any combination thereof.

25 "Promotion" means a plan or device, including one involving the
26 possibility of a prospective purchaser receiving a vacation, discount
27 vacation, gift, or prize, used by a developer, or an agent,
28 independent contractor, or employee of a developer, agent or
29 independent contractor on behalf of the developer, in connection
30 with the offering and sale of timeshare interests in a timeshare plan.

31 "Purchaser" means any person, other than a developer, who by
32 means of a voluntary transfer acquires a legal or equitable interest
33 in a timeshare plan other than as security for an obligation.

34 "Purchase contract" means a document pursuant to which a
35 person becomes legally obligated to sell, and a purchaser becomes
36 legally obligated to buy, a timeshare interest.

37 "Reservation system" means the method, arrangement or
38 procedure by which a purchaser, in order to reserve the use or
39 occupancy of any accommodation of a multi-site timeshare plan for
40 one or more timeshare periods, is required to compete with other
41 purchasers in the same multi-site timeshare plan, regardless of
42 whether the reservation system is operated and maintained by the
43 multi-site timeshare plan managing entity or any other person.

44 "Sales agent" means any person who performs within this State
45 as an agent or employee of a developer any one or more of the
46 services or acts as set forth in this act, and includes any real estate
47 broker, broker salesperson or salesperson licensed pursuant to R.S.
48 45:15-1 et seq., or any person who purports to act in any such

1 capacity.

2 "Timeshare instrument" means one or more documents, by
3 whatever name denominated, creating or governing the operation of
4 a timeshare plan.

5 "Timeshare interest" means and includes either:

6 (1) A "timeshare estate," which is the right to occupy a timeshare
7 property, coupled with a freehold estate or an estate for years with a
8 future interest in a timeshare property or a specified portion thereof;
9 or

10 (2) A "timeshare use," which is the right to occupy a timeshare
11 property, which right is neither coupled with a freehold interest, nor
12 coupled with an estate for years with a future interest, in a
13 timeshare property.

14 "Timeshare period" means the period or periods of time when the
15 purchaser of a timeshare plan is afforded the opportunity to use the
16 accommodations of a timeshare plan.

17 "Timeshare plan" means any arrangement, plan, scheme, or
18 similar device, whether by membership agreement, sale, lease,
19 deed, license, or right to use agreement or by any other means,
20 whereby a purchaser, in exchange for consideration, receives
21 ownership rights in or the right to use accommodations for a period
22 of time less than a full year during any given year on a recurring
23 basis, but not necessarily for consecutive years. A timeshare plan
24 may be:

25 (1) A "single-site timeshare plan," which is the right to use
26 accommodations at a single timeshare property; or

27 (2) A "multi-site timeshare plan," which includes:

28 (a) A "specific timeshare interest," which means an interest
29 wherein a purchaser has, only through a reservation system:

30 (i) a priority right to reserve accommodations at a specific
31 timeshare property without competing with owners of timeshare
32 interests at other component sites that are part of the multi-site
33 timeshare plan, which priority right extends for at least 60 days; and

34 (ii) the right to reserve accommodations on a non-priority basis
35 at other component sites that are part of the multi-site timeshare
36 plan; or

37 (b) A "non-specific timeshare interest", which means an interest
38 wherein a purchaser has, only through a reservation system, the
39 right to reserve accommodations at any component site of the multi-
40 site timeshare plan, with no priority right to reserve
41 accommodations at any specific component site.

42 "Timeshare property" means one or more accommodations
43 subject to the same timeshare instrument, together with any other
44 property or rights to property appurtenant to those accommodations.
45

46 3. (New section) This act shall apply to the following:

47 a. Timeshare plans with an accommodation or component site in
48 the State; and

1 b. Timeshare plans without an accommodation or component
2 site in this State if those timeshare plans are offered to be sold
3 within this State, regardless of whether the offer originates from
4 within or outside of this State.

5

6 4. (New section) a. This act shall not apply to any of the
7 following:

8 (1) Timeshare plans, whether or not an accommodation or
9 component site is located in the State, consisting of 10 or fewer
10 timeshare interests;

11 (2) Timeshare plans, whether or not an accommodation or
12 component site is located in this State, the use of which extends
13 over any period of three years or less. For purposes of determining
14 the term of a timeshare plan, the period of any ¹automatic¹ renewal
15 ¹or renewal option¹ shall be included ¹, unless a purchaser has
16 the right to terminate the purchaser's participation in the timeshare
17 plan at any time and receive a pro rata refund, or the purchaser
18 receives a notice, not less than 30 days, but not more than 60 days,
19 prior to the date of renewal, informing the purchaser of the right to
20 terminate at any time prior to the date of automatic renewal¹ ;

21 (3) Timeshare plans, whether or not an accommodation or
22 component site is located in the State, under which the prospective
23 purchaser's total financial obligation will be equal to or less than
24 \$3,000 during the entire term of the timeshare plan;

25 (4) Component sites of specific timeshare interest multi-site
26 timeshare plans that are neither located in nor offered for sale in
27 this State, except that these component sites are still subject to the
28 disclosure requirements of section 10 of this act;

29 (5) Offers or dispositions of securities or units of interest issued
30 by a real estate investment trust regulated under any State or federal
31 statute;

32 (6) Offers or dispositions of securities currently registered with
33 the Bureau of Securities within the Division of Consumer Affairs in
34 the Department of Law and Public Safety.

35 b. A person shall not be required to register as a developer under
36 this act if:

37 (1) The person is an owner of a timeshare interest who has
38 acquired the timeshare interest for the person's own use and
39 occupancy and who later offers it for resale in a single or isolated
40 transaction; or

41 (2) The person is a managing entity or an association that is not
42 otherwise a developer of a timeshare plan in its own right, solely
43 while acting as an association or under a contract with an
44 association to offer or sell a timeshare interest transferred to the
45 association through foreclosure, deed in lieu of foreclosure, or
46 gratuitous transfer, if such acts are performed in the regular course
47 of, or as an incident to, the management of the association for its
48 own account in the timeshare plan.

1 c. If a developer has already registered a timeshare plan under
2 this act, the developer may offer or dispose of an interest in a
3 timeshare plan that is not registered under this act if the developer
4 is offering a timeshare interest in the additional timeshare plan to a
5 current timeshare interest owner of a timeshare interest in a
6 timeshare plan created or operated by that same developer subject
7 to the rules and regulations adopted by the commission.

8 d. The commission may, from time to time, pursuant to any
9 rules and regulations adopted pursuant to this act, exempt from any
10 of the provisions of this act any timeshare plan, if it finds that the
11 enforcement of this act with respect to that plan is not necessary in
12 the public interest, or required for the protection of purchasers, by
13 reason of the small amount of the purchase price or the limited
14 character of the offering.

15

16 5. (New section) This act shall be administered by the New
17 Jersey Real Estate Commission in the Department of Banking and
18 Insurance.

19

20 6. (New section) Except as provided in this section, no
21 provision of this act shall invalidate or modify any provision of any
22 zoning, subdivision, or building code, law, ordinance or regulation.
23 In case of conflict between the provisions of this act and the
24 provisions of any other law, ordinance or regulation governing or
25 purporting to govern the creation, registration, disclosure
26 requirements or sale of timeshare interests in a component site, the
27 provisions of this act shall control.

28

29 7. (New section) A timeshare plan may be created in any
30 accommodation unless otherwise prohibited. A timeshare plan shall
31 maintain a one-to-one purchaser-to-accommodation ratio, which
32 means the ratio of the number of purchasers eligible to use the
33 accommodations of a timeshare plan on a given day to the number
34 of accommodations available for use within the plan on that day,
35 such that the total number of purchasers eligible to use the
36 accommodations of the timeshare plan during a given consecutive
37 12-month period never exceeds the total number of
38 accommodations available for use in the timeshare plan during that
39 consecutive 12-month period. For purposes of the calculation under
40 this section, each purchaser shall be counted at least once, and an
41 individual accommodation shall not be counted more than one time
42 per day per year. An owner of a timeshare interest who is
43 delinquent in the payment of a timeshare plan assessment shall
44 continue to be considered eligible to use the accommodations of the
45 timeshare plan for purposes of calculating the one-to-one purchaser-
46 to-accommodation ratio.

47

48 8. (New section) a. A developer who sells, offers to sell, or

1 attempts to solicit prospective purchasers in this State to purchase a
2 timeshare interest, or any person who creates a timeshare plan with
3 an accommodation in the State, shall register with the commission,
4 on forms provided by the commission or in electronic formats
5 authorized by the commission, all timeshare plans which have
6 accommodations located in the State or which are sold or offered
7 for sale to any individual located in the State.

8 b. Upon the submission of an application approved by the
9 commission, the commission may grant a 90 day preliminary
10 registration to allow the developer to begin offering and selling
11 timeshare interests in a timeshare plan regardless of whether the
12 accommodations of the timeshare plan are located within or outside
13 of the State. Upon submission of a substantially complete
14 application for an abbreviated or comprehensive registration under
15 this act, including all appropriate fees, to the commission prior to
16 the expiration date of the preliminary registration, the preliminary
17 registration will be automatically extended during the registration
18 review period provided that the developer is actively and diligently
19 pursuing registration under this act. The preliminary registration
20 shall automatically terminate with respect to those timeshare
21 interests covered by a final public offering statement that is issued
22 before the scheduled termination date of the preliminary
23 registration. The preliminary registration shall also terminate upon
24 the issuance of any notice of rejection due to the developer's failure
25 to comply with the provisions of this act.

26 To obtain a preliminary registration, the developer shall provide
27 all of the following:

28 (1) Submit the reservation instrument to be used in a form
29 previously approved by the department with at least the following
30 provisions:

31 (a) The right of both the developer and the potential purchaser to
32 unilaterally cancel the reservation at any time;

33 (b) The payment to the potential purchaser of his or her total
34 deposit following cancellation of the reservation by either party;

35 (c) The placing of the deposit into an escrow account; and

36 (d) A statement to the effect that the offering has not yet received
37 final approval from the commission, and that no offering can be
38 made until an offering plan has been filed with, and accepted by,
39 the commission;

40 (2) Agree to provide each potential purchaser with a copy of the
41 preliminary public offering statement and an executed receipt for a
42 copy before any money or other thing of value has been accepted by
43 or on behalf of the developer in connection with the reservation;

44 (3) Agree to provide a copy of the reservation instrument signed
45 by the potential purchaser and by or on behalf of the developer to
46 the potential purchaser;

47 (4) Provide evidence acceptable to the commission that all funds
48 received by the developer will be placed into an independent escrow

1 account with instructions that no funds will be released until a final
2 order of registration has been granted;

3 (5) Submit the filing fee for a preliminary registration as
4 provided for by regulation. The filing fee shall be in addition to the
5 filing fees for an abbreviated or comprehensive registration as
6 established by this act;

7 (6) File all advertisements to be utilized by the developer under
8 the preliminary registration with the commission before use.

9 All advertisements and advertising literature shall contain the
10 following, or substantially similar, disclaimer:

11 "This advertising material is being used for the purpose of
12 soliciting sales of timeshare interests.";

13 (7) Such other information as the commission may require in
14 order to further the provisions of this act, to assure full and fair
15 disclosure and for the protection of purchaser interests.

16 c. Prior to the issuance of an order of registration for an
17 abbreviated or comprehensive registration, the commission may
18 issue a conditional registration approval for a timeshare plan if the
19 filing is deemed to be substantially complete by the commission
20 and the commission determines that the deficiencies are likely to be
21 corrected by the applicant in a reasonable time and manner. Once
22 the commission issues a conditional registration approval, the
23 applicant may begin entering into purchase contracts with the
24 purchaser and provide the purchaser with the most current version
25 of the public offering statement; however, no rescission period may
26 begin to run until the final approved public offering statement is
27 delivered to the purchaser. If there is no material difference
28 between the documents provided to the purchaser pursuant to the
29 conditional registration and the documents approved as part of the
30 final order of approval, then those documents need not be delivered
31 again to the purchaser. All purchase contracts that are executed
32 under the authority of a conditional registration approval shall
33 contain the following provisions:

34 (1) No escrow will close, funds will not be released from escrow,
35 and the interest contracted for will not be conveyed until a final
36 approved public offering statement for the timeshare plan is
37 furnished to the purchaser.

38 (2) The contract may be rescinded, in which event the entire sum
39 of money paid or advanced by the purchaser shall be returned if the
40 purchaser or lessee is dissatisfied with the final public offering
41 statement.

42 (3) The term for a conditional registration approval shall be six
43 months from the date of approval by the commission, and may be
44 extended upon application to the commission for an additional six
45 month period.

46 d. A developer shall include in its application for registration
47 with the commission, the following information:

48 (1) The developer's legal name, any assumed names used by the

- 1 developer, and the developer's principal office location, mailing
2 address, primary contact person and telephone number;
- 3 (2) The name, location, mailing address, primary contact person
4 and telephone number of the timeshare plan;
- 5 (3) The name and principal address of the developer's authorized
6 New Jersey representative who shall be a licensed real estate broker
7 licensed to maintain offices within this State;
- 8 (4) A declaration as to whether the timeshare plan is a single-site
9 timeshare plan or a multi-site timeshare plan and, if a multi-site
10 timeshare plan, whether it consists of specific timeshare interests or
11 non-specific timeshare interests;
- 12 (5) The name and principal address of all brokers within New
13 Jersey who sell or offer to sell any timeshare interests in any
14 timeshare plan offered by the developer to any person in this State,
15 who shall be licensed as a real estate broker pursuant to R.S.45:15-1
16 et seq., and who are the authorized representatives of the developer;
- 17 (6) The name and principal address of all non affiliated
18 marketing entities who, by means of inducement, promotion or
19 advertisement, attempt to encourage or procure prospective
20 purchasers located in the State to attend a sales presentation for any
21 timeshare plan offered by the developer or authorized broker;
- 22 (7) The name and principal address of all managing entities who
23 manage the timeshare plan;
- 24 (8) A public offering statement which complies with the
25 requirements of this act; and
- 26 (9) Any other information regarding the developer, timeshare
27 plan, brokers, marketing entities or managing entities as required by
28 the commission and established by the commission by regulation.
- 29 e. The developer shall comply with the following escrow
30 requirements:
- 31 (1) A developer of a timeshare plan shall deposit with an escrow
32 agent all funds which are received during the purchaser's
33 cancellation period set forth in section 18 of this act, into an escrow
34 account in a federally insured depository or a depository acceptable
35 to the commission. The deposit of such funds shall be evidenced by
36 an executed escrow agreement between the escrow agent and the
37 developer. The escrow agreement shall include provisions that
38 funds may be disbursed to the developer by the escrow agent from
39 the escrow account only after expiration of the purchaser's
40 cancellation period and in accordance with the purchase contract,
41 subject to paragraph (2) of this subsection.
- 42 (2) If a developer contracts to sell a timeshare interest and the
43 construction of any property in which the timeshare interest is
44 located has not been completed, the developer, upon expiration of
45 the cancellation period set forth in section 18 of this act, shall
46 continue to maintain in an escrow account all funds received by or
47 on behalf of the developer from the purchaser under the purchase
48 contract. The commission shall establish by rule the type of

1 documentation which shall be required for evidence of completion,
2 including but not limited to a certificate of occupancy, a certificate
3 of substantial completion, or equivalent certificate from a public
4 safety inspection agency in the applicable jurisdiction. Funds shall
5 be released from escrow as follows:

6 (a) If a purchaser properly cancels the purchase contract pursuant
7 to its terms, the funds shall be paid to the purchaser or paid to the
8 developer if the purchaser's funds have been previously refunded by
9 the developer.

10 (b) If a purchaser defaults in the performance of the purchaser's
11 obligations under the purchase contract, the funds shall be paid to
12 the developer.

13 (c) If the funds of a purchaser have not been previously
14 disbursed in accordance with the provisions of this paragraph, they
15 may be disbursed to the developer by the escrow agent upon the
16 issuance of acceptable evidence of completion of construction as
17 provided herein.

18 (3) In lieu of the provisions in paragraphs (1) and (2) of this
19 subsection, the commission may accept from the developer a surety
20 bond, bond in lieu of escrow, irrevocable letter of credit or other
21 financial assurance acceptable to the commission. Any acceptable
22 financial assurance shall be in an amount equal to or in excess of
23 the lesser of the funds which would otherwise be placed in escrow
24 in accordance with the provisions of paragraph (1) of this
25 subsection, or in an amount equal to the cost to complete the
26 incomplete property in which the timeshare interest is located.
27 However, in no event shall the amount be less than the amount of
28 funds that would otherwise be placed in escrow pursuant to
29 paragraph (1) of this subsection.

30 (4) The developer shall provide escrow account information to
31 the commission and shall execute in writing an authorization
32 consenting to an audit or examination of the account by the
33 commission on forms provided by the commission. The developer
34 shall comply with the reconciliation and records requirements
35 established by rule by the commission. The developer shall make
36 documents related to the escrow account or escrow obligation
37 available to the commission upon the commission's request. The
38 escrow agent shall maintain any disputed funds in the escrow
39 account until either:

40 (a) Receipt of written direction agreed to by signature of all
41 parties; or

42 (b) Deposit of the funds with a court of competent jurisdiction in
43 which a civil action regarding the funds has been filed.

44 f. The commission may accept, as provided by regulation, an
45 abbreviated registration application of a developer of a timeshare
46 plan in which all accommodations are located outside of the State.
47 The developer shall provide evidence that the timeshare plan is
48 registered with the applicable regulatory agency in a state or

1 jurisdiction where the timeshare plan is offered or sold, or that the
2 timeshare plan is in compliance with the laws and regulations of the
3 applicable state jurisdiction in which some or all of the
4 accommodations are located, which state or jurisdiction shall have
5 disclosure requirements that are substantially equivalent to or
6 greater than the information required to be disclosed pursuant to
7 subsection b. and c. of this section to purchasers in this State. A
8 developer filing an abbreviated registration application shall
9 provide the following:

10 (1) The developer's legal name, any assumed names used by the
11 developer, and the developer's principal office location, mailing
12 address, primary contact person and telephone number;

13 (2) The name, location, mailing address, primary contact person
14 and telephone number of the timeshare plan;

15 (3) The name and principal address of the developer's authorized
16 New Jersey representative who shall be a licensed real estate broker
17 licensed to maintain offices within this State;

18 (4) The name and principal address of all brokers within New
19 Jersey who sell or offer to sell any timeshare interests in any
20 timeshare plan offered by the developer to any person in this State,
21 who shall be licensed as a real estate broker pursuant to R.S. 45:15-
22 1 et seq., and who are the authorized representatives of the
23 developer;

24 (5) The name and principal address of all non-affiliated
25 marketing entities who, by means of inducement, promotion or
26 advertisement, attempt to encourage or procure prospective
27 purchasers located in the State to attend a sales presentation for any
28 timeshare plan offered by the developer or authorized broker;

29 (6) The name and principal address of all managing entities who
30 manage the timeshare plan;

31 (7) Evidence of registration or compliance with the laws and
32 regulations of the jurisdiction in which the timeshare plan is
33 located, approved or accepted;

34 (8) A declaration as to whether the timeshare plan is a single-site
35 timeshare plan or a multi-site timeshare plan and, if a multi-site
36 timeshare plan, whether it consists of specific timeshare interests or
37 non-specific timeshare interests;

38 (9) Disclosure of each jurisdiction in which the developer has
39 applied for registration of the timeshare plan, and whether the
40 timeshare plan or its developer were denied registration or were the
41 subject of any disciplinary proceeding;

42 (10) Copies of any disclosure documents required to be given to
43 purchasers or required to be filed with the jurisdiction in which the
44 timeshare plan is located, approved or accepted as may be requested
45 by the commission;

46 (11) The appropriate fee; and

47 (12) Any other information regarding the developer, timeshare
48 plan, brokers, marketing entities or managing entities as required by

1 the commission and established by the commission by regulation.

2 A developer of a timeshare plan with any accommodation
3 located in this State may not file an abbreviated filing with regard
4 to such timeshare plan, with the exception of a succeeding
5 developer after a merger or acquisition when the developer's
6 timeshare plan was registered in this State prior to the merger or
7 acquisition.

8
9 9. (New section) The developer shall have responsibility for
10 each timeshare plan registered with the commission and for the
11 actions of any sales agent, managing entity or marketing entity
12 utilized by the developer in the offering or promotional selling of
13 any registered timeshare plan. Any violation of this act which
14 occurs during the offering activities shall be a violation by the
15 developer as well as by the sales agent, marketing entity or
16 managing entity who actually committed the violation.
17 Notwithstanding anything to the contrary in this act, the developer
18 shall be responsible for the actions of the association and managing
19 entity only while they are subject to the developer's control.

20
21 10. (New section) a. A developer shall: (1) prepare a public
22 offering statement; (2) provide the statement to each purchaser of a
23 timeshare interest in any timeshare plan at the time of purchase; and
24 (3) fully and accurately disclose those facts concerning the
25 timeshare developer and timeshare plan that are required by this act
26 or by regulations promulgated by the commission.

27 The public offering statement shall be in writing and dated and
28 shall require the purchaser to certify in writing that the purchaser
29 received the statement. Upon approval of the commission, the
30 developer may offer to deliver the public offering statement and
31 other documents on CD-ROM format, Internet website or other
32 electronic media if the purchaser consents.

33 b. The public offering disclosure statement for a single-site
34 timeshare plan shall include:

35 (1) The name and address of the developer;

36 (2) A description of the duration and operation of the timeshare
37 plan;

38 (3) A description of the existing or proposed accommodations,
39 including the type and number of timeshare interests in the
40 accommodations expressed in periods of seven-day use availability
41 or other time increments applicable to the timeshare plan. The
42 description of each type of accommodation included in the
43 timeshare plan shall be categorized by the number of bedrooms, the
44 number of bathrooms, and sleeping capacity, and shall include a
45 statement indicating whether the accommodation contains a full
46 kitchen, which means a kitchen that has a minimum of a
47 dishwasher, range, sink, oven, and refrigerator. If the
48 accommodations are proposed or incomplete, a schedule for

- 1 commencement, completion, and availability of the
2 accommodations shall be provided;
- 3 (4) A description of any existing or proposed amenities of the
4 timeshare plan and, if the amenities are proposed or incomplete, a
5 schedule for commencement, completion, and availability of the
6 amenities;
- 7 (5) The extent to which financial arrangements have been
8 provided for the completion of all promised accommodations and
9 amenities that are committed to be built;
- 10 (6) A description of the method and timing for performing
11 maintenance of the accommodations;
- 12 (7) A statement indicating that, on an annual basis, the sum of
13 the nights that purchasers are entitled to use the accommodations
14 does not exceed the number of nights the accommodations are
15 available for use by the purchasers;
- 16 (8) A description of the method by which purchasers' use of the
17 accommodations is scheduled;
- 18 (9) A statement that an association exists or is expected to be
19 created or that such an association does not exist and is not
20 expected to be created and, if such an association exists or is
21 reasonably contemplated, a description of its powers and
22 responsibilities;
- 23 (10) A statement that within seven days after receipt of the
24 public offering statement or after execution of the purchase
25 contract, whichever is later, a purchaser may cancel any purchase
26 contract for a timeshare interest from a developer together with a
27 statement providing the name and street address to which the
28 purchaser should mail any notice of cancellation. However, if by
29 agreement of the parties by and through the purchase contract, the
30 purchase contract allows for cancellation of the purchase contract
31 for a period of time exceeding seven days, then the public offering
32 statement shall include a statement that the cancellation of the
33 purchase contract is allowed for that period of time exceeding seven
34 days;
- 35 (11) Copies of the following documents, if applicable, including
36 any amendments to the documents, unless separately provided to
37 the purchaser simultaneously with the public offering statement:
- 38 (a) the timeshare instrument;
39 (b) the association articles of incorporation;
40 (c) the association bylaws;
41 (d) the association rules; and
42 (e) any lease or contract, excluding the purchase contract and
43 other loan documents required to be signed by the purchaser at
44 closing;
- 45 (12) The name and principal address of the managing entity and
46 a description of the procedures, if any, for altering the powers and
47 responsibilities of the managing entity and for removing or
48 replacing it;

- 1 (13) The current annual budget, if available, or the projected
2 annual budget for the timeshare plan. The budget shall include:
 - 3 (a) a statement of the amount reserved or budgeted for repairs or
4 replacements, if any;
 - 5 (b) the projected common expense liability, if any, by category
6 of expenditure for the timeshare plan; and
 - 7 (c) a statement of any services or expenses not reflected in the
8 budget that the developer provides or pays;
- 9 (14) The projected assessments and a description of the method
10 for calculating and apportioning those assessments among
11 purchasers;
- 12 (15) Any initial or special fee due from the purchaser at closing,
13 together with a description of the purpose and method of calculating
14 the fee;
- 15 (16) A description of any lien, defect, or encumbrance on or
16 affecting title to the timeshare interest and, if applicable, a copy of
17 each written warranty provided by the developer;
- 18 (17) A description of any bankruptcy that is pending or which
19 has occurred within the past five years, pending civil or criminal
20 proceeding, adjudication, or disciplinary action material to the
21 timeshare plan of which the developer has knowledge;
- 22 (18) A description of any financing offered by or available
23 through the developer;
- 24 (19) Any current or anticipated fees or charges to be paid by
25 timeshare purchasers for the use of any accommodations or
26 amenities related to the timeshare plan, and a statement that the fees
27 or charges are subject to change;
- 28 (20) A description and amount of insurance coverage provided
29 for the protection of the purchaser;
- 30 (21) The extent to which a timeshare interest may become
31 subject to a tax lien or other lien arising out of claims against
32 purchasers of different timeshare interests;
- 33 (22) A description of those matters required by section 18 of this
34 act;
- 35 (23) A statement disclosing any right of first refusal or other
36 restraint on the transfer of all or any portion of a timeshare interest;
- 37 (24) A statement disclosing that any deposit made in connection
38 with the purchase of a timeshare interest shall be held by an escrow
39 agent until expiration of any right to cancel the contract and that
40 any deposit shall be returned to the purchaser if the purchaser
41 elects to exercise the right of cancellation; or, if the commission
42 accepts from the developer a surety bond, irrevocable letter of
43 credit, or other form of financial assurance instead of an escrow
44 deposit, a statement disclosing that the developer has provided a
45 surety bond, irrevocable letter of credit, or other form of financial
46 assurance in an amount equal to or in excess of the funds that would
47 otherwise be held by an escrow agent and that the deposit shall be
48 returned if the purchaser elects to exercise the right of cancellation;

1 (25) A description of the name and address of the exchange
2 company and the method by which a purchaser accesses the
3 exchange program, if the timeshare plan provides purchasers with
4 the opportunity to participate in an exchange program; and

5 (26) Any other information the commission determines is
6 necessary to protect prospective purchasers or to implement the
7 purpose of this act.

8 The developer may also include any other information in the
9 timeshare disclosure statement following approval by the
10 commission.

11 c. The disclosure statement for a specific timeshare interest
12 multi-site timeshare plan shall include:

13 (1) With regard to the timeshare property in which the purchaser
14 will receive a specific timeshare interest that includes a reservation
15 priority right, all of the applicable information related to that
16 timeshare property as required under subsection b. of this section;

17 (2) With regard to the component site in which the purchaser
18 does not receive a specific timeshare interest, the following
19 information:

20 (a) a description of each component site, including the name and
21 address of each component site;

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

28 (c) a description of the amenities at each component site
29 available for use by the purchaser;

30 (d) a description of the reservation system, which shall include:

31 (i) the entity responsible for operating the reservation system, its
32 relationship to the developer, and the duration of any agreement for
33 operation of the reservation system;

34 (ii) a summary or the rules governing access to and use of the
35 reservation system; and

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

40 (e) The name and principal address of the managing entity for
41 the multi-site timeshare plan and a description of the procedures, if
42 any, for altering the powers and responsibilities of the managing
43 entity and for removing or replacing it;

44 (f) A description of any right to make additions to, substitutions
45 in, or deletions from accommodations, amenities, or component
46 sites, and a description of the basis on which accommodations,
47 amenities, or component sites may be added to, substituted in, or
48 deleted from the multi-site timeshare plan;

- 1 (g) A description of the purchaser's liability for any fees
2 associated with the multi-site timeshare plan;
- 3 (h) The location of each component site of the multi-site
4 timeshare plan, as well as any periodic adjustment or amendment to
5 the reservation system that may be needed in order to respond to
6 actual purchaser use patterns and changes in purchaser use demand
7 for the accommodations existing at the time within the multi-site
8 timeshare plan; and
- 9 (i) Any other information the commission determines is
10 necessary to protect prospective purchasers or to implement the
11 purpose of this act.
- 12 d. The public offering statement for a non-specific timeshare
13 interest multi-site timeshare plan shall include:
- 14 (1) The name and address of the developer;
- 15 (2) A description of the type of interest and usage rights the
16 purchaser will receive;
- 17 (3) A description of the duration and operation of the timeshare
18 plan;
- 19 (4) A description of the type of insurance coverage provided for
20 each component site;
- 21 (5) An explanation of who holds title to the accommodations of
22 each component site;
- 23 (6) A description of each component site, including the name
24 and address of each component site;
- 25 (7) A description of the existing or proposed accommodations
26 expressed in periods of seven-day use availability or other time
27 increments applicable to the timeshare plan. The description of each
28 type of accommodation included in the timeshare plan shall be
29 categorized by the number of bedrooms, the number of bathrooms,
30 and sleeping capacity, and shall include a statement indicating
31 whether the accommodation contains a full kitchen, which means a
32 kitchen that has a minimum of a dishwasher, range, sink, oven, and
33 refrigerator. If the accommodations are proposed or incomplete, a
34 schedule for commencement, completion and availability of the
35 accommodations shall be provided;
- 36 (8) A statement that an association for the multi-site timeshare
37 plan exists or is expected to be created or that such an association
38 does not exist and is not expected to be created and, if such an
39 association exists or is reasonably contemplated, a description of its
40 powers and responsibilities;
- 41 (9) If applicable, copies of the following documents applicable
42 to the multi-site timeshare plan, including any amendments to such
43 documents, unless separately provided to the purchaser
44 simultaneously with the timeshare disclosure statement:
- 45 (a) the timeshare instrument;
- 46 (b) the association articles of incorporation;
- 47 (c) the association bylaws; and
- 48 (d) the association rules;

- 1 (10) A description of the method and timing for performing
2 maintenance of the accommodations;
- 3 (11) A statement indicating that, on an annual basis, the total
4 number of purchasers eligible to use the accommodations of the
5 timeshare plan during a given consecutive 12 month period never
6 exceeds the total number of accommodations available for use in
7 the timeshare plan during that consecutive 12 month period;
- 8 (12) A description of amenities available for use by the
9 purchaser at each component site;
- 10 (13) The location of each component site of the multi-site
11 timeshare plan, as well as any periodic adjustment or amendment to
12 the reservation system that may be needed in order to respond to
13 actual purchaser use patterns and changes in purchaser use demand
14 for the accommodations existing at the time within the multi-site
15 timeshare plan;
- 16 (14) A description of any right to make any additions,
17 substitutions, or deletions of accommodations, amenities, or
18 component sites, and a description of the basis upon which
19 accommodations, amenities, or component sites may be added to,
20 substituted in, or deleted from the multi-site timeshare plan;
- 21 (15) A description of the reservation system that shall include
22 all of the following:
- 23 (a) the entity responsible for operating the reservation system, its
24 relationship to the developer, and the duration of any agreement for
25 operation of the reservation system;
- 26 (b) a summary of the rules governing access to and use of the
27 reservation system; and
- 28 (c) the existence of and an explanation regarding any priority
29 reservation features that affect a purchaser's ability to make
30 reservations for the use of a given accommodation on a first-come,
31 first-served basis;
- 32 (16) The name and principal address of the managing entity for
33 the multi-site timeshare plan and a description of the procedures, if
34 any, for altering the powers and responsibilities of the managing
35 entity and for removing or replacing it, and a description of the
36 relationship between the multi-site timeshare plan managing entity
37 and the managing entity of the component sites of the multi-site
38 timeshare plan, if different from the multi-site timeshare plan
39 managing entity;
- 40 (17) A statement that within seven days after receipt of the
41 public offering statement or after execution of the purchase
42 contract, whichever is later, a purchaser may cancel any purchase
43 contract for a timeshare interest from a developer together with a
44 statement providing the name and street address to which the
45 purchaser should mail any notice of cancellation. However, if by
46 agreement of the parties by and through the purchase contract, the
47 purchase contract allows for cancellation of the purchase contract
48 for a period of time exceeding seven days, then the public offering

- 1 statement shall include a statement that the cancellation of the
2 purchase contract is allowed for that period of time exceeding seven
3 days;
- 4 (18) The current annual budget of the multi-site timeshare plan,
5 if available, or the projected annual budget for the multi-site
6 timeshare plan, which shall include:
- 7 (a) a statement of the amount reserved or budgeted, if any, for
8 repairs, replacements, and refurbishment;
- 9 (b) the projected common expense liability, if any, by category
10 of expenditure for the multi-site timeshare plan; and
- 11 (c) a statement of any services or expenses not reflected in the
12 budget that the developer provides or pays;
- 13 (19) The projected assessments and a description of the method
14 for calculating and apportioning those assessments among
15 purchasers of the multi-site timeshare plan;
- 16 (20) Any current fees or charges to be paid by purchasers for the
17 use of any amenities related to the timeshare plan and a statement
18 that the fees or charges are subject to change;
- 19 (21) Any initial or special fee due from the purchaser at closing,
20 together with a description of the purpose and method of calculating
21 the fee;
- 22 (22) A description of the purchaser's liability for any fees
23 associated with the multi-site timeshare plan;
- 24 (23) A description of any lien, defect, or encumbrance on or
25 affecting title to the timeshare interest and, if applicable, a copy of
26 each written warranty provided by the developer;
- 27 (24) The extent to which a timeshare interest may become
28 subject to a tax lien or other lien arising out of claims against
29 purchasers of different timeshare interests;
- 30 (25) A description of those matters required by section 18 of this
31 act;
- 32 (26) A description of any financing offered by or available
33 through the developer;
- 34 (27) A description of any bankruptcy that is pending or which
35 has occurred within the past five years, pending civil or criminal
36 proceeding, adjudication, or disciplinary action material to the
37 timeshare plan of which the developer has knowledge;
- 38 (28) A statement disclosing any right of first refusal or other
39 restraint on the transfer of all or a portion of a timeshare interest;
- 40 (29) A statement disclosing that any deposit made in connection
41 with the purchase of a timeshare interest shall be held by an escrow
42 agent until expiration of any right to cancel the contract and that
43 any deposit shall be returned to the purchaser if the purchaser elects
44 to exercise the right of cancellation; or, if the commission accepts
45 from the developer a surety bond, irrevocable letter of credit, or
46 other form of financial assurance instead of an escrow deposit, a
47 statement disclosing that the developer has provided a surety bond,
48 irrevocable letter of credit, or other form of financial assurance in

1 an amount equal to or in excess of the funds that would otherwise
2 be held by an escrow agent and that the deposit shall be returned if
3 the purchaser elects to exercise the right of cancellation;

4 (30) A description of the name and address of the exchange
5 company and the method by which a purchaser accesses the
6 exchange program, if the timeshare plan provides purchasers with
7 the opportunity to participate in an exchange program;

8 (31) Any other information the commission determines is
9 necessary to protect prospective purchasers or to implement the
10 purpose of this act. The developer may also include any other
11 information in the timeshare disclosure statement following
12 approval by the commission.

13 e. The developer shall also distribute to the purchaser any
14 additional documents as the commission may require for
15 accommodations in this State as provided by regulation, including
16 such additional documentation as may be required under the
17 "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

18

19 11. (New section) a. Within 30 days after each annual
20 anniversary date of an order registering the timeshare, or on or
21 before a date set by the commission, and while the developer
22 continues to offer any timeshare interests in the timeshare plan in
23 this State, the developer shall file a report in the form prescribed by
24 the rules and regulations promulgated by the commission. The
25 report shall reflect any material changes in the information
26 contained in the original or subsequently submitted applications or
27 documents.

28 b. (1) The developer shall file amendments to its registration to
29 reflect any material change in any information set forth in the
30 project and disclosure documents. The developer shall notify the
31 commission of the material change prior to implementation of the
32 change, unless the change is beyond the control of the developer; in
33 which event, the developer shall provide written notice to the
34 commission as soon as reasonably practicable after the occurrence
35 of the event. All amendments, supplements, and facts relevant to
36 the material change shall be filed with the commission within 20
37 calendar days of the material change.

38 (2) The developer may continue to sell timeshare interests in the
39 timeshare plan so long as, prior to closing, the developer provides a
40 notice to each purchaser that describes the material change and
41 provides to each purchaser the previously approved public offering
42 statement. If the change is material and adverse to the purchasers of
43 the timeshare plan as a whole, as determined by the commission, no
44 closing shall occur until the amendment relating to the material and
45 adverse change has been approved by the commission. After the
46 amendment relating to the material and adverse change has been
47 approved and the amended public offering statement has been
48 issued, the amended public offering statement shall be provided to

1 the purchaser, and an additional seven-day rescission period shall
2 commence. The developer shall be required to maintain evidence
3 of the receipt by each purchaser of the amended public offering
4 statement. If the commission refuses to approve the amendment
5 relating to the material and adverse change, all sales made using the
6 notice shall be subject to rescission and all funds returned.

7 (3) The developer shall update the public offering statement to
8 reflect any changes to the timeshare plan that are not material and
9 adverse, including the addition of any component sites, within a
10 reasonable time as determined by the commission pursuant to
11 regulation.

12 c. Upon a determination by the commission that an annual report
13 is no longer necessary for the protection of the public interest or
14 that the developer no longer retains any interest and no longer has
15 any contractual, bond or other obligations in the subdivision, the
16 commission shall issue an order terminating the responsibilities of
17 the developer under this act.

18

19 12. (New section) Upon receipt of a substantially complete
20 application for registration, in proper form and accompanied by the
21 appropriate filing fees, the commission shall, within 10 business
22 days of receipt of the registration, issue a notice of filing. The
23 notice shall not be construed as an approval of the registration, or
24 any portion thereof.

25

26 13. (New section) Every registration required to be filed with
27 the commission under this act shall be reviewed by the commission
28 and the commission shall issue an order of registration in
29 accordance with the following schedule:

30 a. As to comprehensive registrations, registrations shall be
31 effective upon the issuance of an order of registration by the
32 commission within 60 days after receipt and issuance of a notice of
33 filing. The commission shall provide a list of deficiencies in the
34 application, if any, within 60 days of the issuance of the notice of
35 filing. If a list of deficiencies is not provided to the applicant
36 within 60 days of issuance of the notice of filing, the timeshare plan
37 shall be deemed registered unless the applicant has consented in
38 writing to a delay.

39 b. As to abbreviated registrations, registration shall be effective
40 upon the issuance of an order of registration by the commission 30
41 days after receipt and issuance of a notice of filing. The commission
42 shall provide a list of deficiencies in the application, if any, within
43 30 days of the issuance of the notice of filing. If a list of
44 deficiencies is not provided to the applicant within 30 days of the
45 issuance of the notice of filing, the timeshare plan shall be deemed
46 registered unless the applicant has consented in writing to a delay.

47 c. A preliminary registration shall be effective within 20 days of
48 receipt, unless the commission provides to the applicant a written

1 list of deficiencies in the application, if any, within 20 days of
2 receipt of a completed application and fee. If a list of deficiencies
3 is not provided to the applicant within 20 days of receipt of the
4 application for a preliminary registration, the preliminary
5 registration shall be deemed approved unless the applicant has
6 consented in writing to a delay.

7
8 14. (New section) a. If the commission determines upon
9 inquiry and examination that any of the requirements of this act
10 have not been met, the commission shall notify the applicant that
11 the application for registration shall be corrected as specified in
12 writing within 30 days from the date the notice is received by the
13 applicant. These findings shall be the result of the commission's
14 preliminary inquiry and examination and no hearing shall be
15 required as the basis for those findings.

16 b. In the event that the requirements of the deficiency notice are
17 not met within the time frame provided in subsection a. of this
18 section, and the applicant has not demonstrated a good faith effort
19 to correct the deficiencies, the commission may enter an order
20 rejecting the filing. The order shall include the factual and legal
21 basis for the rejection and shall provide that, unless appealed as
22 provided for in subsection c. of this section, the terms of the order
23 shall become final after 45 days of delivery to the applicant.

24 c. Upon the applicant's receipt of an order of rejection, the
25 applicant shall have the right to file an appeal with the commission
26 and shall be entitled to a hearing thereon provided that the appeal is
27 filed within 45 days of the applicant's receipt of the order of
28 rejection. In the event that an appeal is filed by the applicant, the
29 order of rejection shall not take effect until such time as a
30 determination has been rendered on the appeal. While an appeal of
31 an order of rejection remains pending, a timeshare plan which is the
32 subject of the notice of filing referenced in the order of rejection
33 shall not be considered registered.

34
35 15. (New section) a. The fee for an initial registration shall be
36 \$1,000 plus \$50 per timeshare interest, which fee shall not exceed
37 \$7,500, unless otherwise provided by the commission pursuant to
38 regulation to defray the cost of rendering the services required by
39 the provisions of this act.

40 b. The commission may also provide, by regulation, for fees to
41 cover the reasonable expenses of carrying out other responsibilities
42 established under this act, including, but not limited to, fees for the
43 processing of amendments, exemption applications and preliminary
44 registrations.

45
46 16. (New section) Unless otherwise provided by regulation, a
47 developer, or any of its agents, shall not sell, offer, or dispose of a
48 timeshare interest in this State unless all necessary registrations are

1 filed and approved by the commission, or while an order revoking
2 or suspending a registration is in effect.

3

4 17. (New section) a. Before the first sale of a timeshare
5 interest, the developer shall create or provide for a managing entity,
6 which shall be either the developer, a separate manager or
7 management firm, the board of directors of an owners' association,
8 or some combination thereof.

9 b. The duties of the managing entity shall include, but not be
10 limited to:

11 (1) Management and maintenance of all accommodations
12 constituting the timeshare plan;

13 (2) Collection of all assessments as provided in the timeshare
14 instrument;

15 (3) Providing to all purchasers each year an itemized annual
16 budget, which shall include all estimated revenues and expenses;

17 (4) Maintenance of all books and records concerning the
18 timeshare plan;

19 (5) Scheduling occupancy of accommodations, when purchasers
20 are not entitled to use specific timeshare periods, so that all
21 purchasers will be provided the opportunity to possess and use the
22 accommodations of the timeshare plan which they have purchased;
23 and

24 (6) Performing any other functions and duties that are necessary
25 and proper to maintain the accommodations or that are required by
26 the timeshare instrument.

27 c. In the event a developer, managing entity or association files
28 a complaint in a foreclosure proceeding involving timeshare
29 interests, the developer, managing entity or association may join in
30 the same action multiple defendant obligors and junior interest
31 holders of separate timeshare interests, provided:

32 (1) The foreclosure proceeding involves a single timeshare plan;

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

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

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

39 d. In any foreclosure proceeding involving multiple defendants
40 filed under subsection c. of this section, the court shall, if
41 appropriate, sever for separate trial any count of the complaint in
42 which a defense or counterclaim is timely raised by a defendant.

43

44 18. (New section) Any purchase contract entered into by a
45 purchaser of a timeshare interest under this act shall be voidable by
46 the purchaser, without penalty, within seven calendar days after the
47 receipt of the public offering statement or the execution of the
48 purchase contract, whichever date is later. The purchase contract

1 shall provide notice of the seven-day cancellation period, together
2 with the name and mailing address to which any notice of
3 cancellation shall be delivered. Notice of cancellation shall be
4 timely if the notice is deposited with the United States Postal
5 Service not later than midnight of the seventh day. Upon such
6 cancellation, the developer shall refund to the purchaser all
7 payments made by the purchaser, less the amount of any benefits
8 actually received pursuant to the purchase contract. The refund
9 shall be made within 30 days after the receipt of the notice of
10 cancellation, or receipt of funds from the purchaser's cleared check,
11 whichever occurs later. If a purchaser elects to cancel a purchase
12 contract pursuant to this section, the purchaser may do so by hand
13 delivering a written notice of cancellation or by mailing a notice of
14 cancellation by certified mail, return receipt requested, to the
15 developer, as applicable, at an address set forth in the purchase
16 contract.

17

18 19. (New section) Excluding any encumbrance placed against
19 the purchaser's timeshare interest securing the purchaser's payment
20 of purchase money financing for the purchase, the developer shall
21 not be entitled to the release of any funds escrowed with respect to
22 each timeshare interest and any other property or rights to property
23 appurtenant to the timeshare interest, including any amenities
24 represented to the purchaser as being part of the timeshare plan,
25 until the developer has provided satisfactory evidence to the
26 commission of one of the following:

27 a. The timeshare interest together with any other property or
28 rights to property appurtenant to the timeshare interest, including
29 any amenities represented to the purchaser as being part of the
30 timeshare plan, are free and clear of any of the claims of the
31 developer, any owner of the underlying fee, a mortgagee, judgment
32 creditor, or other lienor or any other person having an interest in or
33 lien or encumbrance against the timeshare interest or appurtenant
34 property or property rights;

35 b. The developer, any owner of the underlying fee, a mortgagee,
36 judgment creditor, or other lienor, or any other person having an
37 interest in or lien or encumbrance against the timeshare interest or
38 appurtenant property or property rights, including any amenities
39 represented to the purchaser as being part of the timeshare plan, has
40 recorded a subordination and notice to creditors document in the
41 jurisdiction in which the timeshare interest is located. The
42 subordination document shall expressly and effectively provide that
43 the interest holder's right, lien or encumbrance shall not adversely
44 affect, and shall be subordinate to, the rights of the owners of the
45 timeshare interests in the timeshare plan regardless of the date of
46 purchase, from and after the effective date of the subordination
47 document;

48 c. The developer, any owner of the underlying fee, a mortgagee,

1 judgment creditor, or other lienor, or any other person having an
2 interest in or lien or encumbrance against the timeshare interest or
3 appurtenant property or property rights, including any amenities
4 represented to the purchaser as being part of the timeshare plan, has
5 transferred the subject accommodations or amenities or all use
6 rights therein to a nonprofit organization or owners' association to
7 be held for the use and benefit of the purchasers of the timeshare
8 plan, which entity shall act as a fiduciary to the purchasers,
9 provided that the developer has transferred control of that entity to
10 the purchasers or does not exercise its voting rights in that entity
11 with respect to the subject accommodations or amenities. Prior to
12 the transfer, any lien or other encumbrance against the
13 accommodation or facility shall be made subject to a subordination
14 and notice to creditors instrument pursuant to subsection b. of this
15 section; or

16 d. Alternative arrangements have been made which are adequate
17 to protect the rights of the purchasers of the timeshare interests and
18 are approved by the commission.

19

20 20. (New section) a. A sales agent in New Jersey shall comply
21 with the provisions of R.S.45:15-1 et seq., and the regulations
22 adopted pursuant thereto, including licensure requirements, unless
23 otherwise exempt by law.

24 b. A timeshare interest owner, who, for non-monetary
25 compensation, as provided for in this act and by regulation, refers in
26 a calendar year no more than 12 prospective purchasers of
27 timeshare interests in the timeshare plan shall not be required to be
28 licensed pursuant to R.S.45:15-1 et seq., provided the referring
29 timeshare interest owner does not show, discuss terms or conditions
30 of purchase or otherwise participate in negotiations with regard to
31 the timeshare purchase. Examples of non-monetary compensation
32 shall include, but shall not be limited to, the following:

33 (1) Waiver of association maintenance fees;

34 (2) Free meals at a restaurant or rounds of golf at a golf course;

35 (3) Points or other non-monetary currency associated with hotel,
36 timeshare or other loyalty programs; or

37 (4) Other benefits specifically associated with the timeshare
38 plan.

39 c. A person licensed under R.S.45:15-1 et seq., who also is a
40 bona fide owner of a timeshare property, shall be entitled to receive
41 non-monetary compensation as defined in subsection b. of this
42 section on the same basis as any other owner of a timeshare
43 property. The non-monetary compensation or referral pursuant to
44 subsection b. of this section shall not fall within the scope of
45 R.S.45:15-1 et seq. or the rules and regulations implementing
46 R.S.45:15-1 et seq.

47

48 21. (New section) a. A developer or other person offering a

1 timeshare plan shall not:

2 (1) Misrepresent a fact material to a purchaser's decision to buy
3 a timeshare interest;

4 (2) Predict any increase in the value of a timeshare interest
5 represented over a period of time, excluding bona fide pending
6 price increases by the developer;

7 (3) Materially misrepresent the qualities or characteristics of
8 accommodations or the amenities available to the occupant of those
9 accommodations;

10 (4) Misrepresent the length of time accommodations or
11 amenities will be available to the purchaser of a timeshare interest;

12 or

13 (5) Misrepresent the conditions under which a purchaser of a
14 timeshare interest may exchange the right of the purchaser's
15 occupancy for the right to occupy other accommodations.

16 b. A developer or other person using a promotion in connection
17 with the offering of a timeshare interest shall clearly disclose all of
18 the following:

19 (1) That the purpose of the promotion is to sell timeshare
20 interests, which shall appear in bold face or other conspicuous type
21 on all promotional materials;

22 (2) That any person whose name or address is obtained during
23 the promotion may be solicited to purchase a timeshare interest;

24 (3) The name of each developer or other person trying to sell a
25 timeshare interest through the promotion, and the name of each
26 person paying for the promotion if different from the developer;

27 (4) The complete details of participation in the promotion;

28 (5) The method of awarding premiums or other benefits under
29 the promotion;

30 (6) A complete and fully detailed description, including
31 approximate retail value of each premium or benefit under the
32 promotion if the retail value of the premium or benefit is over \$50;

33 (7) The quantity of each premium to be awarded or conferred;

34 (8) The date by which each premium or benefit will be awarded
35 or conferred; and

36 (9) Any other disclosures required by the commission pursuant
37 to regulation.

38 c. The required disclosures for an advertisement that contains a
39 promotion in connection with the offering of a timeshare interest
40 shall be provided or otherwise made available to prospective
41 purchasers in writing or electronically at least once prior to any
42 scheduled sales presentation and received by the prospective
43 purchasers prior to their leaving to attend the sales presentation.
44 The required disclosures need not be included in every written, oral
45 or electronic communication to the prospective purchaser prior to
46 the sales presentation.

47 d. If a person represents that a premium or benefit will be
48 awarded in connection with a promotion, the premium or benefit

1 shall be awarded or conferred in the manner represented, and on or
2 before the date represented for awarding or conferring the premium
3 or benefit.

4
5 22. (New section) The managing entity shall keep detailed
6 financial records directly related to the operation of the time share
7 plan. All financial and other records shall be made reasonably
8 available for examination by any purchaser, or the authorized agent
9 of the purchaser, and the commission. The managing entity may
10 charge the purchaser a reasonable fee for copying any requested
11 information.

12
13 23. (New section) Every developer shall maintain, for a period
14 of two years, records of any real estate brokers, broker-salespersons
15 or salespersons licensed in the State and employed by the
16 developer, as well as all other managerial employees located in the
17 State and employed by the developer, including the last known
18 address of each of those individuals.

19
20 24. (New section) No action for partition of a timeshare interest
21 may be initiated except as permitted by the timeshare instrument.

22
23 25. (New section) The commission may refuse to issue or renew
24 any registration, or revoke or suspend any registration or place on
25 probation or administrative supervision, or reprimand any
26 registrant, or impose an administrative penalty not to exceed
27 \$50,000, in a summary proceeding pursuant to the "Penalty
28 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
29 after notice and an opportunity to be heard, for any of the following
30 causes:

31 a. A registrant's violation of any provision of this act or of the
32 regulations adopted by the commission to enforce this act.

33 b. A conviction of the registrant or any principal of the
34 registrant of:

35 (1) A felony that is punishable by death or imprisonment for a
36 term exceeding one year under the laws of any state or federal
37 jurisdiction;

38 (2) A misdemeanor under the laws of any state or federal
39 jurisdiction if an essential element of the offense is dishonesty; or

40 (3) Any crime under the laws of any state or federal jurisdiction
41 if the crime relates directly to the practice of the profession
42 regulated by this act.

43 c. A registrant's making any misrepresentation for the purpose
44 of obtaining an order of registration or exemption.

45 d. A registrant's discipline in another state or federal
46 jurisdiction, State agency, or foreign country regarding the practice
47 of the profession regulated by this act, if at least one of the grounds
48 for the discipline is the same as or substantially equivalent to one of

1 those set forth in this act.

2 e. A finding by the commission that the registrant, after having
3 his registration placed on probationary status, has violated the terms
4 of probation.

5 f. A registrant's practicing or attempting to practice under a
6 name other than the name as shown on his registration or any other
7 legally authorized name.

8 g. A registrant's failure to file a return, or to pay the tax, penalty,
9 or interest shown in a filed return, or to pay any final assessment of
10 tax, penalty, or interest, as required by any tax law administered by
11 the State Department of Treasury or any local government entity,
12 until the requirements of any tax are satisfied.

13 h. A registrant's engaging in any conduct likely to deceive,
14 defraud or harm the public.

15 i. A registrant's aiding or abetting another person in violating
16 any provision of this act or of the regulations adopted by the
17 commission to enforce this act.

18 j. Any representation in any document or information filed with
19 the commission that is materially false or misleading.

20 k. A registrant's disseminating or causing to be disseminated any
21 materially false or misleading promotional materials or
22 advertisements in connection with a timeshare plan.

23 l. A registrant's concealing, diverting, or disposing of any funds
24 or assets of any person in a manner that impairs the rights of
25 purchasers of timeshare interests in the timeshare plan.

26 m. A registrant's failure to perform any stipulation or agreement
27 made to induce the commission to issue an order relating to the
28 timeshare plan.

29 n. A registrant's, or its agents or brokers engaging in any act that
30 constitutes a violation of the "Law Against Discrimination,"
31 P.L.1945, c.169 (C.10:5-1 et seq.).

32 o. A registrant's, or its agent's or broker's failure to provide
33 information requested in writing by the commission, either as the
34 result of a complaint to the commission or as a result of a random
35 audit conducted by the commission, which would indicate a
36 violation of this act.

37 p. A registrant's, or its agent's or broker's, failure to account for
38 or remit any escrow funds coming into his possession which
39 belonged to others.

40 q. A registrant's, or its agent's or broker's, failure to make
41 available to commission personnel during normal business hours all
42 escrow records and related documents maintained in connection
43 therewith, within a reasonable period of time after a request from
44 the commission personnel, but in no event later than five business
45 days from the request.

46

47 26. (New section) The commission may:

48 a. Accept registrations filed in this State, in other states, or with

- 1 the federal government;
- 2 b. Contract with similar agencies in this State or other
3 jurisdictions to perform investigative functions;
- 4 c. Accept grants-in-aid from any governmental or other source;
- 5 d. Cooperate with similar agencies or commissions in this State
6 or other jurisdictions to establish uniform filing procedures and
7 forms, uniform public offering statements, advertising standards,
8 rules and common administrative practices;
- 9 e. Grant exemptions pursuant to the rules and regulations
10 adopted pursuant to this act;
- 11 f. Make any necessary public or private investigations within or
12 outside of this State to determine whether any person has violated
13 or is about to violate any provision of this act, or to aid in the
14 enforcement of this act or in the prescribing of rules and regulations
15 and forms hereunder;
- 16 g. Require or permit any person to file a statement in writing,
17 under oath or otherwise, as the commission determines, as to all the
18 facts and circumstances concerning any matter to be investigated;
- 19 h. For the purpose of any investigation or proceeding under this
20 act, the commission or any officer designated by regulation, may
21 administer oaths, or affirmations, and upon its own motion or upon
22 request of any party may subpoena witnesses and compel their
23 attendance, take evidence, and require the production of any matter
24 which is relevant to the investigation, including the existence,
25 description, nature, custody, condition and location of any books,
26 documents, or other tangible things and the identity and location of
27 persons having knowledge of relevant facts or any other matter
28 reasonably calculated to lead to the discovery of material evidence;
29 and
- 30 i. Upon failure to obey a subpoena or to answer questions
31 propounded by the investigating officer and upon reasonable notice
32 to all persons affected thereby, the commission may apply to the
33 Superior Court for an order compelling compliance with the
34 subpoena.
- 35
- 36 27. (New section) a. If the commission determines after notice
37 and hearing that a person has:
- 38 (1) Violated any provision of this act;
- 39 (2) Directly or through an agent or employee engaged in any
40 false, deceptive, or misleading advertising, promotional or sales
41 methods in the State to offer or dispose of an interest in the
42 timeshare plan;
- 43 (3) Made any material change in the plan of disposition and
44 development of the timeshare plan subsequent to the order of
45 registration without first complying with the provisions of section
46 11 of this act;
- 47 (4) Disposed of any timeshare plan which have not been
48 registered with the commission; or

1 (5) Violated any lawful order or rule or regulation of the
2 commission;

3 The commission may issue an order requiring the person to cease
4 and desist from the unlawful practice and to take such affirmative
5 action as in the judgment of the commission will carry out the
6 purposes of this act.

7 b. If the commission makes a finding of fact in writing that the
8 public interest will be irreparably harmed by delay in issuing an
9 order, the commission may issue a temporary cease and desist
10 order. Every temporary cease and desist order shall include in its
11 terms a provision that upon request a hearing will be held within 15
12 days of the receipt of the request.

13

14 28. (New section) a. If it appears that a person has engaged, or
15 is about to engage, in an act or practice constituting a violation of a
16 provision of this act, the commission, with or without prior
17 administrative proceedings, may bring an action in the Superior
18 Court to enjoin the acts or practices and to enforce compliance with
19 this act or any rule, regulation or order hereunder. Upon proper
20 showing, injunctive relief or a temporary restraining order shall be
21 granted, and a receiver may be appointed. The commission shall
22 not be required to post a bond in any court proceeding.

23 b. The commission may intervene in any suit relating to this act.
24 Each developer registered pursuant to this act shall provide the
25 commission with notice of any lawsuit that is filed against the
26 developer or the registered timeshare plan that relates to rights,
27 duties, or responsibilities of the developer or timeshare plan as set
28 forth in this act.

29

30 29. (New section) a. For purposes of this act, an application for
31 registration submitted to the commission shall be deemed a
32 submission, by the applicant, to the jurisdiction of the courts of the
33 State of New Jersey.

34 b. In addition to the methods of service provided for in the Rules
35 of Court, service may be made by delivering a copy of the process
36 to a person designated by the commission to receive the process at
37 its office, but that service shall not be effective unless the plaintiff,
38 which may be the commission, in a proceeding instituted by it:

39 (1) Sends a copy of the process and the pleading by certified
40 mail to the defendant or respondent at his last known address; and

41 (2) The plaintiff's affidavit of compliance with this section is
42 filed in the case on or before the return day of the process, if any, or
43 within the time as the court allows.

44 c. If any person, including any nonresident of this State, engages
45 in conduct prohibited by this act and has not filed a consent to
46 service of process, and personal jurisdiction over him cannot
47 otherwise be obtained in this State, that conduct authorizes the
48 commission to receive service of process, in any non criminal

1 proceedings against him or his successor which arises from that
2 conduct and which is brought under this act with the same force as
3 if served on him personally. Notice shall be given as provided in
4 subsection b. of this section.

5

6 30. (New section) a. Any broker, broker-salesperson or
7 salesperson who violates the provisions of this act shall, in addition
8 to the penalties set forth herein, be subject to the penalties as set
9 forth in R.S.45:15-17.

10 b. Any person who violates any provision of this act or any
11 person who, in an application for registration filed with the
12 commission, makes any untrue statement of a material fact or omits
13 to state a material fact shall be fined not less than \$250, nor more
14 than \$50,000, per violation.

15 c. The commission may levy and collect the penalties set forth
16 in subsection b. of this section after affording the person alleged to
17 be in violation of this act an opportunity for a hearing in accordance
18 with the "Administrative Procedure Act," P.L.1968, c.410
19 (C.52:14B-1 et seq.) on the alleged violations and a finding by the
20 commission that the person is guilty of the violation. When a
21 penalty levied by the commission has not been satisfied within 30
22 days of the levy, the penalty may be sued for and recovered by, and
23 in the name of, the commission in a summary proceeding pursuant
24 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
25 (C.2A:58-10 et seq.).

26 d. The commission may, in the interest of justice, compromise
27 any civil penalty, if in its determination the gravity of the offense
28 does not warrant the assessment of the full fine.

29

30 31. (New section) a. Any person who suffers any ascertainable
31 loss of moneys as a result of the failure of another to comply fully
32 with the provisions of this act may bring an action or assert a
33 counterclaim in any court of competent jurisdiction. In any action
34 filed under this section in which a defendant is found to have
35 knowingly engaged in any false, deceptive, misleading promotional
36 or sales methods or discriminatory advertising on the basis of race,
37 sex, creed, color, marital status, national origin or religion,
38 concealed or fraudulently diverted any funds or assets so as to
39 defeat the rights of timeshare plan purchasers, made an intentional
40 misrepresentation or concealed a material fact in an application for
41 registration, or disposed of any timeshare plan required to be
42 registered under this act, which are not so registered, the court shall,
43 in addition to any other appropriate legal or equitable remedy,
44 award double damages suffered, and court costs, including
45 reasonable attorney's fees. In the case of an untruth, omission, or
46 misleading statement the developer sustains the burden of proving
47 that the purchaser knew of the untruth, omission or misleading
48 statement, or that he did not rely on such information, or that the

1 developer did not know, and in the exercise of reasonable care
2 could not have known of the untruth, omission, or misleading
3 statement.

4 b. The court, in addition to the remedies provided in this act,
5 may award any other relief appropriate under the circumstances
6 including, in the court's discretion, restitution of all monies paid
7 and, where a developer has failed to provide to a purchaser a copy
8 of the current public offering statement approved by the
9 commission prior to execution of the contract or agreement,
10 rescission of the contract. If the purchaser fails to establish a cause
11 of action, and the court further determines that the action was
12 wholly without merit, the court shall award attorney's fees to the
13 developer.

14 c. Any stipulation or provision purporting to bind a purchaser
15 acquiring an interest in a timeshare plan subject to the provisions of
16 this act to a waiver of compliance with the provisions of this act
17 shall be void.

18

19 32. (New section) a. An action shall not be maintained by any
20 developer in any court in this State with respect to any agreement,
21 contract, or services for which registration is required by this act, or
22 to recover the agreed price or any consideration under any
23 agreement, or to recover for services for which a registration is
24 required by this act, without proving that the developer had a valid
25 order of registration at the time of making the agreement or
26 performing the work.

27 b. A person licensed in this State as a real estate broker pursuant
28 to R.S.45:15-1 et seq. shall not represent any unregistered timeshare
29 plan and shall not accept or collect any commission or other form of
30 consideration from any developer unless the timeshare plan is
31 registered pursuant to the requirements of this act.

32

33 33. (New section) The commission shall adopt rules for the
34 implementation and enforcement of this act in accordance with the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.).

37

38 34. (New section) The commission may prescribe forms and
39 procedures for submitting information to the commission.

40

41 35. (New section) The commission shall thoroughly investigate
42 all matters relating to an application for registration under this act
43 and may require a personal inspection of any timeshare plan,
44 accommodation, and any offices where any of the foregoing may
45 transact business. All reasonable expenses incurred by the
46 commission in investigating such matters shall be paid by the
47 registrant. The commission may require a deposit sufficient to
48 cover the expenses prior to incurring the expenses.

1 36. (New section) All timeshare plans that were registered and
2 approved pursuant to the provisions of the "Real Estate Sales Full
3 Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The
4 Planned Real Estate Development Full Disclosure Act," P.L.1977,
5 c.419 (C.45:22A-21 et seq.) in effect on the effective date of this act
6 shall remain in full force and effect after the effective date of this
7 act and shall be considered registered under this act and shall not be
8 required to file any further documentation under this act, except as
9 to comply with the requirements of section 11.

10 Developers who have filed timeshare plans that were exempt
11 from the requirements of the "Real Estate Sales Full Disclosure
12 Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned
13 Real Estate Development Full Disclosure Act," P.L.1977, c.419
14 (C.45:22A-21 et seq.) shall be required to file a registration
15 application with the commission within 90 days from the effective
16 date of this act unless they are otherwise exempt under this act.
17 These developers and timeshare plans shall be allowed to continue
18 operating as long as a registration application is filed with the
19 commission within the timeframe stated above and as long as they,
20 in good faith, continue to work with the commission to correct any
21 and all deficiencies in the registration application.

22 Any existing injunction or temporary restraining order validly
23 obtained under the "Real Estate Sales Full Disclosure Act,"
24 P.L.1989, c.239 (C.45:15-16.27 et seq.) or "The Planned Real
25 Estate Development Full Disclosure Act," P.L.1977, c.419
26 (C.45:22A-21 et seq.) which prohibits unregistered practice of
27 timeshare developers, timeshare plans, and their agents shall not be
28 invalidated by the enactment of this act and shall continue to have
29 full force and effect on and after the effective date of this act. Any
30 existing disciplinary action or investigation pursuant to a violation
31 under the "Real Estate Sales Full Disclosure Act" P.L.1989, c.239
32 (C.45:15-16.27 et seq.) or "The Planned Real Estate Development
33 Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.) shall
34 not be invalidated by the enactment of this act and shall continue to
35 have full force and effect on and after the effective date of this act.

36
37 37. Section 2 of P.L.1989, c.239 (C.45:15-16.28) is amended to
38 read as follows:

39 2. As used in this act:

40 "Advertising" means the publication, or causing to be published,
41 of any information offering for sale, or for the purpose of causing or
42 inducing any other person to purchase or acquire, an interest in the
43 title to subdivided lands, including the land sales contract to be used
44 and any photographs or drawings or artist's representation of
45 physical conditions or facilities on the property existing or to exist
46 by means of any:

47 (1) Newspaper or periodical;

48 (2) Radio or television broadcast;

1 (3) Written or printed or photographic matter produced by any
2 duplicating process producing 10 copies or more;

3 (4) Billboards or signs;

4 (5) Display of model homes or units;

5 (6) Material used in connection with the disposition or offer of
6 subdivided lands by radio, television, telephone or any other
7 electronic means; or

8 (7) Material used by subdividers or their agents to induce
9 prospective purchasers to visit the subdivision; particularly vacation
10 certificates which require the holders of those certificates to attend
11 or submit to a sales presentation by a subdivider or its agents.

12 "Advertising" does not mean: stockholder communications such
13 as annual reports and interim financial reports, proxy materials,
14 registration statements, securities prospectuses, applications for
15 listing securities on stock exchanges, or similar documents;
16 prospectuses, property reports, offering statements, or other
17 documents required to be delivered to a prospective purchaser by an
18 agency of any other state or the federal government; all
19 communications addressed to and relating to the account of any
20 person who has previously executed a contract for the purchase of
21 the subdivider's lands except when directed to the sale of additional
22 lands.

23 "Blanket encumbrance" means a trust deed, mortgage, judgment,
24 or any other lien or encumbrance, including an option or contract to
25 sell or a trust agreement, affecting a subdivision or affecting more
26 than one lot offered within a subdivision, except that term shall not
27 include any lien or other encumbrance arising as the result of the
28 imposition of any tax assessment by any public authority.

29 "Broker" or "salesperson" means any person who performs
30 within this State as an agent or employee of a subdivider any one or
31 more of the services or acts as set forth in this act, and includes any
32 real estate broker or salesperson licensed pursuant to R.S.45:15 1 et
33 seq. or any person who purports to act in any such capacity.

34 "Commission" means the New Jersey Real Estate Commission.

35 "Common promotional plan" means any offer for the disposition
36 of lots, parcels, units or interests of real property by a single person
37 or group of persons acting in concert, where those lots, parcels,
38 units or interests are contiguous, or are known, designated or
39 advertised as a common entity or by a common name regardless of
40 the number of lots, parcels, units or interests covered by each
41 individual offering.

42 "Disposition" means the sale, lease, assignment, award by
43 lottery, or any other transaction concerning a subdivision if
44 undertaken for gain or profit.

45 "Notice" means a communication by mail from the commission
46 executed by its secretary or other duly authorized officer. Notice to
47 subdividers shall be deemed complete when mailed to the
48 subdivider's address currently on file with the commission.

1 "Offer" means every inducement, solicitation or attempt to
2 encourage a person to acquire an interest in a subdivision if
3 undertaken for gain or profit.

4 "Person" means an individual, corporation, government or
5 governmental subdivision or agency, business trust, estate, trust,
6 partnership, unincorporated association, two or more of any of the
7 foregoing having a joint or common interest, or any other legal or
8 commercial entity.

9 "Purchaser" means a person who acquires or attempts to acquire
10 or succeeds to an interest in a subdivision.

11 **["Time-share estates" includes both "fee simple" and "right to
12 use" time-share interests and means:**

13 (1) An "interval estate" meaning a combination of an estate for
14 years in a lot, parcel or unit, during the term of which title rotates
15 among the time-share owners, coupled with a vested undivided fee
16 simple interest in the remainder in that unit as established by the
17 declaration or deed creating the interval estate; or

18 (2) A "time-span estate" meaning a combination of an undivided
19 interest in a present estate in fee simple in a lot, parcel or unit
20 established by the declaration or deed creating the time-span estate,
21 coupled with the exclusive right to possession and occupancy of the
22 parcel or unit during a regularly recurring period; or

23 (3) A "vacation license" meaning the exclusive right to
24 possession and occupancy of a lot, unit or parcel during a regularly
25 recurring period established by club membership, lease or license.]

26 "Subdivider" or "developer" means any owner of subdivided
27 lands or the agent of that owner who offers the subdivided lands for
28 disposition.

29 "Subdivision" and "subdivided lands" mean any land situated
30 outside the State of New Jersey whether contiguous or not, if one or
31 more lots, parcels, units or interests are offered as a part of a
32 common promotional plan of advertising and sale and expressly
33 means and includes such units or interests commonly referred to as
34 a "condominium," defined in the "Condominium Act," P.L.1969,
35 c.257 (C.46:8B-1 et seq.). In addition to condominiums, this
36 definition shall also specifically include, but shall not be limited to,
37 any form of homeowners association, any housing cooperative[.],
38 and any community trust[.], or other trust device [and any form of
39 time-sharing].

40 (cf: P.L.1989, c.239, s.2)

41

42 38. Section 6 of P.L.1989, c.239 (C.45:15-16.32) is amended to
43 read as follows:

44 6. a. Unless the method of disposition is adopted for the purpose
45 of evasion of this act, the provisions of this act are not applicable to
46 offers or dispositions of an interest in a subdivision:

47 (1) By an owner for his own account in a single or isolated
48 transaction;

- 1 (2) Wholly for industrial or commercial purposes;
- 2 (3) Pursuant to court order;
- 3 (4) By any governmental agency;
- 4 (5) As cemetery lots or interests;
- 5 (6) Of less than 100 lots, parcels, units or interests; but, this
- 6 exemption shall not apply to condominiums, cooperatives, [time
- 7 shares,] retirement communities and offers or dispositions by
- 8 entities comprised of or acting on behalf of the owners of other
- 9 units in the subdivision, including, but not limited to entities
- 10 designated as homeowners associations, regardless of the number of
- 11 lots, parcels, units or interests offered or disposed of;
- 12 (7) Where the common elements or interests, which would
- 13 otherwise subject the offering to this act, are limited to the
- 14 provision of unimproved, unencumbered open space, except where
- 15 registration is required by the "Interstate Land Sales Full Disclosure
- 16 Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of
- 17 Interstate Land Sales Registration, in the Department of Housing
- 18 and Urban Development; or
- 19 (8) In a development comprised wholly of rental units, where
- 20 the relationship created is one of landlord and tenant [; but this
- 21 exemption shall not apply to time shares, regardless of the manner
- 22 in which an interest in such a time share subdivision is evidenced].
- 23 b. Unless the method of disposition is adopted for the purpose of
- 24 evasion of this act, the provisions of this act are not applicable to:
- 25 (1) Offers or dispositions of evidences of indebtedness secured
- 26 by a mortgage or deed of trust of real estate;
- 27 (2) Offers or dispositions of securities or units of interest issued
- 28 by a real estate investment trust regulated under any State or federal
- 29 statute;
- 30 (3) Offers or dispositions of securities currently registered with
- 31 the Bureau of Securities in the Department of Law and Public
- 32 Safety; or
- 33 (4) Offers or dispositions of any interest in oil, gas or other
- 34 minerals or any royalty interest therein if the offers or dispositions
- 35 of such interests are regulated as securities by federal law or by the
- 36 State Bureau of Securities.
- 37 c. The commission may, from time to time, pursuant to any rules
- 38 and regulations promulgated pursuant to this act, exempt from any
- 39 of the provisions of this act any subdivision or any lots in a
- 40 subdivision, if it finds that the enforcement of this act with respect
- 41 to that subdivision or the lots therein, is not necessary in the public
- 42 interest, or required for the protection of purchasers, by reason of
- 43 the small amount involved or the limited character of the offering.
- 44 (cf: P.L.1989, c.239, s.6)
- 45
- 46 39. Section 3 of P.L.1977, c.419 (C.45:22A-23) is amended to
- 47 read as follows:
- 48 3. As used in this act unless the context clearly indicates

1 otherwise:

2 a. "Disposition" means any sales, contract, lease, assignment, or
3 other transaction concerning a planned real estate development.

4 b. "Developer" or "subdivider" means any person who disposes
5 or offers to dispose of any lot, parcel, unit, or interest in a planned
6 real estate development.

7 c. "Offer" means any inducement, solicitation, advertisement, or
8 attempt to encourage a person to acquire a unit, parcel, lot, or
9 interest in a planned real estate development.

10 d. "Purchaser" or "owner" means any person or persons who
11 acquires a legal or equitable interest in a unit, lot, or parcel in a
12 planned real estate development, and shall be deemed to include a
13 prospective purchaser or owner.

14 e. "State" means the State of New Jersey.

15 f. "Commissioner" means the Commissioner of Community
16 Affairs.

17 g. "Person" shall be defined as in R.S.1:1-2.

18 h. "Planned real estate development" or "development" means
19 any real property situated within the State, whether contiguous or
20 not, which consists of or will consist of, separately owned areas,
21 irrespective of form, be it lots, parcels, units, or interest, and which
22 are offered or disposed of pursuant to a common promotional plan,
23 and providing for common or shared elements or interests in real
24 property. This definition shall not apply to any form of
25 timesharing.

26 This definition shall specifically include, but shall not be limited
27 to, property subject to the "Condominium Act," P.L.1969, c.257
28 (C.46:8B-1 et seq.), any form of homeowners' association, any
29 housing cooperative or to any community trust or other trust device.

30 This definition shall be construed liberally to effectuate the
31 purposes of this act.

32 i. "Common promotional plan" means any offer for the
33 disposition of lots, parcels, units or interests of real property by a
34 single person or group of persons acting in concert, where such lots,
35 parcels, units or interests are contiguous, or are known, designated
36 or advertised as a common entity or by a common name.

37 j. "Advertising" means and includes the publication or causing
38 to be published of any information offering for disposition or for
39 the purpose of causing or inducing any other person to purchase an
40 interest in a planned real estate development, including the land
41 sales contract to be used and any photographs or drawings or artist's
42 representations of physical conditions or facilities on the property
43 existing or to exist by means of any:

44 (1) Newspaper or periodical;

45 (2) Radio or television broadcast;

46 (3) Written or printed or photographic matter;

47 (4) Billboards or signs;

48 (5) Display of model houses or units;

1 (6) Material used in connection with the disposition or offer of
2 the development by radio, television, telephone or any other
3 electronic means; or

4 (7) Material used by developers or their agents to induce
5 prospective purchasers to visit the development, particularly
6 vacation certificates which require the holders of such certificates to
7 attend or submit to a sales presentation by a developer or his agents.

8 "Advertising" does not mean and shall not be deemed to include:
9 Stockholder communications such as annual reports and interim
10 financial reports, proxy materials, registration statements, securities
11 prospectuses, applications for listing securities on stock exchanges,
12 and the like; all communications addressed to and relating to the
13 account of any person who has previously executed a contract for
14 the purchase of the subdivider's lands except when directed to the
15 sale of additional lands.

16 k. "Non-binding reservation agreement" means an agreement
17 between the developer and a purchaser and which may be canceled
18 without penalty by either party upon written notice at any time prior
19 to the formation of a contract for the disposition of any lot, parcel,
20 unit or interest in a planned real estate development.

21 l. "Blanket encumbrance" means a trust deed, mortgage,
22 judgment, or any other lien or encumbrance, including an option or
23 contract to sell or a trust agreement, affecting a development or
24 affecting more than one lot, unit, parcel, or interest therein, but does
25 not include any lien or other encumbrance arising as the result of
26 the imposition of any tax assessment by any public authority.

27 m. "Conversion" means any change with respect to a real estate
28 development or subdivision, apartment complex or other entity
29 concerned with the ownership, use or management of real property
30 which would make such entity a planned real estate development.

31 n. **["Association" means an association for the management of**
32 **common elements and facilities, organized pursuant to section 1 of**
33 **P.L.1993, c.30 (C.45:22A 43.)** ²**[(Deleted by amendment P.L. ,**
34 **c.), (pending before the Legislature as this bill.)]** "Association"
35 means an association for the management of common elements and
36 facilities, organized pursuant to section 1 of P.L.1993, c.30
37 (C.45:22A-43).²

38 o. **["Executive board" means the executive board of an**
39 **association, as provided for in section 3 of P.L.1993, c.30**
40 **(C.45:22A 45.)** ²**[(Deleted by amendment P.L. c.), (pending**
41 **before the Legislature as this bill.)]** "Executive board" means the
42 executive board of an association, as provided for in section 3 of
43 P.L.1993, c.30 (C.45:22A- 45).²

44 p. **["Unit" means any lot, parcel, unit or interest in a planned real**
45 **estate development that is, or is intended to be, a separately owned**
46 **area thereof.]** ²**[(Deleted by amendment P.L. c.), (pending**
47 **before the Legislature as this bill.)]** "Unit" means any lot, parcel,

1 unit or interest in a planned real estate development that is, or is
2 intended to be, a separately owned area thereof.²

3 (cf: P.L.1993, c.30, s.7)

4

5 40. Section 5 of P.L.1977, c.419 (C.45:22A-25) is amended to
6 read as follows:

7 5. a. Unless the method of disposition is adopted for purposes
8 of evasion, the provision of this act shall not apply to offers or
9 dispositions:

10 (1) By an owner for his own account in a single or isolated
11 transaction;

12 (2) Wholly for industrial, commercial, or other nonresidential
13 purposes;

14 (3) Pursuant to court order;

15 (4) By the United States, by this State or any of its agencies or
16 political subdivisions;

17 (5) Of real property located without the State;

18 (6) Of cemetery lots or interests;

19 (7) Of less than 100 lots, parcels, units or interests; provided,
20 however, that with respect to condominiums and cooperatives, this
21 exemption shall not apply, irrespective of the number of lots,
22 parcels, units, or interests offered or disposed of;

23 (8) Of developments where the common elements or interests,
24 which would otherwise subject the offering to this act, are limited to
25 the provision of unimproved, unencumbered open space;

26 (9) In a development composed wholly of rental units, where the
27 relationship created is one of landlord and tenant ;

28 (10) Of any form of timesharing.

29 b. The agency may from time to time, pursuant to its rules and
30 regulations, exempt from any of the provisions of this act any
31 development, or any lots, units, parcels, or interests in a
32 development, if it finds that the enforcement of this act with
33 respect to such, is not necessary in the public interest or required for
34 the protection of purchasers by reason of the small amount of the
35 purchase price involved, the limited character of the offering, or the
36 limited nature of the common or shared elements.

37 (cf: P.L.1977, c.419, s.5)

38

39 41. This act shall take effect on the 90th day following
40 enactment.

41

42

43

44

45 _____
The "New Jersey Real Estate Timeshare Act."

SENATE, No. 1321

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED FEBRUARY 6, 2006

Sponsored by:
Senator JOHN H. ADLER
District 6 (Camden)

SYNOPSIS

The "New Jersey Real Estate Timeshare Act."

CURRENT VERSION OF TEXT

As introduced.



S1321 ADLER

2

1 AN ACT concerning timeshare sales, supplementing chapter 15 of
2 Title 45 of the Revised Statutes and amending P.L.1989, c.239
3 and P.L.1977, c.419.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7

8 1. (New section) Sections 1 through 36 of this act shall be
9 known and may be cited as the "New Jersey Real Estate Timeshare
10 Act."

11

12 2. (New section) As used in sections 1 through 36 of this act:

13 "Accommodation" means any apartment, condominium or
14 cooperative unit, cabin, lodge, hotel or motel room, or other private
15 or commercial structure containing toilet facilities therein that is
16 designed and available, pursuant to applicable law, for use and
17 occupancy as a residence by one or more individuals which is a part
18 of the timeshare property.

19 "Advertisement" means any written, oral or electronic
20 communication that is directed to or targeted to persons within the
21 State and contains a promotion, inducement or offer to sell a
22 timeshare plan, including but not limited to brochures, pamphlets,
23 radio and television scripts, electronic media, telephone and direct
24 mail solicitations and other means of promotion.

25 "Advertisement" does not mean:

26 (1) Any stockholder communication such as an annual report or
27 interim financial report, proxy material, a registration statement, a
28 securities prospectus, a registration, a property report or other
29 material required to be delivered to a prospective purchaser by an
30 agency of any state or federal government;

31 (2) Any oral or written statement disseminated by a developer to
32 broadcast or print media, other than paid advertising or promotional
33 material, regarding plans for the acquisition or development of
34 timeshare property. However, any rebroadcast or any other
35 dissemination of such oral statements to prospective purchasers by a
36 seller in any manner, or any distribution of copies of newspaper
37 magazine articles or press releases, or any other dissemination of
38 such written statement to a prospective purchaser by a seller in any
39 manner, shall constitute an advertisement; or

40 (3) Any communication addressed to and relating to the account
41 of any person who has previously executed a contract for the sale or
42 purchase of a timeshare period in a timeshare plan to which the
43 communication relates shall not be considered advertising under
44 this act, provided they are delivered to any person who has

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 previously executed a contract for the purchase of a timeshare
2 interest or is an existing owner of a timeshare interest in a timeshare
3 plan.

4 "Assessment" means the share of funds required for the payment
5 of common expenses which is assessed from time to time against
6 each timeshare interest by the association.

7 "Association" means the organized body consisting of the
8 purchasers of interests in a timeshare property.

9 "Commission" means the New Jersey Real Estate Commission.

10 "Common expense" means casualty and liability insurance, and
11 those expenses properly incurred for the maintenance, operation,
12 and repair of all accommodations constituting the timeshare plan
13 and any other expenses designated as common expenses by the
14 timeshare instrument.

15 "Component site" means a specific geographic location where
16 accommodations which are part of a multi-site timeshare plan are
17 located. Separate phases of a single timeshare property in a specific
18 geographic location and under common management shall be
19 deemed a single component site.

20 "Department" means the Department of Banking and Insurance.

21 "Developer" means and includes any person or entity, who
22 creates a timeshare plan or is in the business of selling timeshare
23 interests, or employs agents or brokers to do the same, or any
24 person or entity who succeeds to the interest of a developer by sale,
25 lease, assignment, mortgage or other transfer, except that the term
26 shall include only those persons who offer timeshare interests for
27 disposition in the ordinary course of business.

28 "Dispose" or "disposition" means a voluntary transfer or
29 assignment of any legal or equitable interest in a timeshare plan,
30 other than the transfer, assignment or release of a security interest.

31 "Escrow agent" means an independent person, including an
32 independent bonded escrow company, an independent financial
33 institution whose accounts are insured by a governmental agency or
34 instrumentality, or an independent licensed title insurance agent
35 who is responsible for the receipt and disbursement of funds in
36 accordance with this act. If the escrow agent is not located in the
37 State of New Jersey, then this person shall subject themselves to the
38 jurisdiction of the commission with respect to disputes that arise out
39 of the provisions of this act.

40 "Incidental benefit" means an accommodation, product, service,
41 discount, or other benefit which is offered to a prospective
42 purchaser of a timeshare plan or to a purchaser of a timeshare plan
43 prior to the expiration of his or her rescission period pursuant to
44 section 18 of this act and which is not an exchange program,
45 provided that:

46 (1) use or participation in the incidental benefit is completely
47 voluntary;

48 (2) no costs of the incidental benefit are included as common

1 expenses of the timeshare plan;

2 (3) the good faith represented aggregate value of all incidental
3 benefits offered by a developer to a purchaser may not exceed 20
4 percent of the actual price paid by the purchaser for his or her
5 timeshare interest; and

6 (4) the purchaser is provided a disclosure that fairly describes
7 the material terms of the incidental benefit. The term shall not
8 include an offer of the use of the accommodations of the timeshare
9 plan on a free or discounted one-time basis.

10 "Managing entity" means the person who undertakes the duties,
11 responsibilities and obligations of the management of the timeshare
12 property.

13 "Offer" means any inducement, solicitation, or other attempt,
14 whether by marketing, advertisement, oral or written presentation or
15 any other means, to encourage a person to acquire a timeshare
16 interest in a timeshare plan, for gain or profit.

17 "Person" means a natural person, corporation, limited liability
18 company, partnership, joint venture, association, estate, trust,
19 government, governmental subdivision or agency, or other legal
20 entity or any combination thereof.

21 "Promotion" means a plan or device, including one involving the
22 possibility of a prospective purchaser receiving a vacation, discount
23 vacation, gift, or prize, used by a developer, or an agent,
24 independent contractor, or employee of a developer, agent or
25 independent contractor on behalf of the developer, in connection
26 with the offering and sale of timeshare interests in a timeshare plan.

27 "Purchaser" means any person, other than a developer, who by
28 means of a voluntary transfer acquires a legal or equitable interest
29 in a timeshare plan other than as security for an obligation.

30 "Purchase contract" means a document pursuant to which a
31 person becomes legally obligated to sell, and a purchaser becomes
32 legally obligated to buy, a timeshare interest.

33 "Reservation system" means the method, arrangement or
34 procedure by which a purchaser, in order to reserve the use or
35 occupancy of any accommodation of a multi-site timeshare plan for
36 one or more timeshare periods, is required to compete with other
37 purchasers in the same multi-site timeshare plan, regardless of
38 whether the reservation system is operated and maintained by the
39 multi-site timeshare plan managing entity or any other person.

40 "Sales agent" means any person who performs within this State
41 as an agent or employee of a developer any one or more of the
42 services or acts as set forth in this act, and includes any real estate
43 broker, broker salesperson or salesperson licensed pursuant to R.S.
44 45:15-1 et seq., or any person who purports to act in any such
45 capacity.

46 "Timeshare instrument" means one or more documents, by
47 whatever name denominated, creating or governing the operation of
48 a timeshare plan.

1 "Timeshare interest" means and includes either:

2 (1) A "timeshare estate," which is the right to occupy a
3 timeshare property, coupled with a freehold estate or an estate for
4 years with a future interest in a timeshare property or a specified
5 portion thereof; or

6 (2) A "timeshare use," which is the right to occupy a timeshare
7 property, which right is neither coupled with a freehold interest, nor
8 coupled with an estate for years with a future interest, in a
9 timeshare property.

10 "Timeshare period" means the period or periods of time when the
11 purchaser of a timeshare plan is afforded the opportunity to use the
12 accommodations of a timeshare plan.

13 "Timeshare plan" means any arrangement, plan, scheme, or
14 similar device, whether by membership agreement, sale, lease,
15 deed, license, or right to use agreement or by any other means,
16 whereby a purchaser, in exchange for consideration, receives
17 ownership rights in or the right to use accommodations for a period
18 of time less than a full year during any given year on a recurring
19 basis, but not necessarily for consecutive years. A timeshare plan
20 may be:

21 (1) A "single-site timeshare plan," which is the right to use
22 accommodations at a single timeshare property; or

23 (2) A "multi-site timeshare plan," which includes:

24 (a) A "specific timeshare interest," which means an interest
25 wherein a purchaser has, only through a reservation system:

26 (i) a priority right to reserve accommodations at a specific
27 timeshare property without competing with owners of timeshare
28 interests at other component sites that are part of the multi-site
29 timeshare plan, which priority right extends for at least 60 days; and

30 (ii) the right to reserve accommodations on a non-priority basis
31 at other component sites that are part of the multi-site timeshare
32 plan; or

33 (b) A "non-specific timeshare interest", which means an interest
34 wherein a purchaser has, only through a reservation system, the
35 right to reserve accommodations at any component site of the multi-
36 site timeshare plan, with no priority right to reserve
37 accommodations at any specific component site.

38 "Timeshare property" means one or more accommodations
39 subject to the same timeshare instrument, together with any other
40 property or rights to property appurtenant to those accommodations.

41

42 3. (New section) This act shall apply to the following:

43 a. Timeshare plans with an accommodation or component site in
44 the State; and

45 b. Timeshare plans without an accommodation or component
46 site in this State if those timeshare plans are offered to be sold
47 within this State, regardless of whether the offer originates from
48 within or outside of this State.

1 4. (New section) a. This act shall not apply to any of the
2 following:

3 (1) Timeshare plans, whether or not an accommodation or
4 component site is located in the State, consisting of 10 or fewer
5 timeshare interests;

6 (2) Timeshare plans, whether or not an accommodation or
7 component site is located in this State, the use of which extends
8 over any period of three years or less. For purposes of determining
9 the term of a timeshare plan, the period of any renewal or renewal
10 option shall be included;

11 (3) Timeshare plans, whether or not an accommodation or
12 component site is located in the State, under which the prospective
13 purchaser's total financial obligation will be equal to or less than
14 \$3,000 during the entire term of the timeshare plan;

15 (4) Component sites of specific timeshare interest multi-site
16 timeshare plans that are neither located in nor offered for sale in
17 this State, except that these component sites are still subject to the
18 disclosure requirements of section 10 of this act;

19 (5) Offers or dispositions of securities or units of interest issued
20 by a real estate investment trust regulated under any State or federal
21 statute;

22 (6) Offers or dispositions of securities currently registered with
23 the Bureau of Securities within the Division of Consumer Affairs in
24 the Department of Law and Public Safety.

25 b. A person shall not be required to register as a developer under
26 this act if:

27 (1) The person is an owner of a timeshare interest who has
28 acquired the timeshare interest for the person's own use and
29 occupancy and who later offers it for resale in a single or isolated
30 transaction; or

31 (2) The person is a managing entity or an association that is not
32 otherwise a developer of a timeshare plan in its own right, solely
33 while acting as an association or under a contract with an
34 association to offer or sell a timeshare interest transferred to the
35 association through foreclosure, deed in lieu of foreclosure, or
36 gratuitous transfer, if such acts are performed in the regular course
37 of, or as an incident to, the management of the association for its
38 own account in the timeshare plan.

39 c. If a developer has already registered a timeshare plan under
40 this act, the developer may offer or dispose of an interest in a
41 timeshare plan that is not registered under this act if the developer
42 is offering a timeshare interest in the additional timeshare plan to a
43 current timeshare interest owner of a timeshare interest in a
44 timeshare plan created or operated by that same developer subject
45 to the rules and regulations adopted by the commission.

46 d. The commission may, from time to time, pursuant to any
47 rules and regulations adopted pursuant to this act, exempt from any
48 of the provisions of this act any timeshare plan, if it finds that the

S1321 ADLER

1 enforcement of this act with respect to that plan is not necessary in
2 the public interest, or required for the protection of purchasers, by
3 reason of the small amount of the purchase price or the limited
4 character of the offering.

5

6 5. (New section) This act shall be administered by the New
7 Jersey Real Estate Commission in the Department of Banking and
8 Insurance.

9

10 6. (New section) Except as provided in this section, no
11 provision of this act shall invalidate or modify any provision of any
12 zoning, subdivision, or building code, law, ordinance or regulation.
13 In case of conflict between the provisions of this act and the
14 provisions of any other law, ordinance or regulation governing or
15 purporting to govern the creation, registration, disclosure
16 requirements or sale of timeshare interests in a component site, the
17 provisions of this act shall control.

18

19 7. (New section) A timeshare plan may be created in any
20 accommodation unless otherwise prohibited. A timeshare plan shall
21 maintain a one-to-one purchaser-to-accommodation ratio, which
22 means the ratio of the number of purchasers eligible to use the
23 accommodations of a timeshare plan on a given day to the number
24 of accommodations available for use within the plan on that day,
25 such that the total number of purchasers eligible to use the
26 accommodations of the timeshare plan during a given consecutive
27 12-month period never exceeds the total number of
28 accommodations available for use in the timeshare plan during that
29 consecutive 12-month period. For purposes of the calculation under
30 this section, each purchaser shall be counted at least once, and an
31 individual accommodation shall not be counted more than one time
32 per day per year. An owner of a timeshare interest who is
33 delinquent in the payment of a timeshare plan assessment shall
34 continue to be considered eligible to use the accommodations of the
35 timeshare plan for purposes of calculating the one-to-one purchaser-
36 to-accommodation ratio.

37

38 8. (New section) a. A developer who sells, offers to sell, or
39 attempts to solicit prospective purchasers in this State to purchase a
40 timeshare interest, or any person who creates a timeshare plan with
41 an accommodation in the State, shall register with the commission,
42 on forms provided by the commission or in electronic formats
43 authorized by the commission, all timeshare plans which have
44 accommodations located in the State or which are sold or offered
45 for sale to any individual located in the State.

46 b. Upon the submission of an application approved by the
47 commission, the commission may grant a 90 day preliminary
48 registration to allow the developer to begin offering and selling

1 timeshare interests in a timeshare plan regardless of whether the
2 accommodations of the timeshare plan are located within or outside
3 of the State. Upon submission of a substantially complete
4 application for an abbreviated or comprehensive registration under
5 this act, including all appropriate fees, to the commission prior to
6 the expiration date of the preliminary registration, the preliminary
7 registration will be automatically extended during the registration
8 review period provided that the developer is actively and diligently
9 pursuing registration under this act. The preliminary registration
10 shall automatically terminate with respect to those timeshare
11 interests covered by a final public offering statement that is issued
12 before the scheduled termination date of the preliminary
13 registration. The preliminary registration shall also terminate upon
14 the issuance of any notice of rejection due to the developer's failure
15 to comply with the provisions of this act.

16 To obtain a preliminary registration, the developer shall provide
17 all of the following:

18 (1) Submit the reservation instrument to be used in a form
19 previously approved by the department with at least the following
20 provisions:

21 (a) The right of both the developer and the potential purchaser to
22 unilaterally cancel the reservation at any time;

23 (b) The payment to the potential purchaser of his or her total
24 deposit following cancellation of the reservation by either party;

25 (c) The placing of the deposit into an escrow account; and

26 (d) A statement to the effect that the offering has not yet received
27 final approval from the commission, and that no offering can be
28 made until an offering plan has been filed with, and accepted by,
29 the commission;

30 (2) Agree to provide each potential purchaser with a copy of the
31 preliminary public offering statement and an executed receipt for a
32 copy before any money or other thing of value has been accepted by
33 or on behalf of the developer in connection with the reservation;

34 (3) Agree to provide a copy of the reservation instrument signed
35 by the potential purchaser and by or on behalf of the developer to
36 the potential purchaser;

37 (4) Provide evidence acceptable to the commission that all funds
38 received by the developer will be placed into an independent escrow
39 account with instructions that no funds will be released until a final
40 order of registration has been granted;

41 (5) Submit the filing fee for a preliminary registration as
42 provided for by regulation. The filing fee shall be in addition to the
43 filing fees for an abbreviated or comprehensive registration as
44 established by this act;

45 (6) File all advertisements to be utilized by the developer under
46 the preliminary registration with the commission before use.

47 All advertisements and advertising literature shall contain the
48 following, or substantially similar, disclaimer:

1 "This advertising material is being used for the purpose of
2 soliciting sales of timeshare interests.";

3 (7) Such other information as the commission may require in
4 order to further the provisions of this act, to assure full and fair
5 disclosure and for the protection of purchaser interests.

6 c. Prior to the issuance of an order of registration for an
7 abbreviated or comprehensive registration, the commission may
8 issue a conditional registration approval for a timeshare plan if the
9 filing is deemed to be substantially complete by the commission
10 and the commission determines that the deficiencies are likely to be
11 corrected by the applicant in a reasonable time and manner. Once
12 the commission issues a conditional registration approval, the
13 applicant may begin entering into purchase contracts with the
14 purchaser and provide the purchaser with the most current version
15 of the public offering statement; however, no rescission period may
16 begin to run until the final approved public offering statement is
17 delivered to the purchaser. If there is no material difference
18 between the documents provided to the purchaser pursuant to the
19 conditional registration and the documents approved as part of the
20 final order of approval, then those documents need not be delivered
21 again to the purchaser. All purchase contracts that are executed
22 under the authority of a conditional registration approval shall
23 contain the following provisions:

24 (1) No escrow will close, funds will not be released from escrow,
25 and the interest contracted for will not be conveyed until a final
26 approved public offering statement for the timeshare plan is
27 furnished to the purchaser.

28 (2) The contract may be rescinded, in which event the entire sum
29 of money paid or advanced by the purchaser shall be returned if the
30 purchaser or lessee is dissatisfied with the final public offering
31 statement.

32 (3) The term for a conditional registration approval shall be six
33 months from the date of approval by the commission, and may be
34 extended upon application to the commission for an additional six
35 month period.

36 d. A developer shall include in its application for registration
37 with the commission, the following information:

38 (1) The developer's legal name, any assumed names used by the
39 developer, and the developer's principal office location, mailing
40 address, primary contact person and telephone number;

41 (2) The name, location, mailing address, primary contact person
42 and telephone number of the timeshare plan;

43 (3) The name and principal address of the developer's authorized
44 New Jersey representative who shall be a licensed real estate broker
45 licensed to maintain offices within this State;

46 (4) A declaration as to whether the timeshare plan is a single-site
47 timeshare plan or a multi-site timeshare plan and, if a multi-site
48 timeshare plan, whether it consists of specific timeshare interests or

1 non-specific timeshare interests;

2 (5) The name and principal address of all brokers within New
3 Jersey who sell or offer to sell any timeshare interests in any
4 timeshare plan offered by the developer to any person in this State,
5 who shall be licensed as a real estate broker pursuant to R.S.45:15-1
6 et seq., and who are the authorized representatives of the developer;

7 (6) The name and principal address of all non affiliated
8 marketing entities who, by means of inducement, promotion or
9 advertisement, attempt to encourage or procure prospective
10 purchasers located in the State to attend a sales presentation for any
11 timeshare plan offered by the developer or authorized broker;

12 (7) The name and principal address of all managing entities who
13 manage the timeshare plan;

14 (8) A public offering statement which complies with the
15 requirements of this act; and

16 (9) Any other information regarding the developer, timeshare
17 plan, brokers, marketing entities or managing entities as required by
18 the commission and established by the commission by regulation.

19 e. The developer shall comply with the following escrow
20 requirements:

21 (1) A developer of a timeshare plan shall deposit with an escrow
22 agent all funds which are received during the purchaser's
23 cancellation period set forth in section 18 of this act, into an escrow
24 account in a federally insured depository or a depository acceptable
25 to the commission. The deposit of such funds shall be evidenced by
26 an executed escrow agreement between the escrow agent and the
27 developer. The escrow agreement shall include provisions that
28 funds may be disbursed to the developer by the escrow agent from
29 the escrow account only after expiration of the purchaser's
30 cancellation period and in accordance with the purchase contract,
31 subject to paragraph (2) of this subsection.

32 (2) If a developer contracts to sell a timeshare interest and the
33 construction of any property in which the timeshare interest is
34 located has not been completed, the developer, upon expiration of
35 the cancellation period set forth in section 18 of this act, shall
36 continue to maintain in an escrow account all funds received by or
37 on behalf of the developer from the purchaser under the purchase
38 contract. The commission shall establish by rule the type of
39 documentation which shall be required for evidence of completion,
40 including but not limited to a certificate of occupancy, a certificate
41 of substantial completion, or equivalent certificate from a public
42 safety inspection agency in the applicable jurisdiction. Funds shall
43 be released from escrow as follows:

44 (a) If a purchaser properly cancels the purchase contract pursuant
45 to its terms, the funds shall be paid to the purchaser or paid to the
46 developer if the purchaser's funds have been previously refunded by
47 the developer.

48 (b) If a purchaser defaults in the performance of the purchaser's

1 obligations under the purchase contract, the funds shall be paid to
2 the developer.

3 (c) If the funds of a purchaser have not been previously
4 disbursed in accordance with the provisions of this paragraph, they
5 may be disbursed to the developer by the escrow agent upon the
6 issuance of acceptable evidence of completion of construction as
7 provided herein.

8 (3) In lieu of the provisions in paragraphs (1) and (2) of this
9 subsection, the commission may accept from the developer a surety
10 bond, bond in lieu of escrow, irrevocable letter of credit or other
11 financial assurance acceptable to the commission. Any acceptable
12 financial assurance shall be in an amount equal to or in excess of
13 the lesser of the funds which would otherwise be placed in escrow
14 in accordance with the provisions of paragraph (1) of this
15 subsection, or in an amount equal to the cost to complete the
16 incomplete property in which the timeshare interest is located.
17 However, in no event shall the amount be less than the amount of
18 funds that would otherwise be placed in escrow pursuant to
19 paragraph (1) of this subsection.

20 (4) The developer shall provide escrow account information to
21 the commission and shall execute in writing an authorization
22 consenting to an audit or examination of the account by the
23 commission on forms provided by the commission. The developer
24 shall comply with the reconciliation and records requirements
25 established by rule by the commission. The developer shall make
26 documents related to the escrow account or escrow obligation
27 available to the commission upon the commission's request. The
28 escrow agent shall maintain any disputed funds in the escrow
29 account until either:

30 (a) Receipt of written direction agreed to by signature of all
31 parties; or

32 (b) Deposit of the funds with a court of competent jurisdiction in
33 which a civil action regarding the funds has been filed.

34 f. The commission may accept, as provided by regulation, an
35 abbreviated registration application of a developer of a timeshare
36 plan in which all accommodations are located outside of the State.
37 The developer shall provide evidence that the timeshare plan is
38 registered with the applicable regulatory agency in a state or
39 jurisdiction where the timeshare plan is offered or sold, or that the
40 timeshare plan is in compliance with the laws and regulations of the
41 applicable state jurisdiction in which some or all of the
42 accommodations are located, which state or jurisdiction shall have
43 disclosure requirements that are substantially equivalent to or
44 greater than the information required to be disclosed pursuant to
45 subsection b. and c. of this section to purchasers in this State. A
46 developer filing an abbreviated registration application shall
47 provide the following:

48 (1) The developer's legal name, any assumed names used by the

1 developer, and the developer's principal office location, mailing
2 address, primary contact person and telephone number;

3 (2) The name, location, mailing address, primary contact person
4 and telephone number of the timeshare plan;

5 (3) The name and principal address of the developer's authorized
6 New Jersey representative who shall be a licensed real estate broker
7 licensed to maintain offices within this State;

8 (4) The name and principal address of all brokers within New
9 Jersey who sell or offer to sell any timeshare interests in any
10 timeshare plan offered by the developer to any person in this State,
11 who shall be licensed as a real estate broker pursuant to R.S. 45:15-
12 1 et seq., and who are the authorized representatives of the
13 developer;

14 (5) The name and principal address of all non-affiliated
15 marketing entities who, by means of inducement, promotion or
16 advertisement, attempt to encourage or procure prospective
17 purchasers located in the State to attend a sales presentation for any
18 timeshare plan offered by the developer or authorized broker;

19 (6) The name and principal address of all managing entities who
20 manage the timeshare plan;

21 (7) Evidence of registration or compliance with the laws and
22 regulations of the jurisdiction in which the timeshare plan is
23 located, approved or accepted;

24 (8) A declaration as to whether the timeshare plan is a single-site
25 timeshare plan or a multi-site timeshare plan and, if a multi-site
26 timeshare plan, whether it consists of specific timeshare interests or
27 non-specific timeshare interests;

28 (9) Disclosure of each jurisdiction in which the developer has
29 applied for registration of the timeshare plan, and whether the
30 timeshare plan or its developer were denied registration or were the
31 subject of any disciplinary proceeding;

32 (10) Copies of any disclosure documents required to be given to
33 purchasers or required to be filed with the jurisdiction in which the
34 timeshare plan is located, approved or accepted as may be requested
35 by the commission;

36 (11) The appropriate fee; and

37 (12) Any other information regarding the developer, timeshare
38 plan, brokers, marketing entities or managing entities as required by
39 the commission and established by the commission by regulation.

40 A developer of a timeshare plan with any accommodation
41 located in this State may not file an abbreviated filing with regard
42 to such timeshare plan, with the exception of a succeeding
43 developer after a merger or acquisition when the developer's
44 timeshare plan was registered in this State prior to the merger or
45 acquisition.

46

47 9. (New section) The developer shall have responsibility for
48 each timeshare plan registered with the commission and for the

1 actions of any sales agent, managing entity or marketing entity
2 utilized by the developer in the offering or promotional selling of
3 any registered timeshare plan. Any violation of this act which
4 occurs during the offering activities shall be a violation by the
5 developer as well as by the sales agent, marketing entity or
6 managing entity who actually committed the violation.
7 Notwithstanding anything to the contrary in this act, the developer
8 shall be responsible for the actions of the association and managing
9 entity only while they are subject to the developer's control.

10
11 10. (New section) a. A developer shall: (1) prepare a public
12 offering statement; (2) provide the statement to each purchaser of a
13 timeshare interest in any timeshare plan at the time of purchase; and
14 (3) fully and accurately disclose those facts concerning the
15 timeshare developer and timeshare plan that are required by this act
16 or by regulations promulgated by the commission.

17 The public offering statement shall be in writing and dated and
18 shall require the purchaser to certify in writing that the purchaser
19 received the statement. Upon approval of the commission, the
20 developer may offer to deliver the public offering statement and
21 other documents on CD-ROM format, Internet website or other
22 electronic media if the purchaser consents.

23 b. The public offering disclosure statement for a single-site
24 timeshare plan shall include:

25 (1) The name and address of the developer;

26 (2) A description of the duration and operation of the timeshare
27 plan;

28 (3) A description of the existing or proposed accommodations,
29 including the type and number of timeshare interests in the
30 accommodations expressed in periods of seven-day use availability
31 or other time increments applicable to the timeshare plan. The
32 description of each type of accommodation included in the
33 timeshare plan shall be categorized by the number of bedrooms, the
34 number of bathrooms, and sleeping capacity, and shall include a
35 statement indicating whether the accommodation contains a full
36 kitchen, which means a kitchen that has a minimum of a
37 dishwasher, range, sink, oven, and refrigerator. If the
38 accommodations are proposed or incomplete, a schedule for
39 commencement, completion, and availability of the
40 accommodations shall be provided;

41 (4) A description of any existing or proposed amenities of the
42 timeshare plan and, if the amenities are proposed or incomplete, a
43 schedule for commencement, completion, and availability of the
44 amenities;

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

48 (6) A description of the method and timing for performing

1 maintenance of the accommodations;

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

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

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

13 (10) A statement that within seven days after receipt of the
14 public offering statement or after execution of the purchase
15 contract, whichever is later, a purchaser may cancel any purchase
16 contract for a timeshare interest from a developer together with a
17 statement providing the name and street address to which the
18 purchaser should mail any notice of cancellation. However, if by
19 agreement of the parties by and through the purchase contract, the
20 purchase contract allows for cancellation of the purchase contract
21 for a period of time exceeding seven days, then the public offering
22 statement shall include a statement that the cancellation of the
23 purchase contract is allowed for that period of time exceeding seven
24 days;

25 (11) Copies of the following documents, if applicable, including
26 any amendments to the documents, unless separately provided to
27 the purchaser simultaneously with the public offering statement:

28 (a) the timeshare instrument;

29 (b) the association articles of incorporation;

30 (c) the association bylaws;

31 (d) the association rules; and

32 (e) any lease or contract, excluding the purchase contract and
33 other loan documents required to be signed by the purchaser at
34 closing;

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

39 (13) The current annual budget, if available, or the projected
40 annual budget for the timeshare plan. The budget shall include:

41 (a) a statement of the amount reserved or budgeted for repairs or
42 replacements, if any;

43 (b) the projected common expense liability, if any, by category
44 of expenditure for the timeshare plan; and

45 (c) a statement of any services or expenses not reflected in the
46 budget that the developer provides or pays;

47 (14) The projected assessments and a description of the method
48 for calculating and apportioning those assessments among

1 purchasers;

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

5 (16) A description of any lien, defect, or encumbrance on or
6 affecting title to the timeshare interest and, if applicable, a copy of
7 each written warranty provided by the developer;

8 (17) A description of any bankruptcy that is pending or which
9 has occurred within the past five years, pending civil or criminal
10 proceeding, adjudication, or disciplinary action material to the
11 timeshare plan of which the developer has knowledge;

12 (18) A description of any financing offered by or available
13 through the developer;

14 (19) Any current or anticipated fees or charges to be paid by
15 timeshare purchasers for the use of any accommodations or
16 amenities related to the timeshare plan, and a statement that the fees
17 or charges are subject to change;

18 (20) A description and amount of insurance coverage provided
19 for the protection of the purchaser;

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

23 (22) A description of those matters required by section 18 of this
24 act;

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

27 (24) A statement disclosing that any deposit made in connection
28 with the purchase of a timeshare interest shall be held by an escrow
29 agent until expiration of any right to cancel the contract and that
30 any deposit shall be returned to the purchaser if the purchaser
31 elects to exercise the right of cancellation; or, if the commission
32 accepts from the developer a surety bond, irrevocable letter of
33 credit, or other form of financial assurance instead of an escrow
34 deposit, a statement disclosing that the developer has provided a
35 surety bond, irrevocable letter of credit, or other form of financial
36 assurance in an amount equal to or in excess of the funds that would
37 otherwise be held by an escrow agent and that the deposit shall be
38 returned if the purchaser elects to exercise the right of cancellation;

39 (25) A description of the name and address of the exchange
40 company and the method by which a purchaser accesses the
41 exchange program, if the timeshare plan provides purchasers with
42 the opportunity to participate in an exchange program; and

43 (26) Any other information the commission determines is
44 necessary to protect prospective purchasers or to implement the
45 purpose of this act.

46 The developer may also include any other information in the
47 timeshare disclosure statement following approval by the
48 commission.

- 1 c. The disclosure statement for a specific timeshare interest
2 multi-site timeshare plan shall include:
- 3 (1) With regard to the timeshare property in which the purchaser
4 will receive a specific timeshare interest that includes a reservation
5 priority right, all of the applicable information related to that
6 timeshare property as required under subsection b. of this section;
- 7 (2) With regard to the component site in which the purchaser
8 does not receive a specific timeshare interest, the following
9 information:
- 10 (a) a description of each component site, including the name and
11 address of each component site;
- 12 (b) a description of each type of accommodation in each
13 component site, categorized by the number of bedrooms, the
14 number of bathrooms, and sleeping capacity, and a statement
15 indicating whether the accommodation contains a full kitchen,
16 which means a kitchen that has a minimum of a dishwasher, range,
17 sink, oven, and refrigerator;
- 18 (c) a description of the amenities at each component site
19 available for use by the purchaser;
- 20 (d) a description of the reservation system, which shall include:
- 21 (i) the entity responsible for operating the reservation system, its
22 relationship to the developer, and the duration of any agreement for
23 operation of the reservation system;
- 24 (ii) a summary of the rules governing access to and use of the
25 reservation system; and
- 26 (iii) the existence of and explanation regarding any priority
27 reservation features that affect a purchaser's ability to make
28 reservations for the use of a given accommodation on a first-come,
29 first-served basis;
- 30 (e) The name and principal address of the managing entity for
31 the multi-site timeshare plan and a description of the procedures, if
32 any, for altering the powers and responsibilities of the managing
33 entity and for removing or replacing it;
- 34 (f) A description of any right to make additions to, substitutions
35 in, or deletions from accommodations, amenities, or component
36 sites, and a description of the basis on which accommodations,
37 amenities, or component sites may be added to, substituted in, or
38 deleted from the multi-site timeshare plan;
- 39 (g) A description of the purchaser's liability for any fees
40 associated with the multi-site timeshare plan;
- 41 (h) The location of each component site of the multi-site
42 timeshare plan, as well as any periodic adjustment or amendment to
43 the reservation system that may be needed in order to respond to
44 actual purchaser use patterns and changes in purchaser use demand
45 for the accommodations existing at the time within the multi-site
46 timeshare plan; and
- 47 (i) Any other information the commission determines is
48 necessary to protect prospective purchasers or to implement the

1 purpose of this act.

2 d. The public offering statement for a non-specific timeshare
3 interest multi-site timeshare plan shall include:

4 (1) The name and address of the developer;

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

7 (3) A description of the duration and operation of the timeshare
8 plan;

9 (4) A description of the type of insurance coverage provided for
10 each component site;

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

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

15 (7) A description of the existing or proposed accommodations
16 expressed in periods of seven-day use availability or other time
17 increments applicable to the timeshare plan. The description of each
18 type of accommodation included in the timeshare plan shall be
19 categorized by the number of bedrooms, the number of bathrooms,
20 and sleeping capacity, and shall include a statement indicating
21 whether the accommodation contains a full kitchen, which means a
22 kitchen that has a minimum of a dishwasher, range, sink, oven, and
23 refrigerator. If the accommodations are proposed or incomplete, a
24 schedule for commencement, completion and availability of the
25 accommodations shall be provided;

26 (8) A statement that an association for the multi-site timeshare
27 plan exists or is expected to be created or that such an association
28 does not exist and is not expected to be created and, if such an
29 association exists or is reasonably contemplated, a description of its
30 powers and responsibilities;

31 (9) If applicable, copies of the following documents applicable
32 to the multi-site timeshare plan, including any amendments to such
33 documents, unless separately provided to the purchaser
34 simultaneously with the timeshare disclosure statement:

35 (a) the timeshare instrument;

36 (b) the association articles of incorporation;

37 (c) the association bylaws; and

38 (d) the association rules;

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

41 (11) A statement indicating that, on an annual basis, the total
42 number of purchasers eligible to use the accommodations of the
43 timeshare plan during a given consecutive 12 month period never
44 exceeds the total number of accommodations available for use in
45 the timeshare plan during that consecutive 12 month period;

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

48 (13) The location of each component site of the multi-site

1 timeshare plan, as well as any periodic adjustment or amendment to
2 the reservation system that may be needed in order to respond to
3 actual purchaser use patterns and changes in purchaser use demand
4 for the accommodations existing at the time within the multi-site
5 timeshare plan;

6 (14) A description of any right to make any additions,
7 substitutions, or deletions of accommodations, amenities, or
8 component sites, and a description of the basis upon which
9 accommodations, amenities, or component sites may be added to,
10 substituted in, or deleted from the multi-site timeshare plan;

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

13 (a) the entity responsible for operating the reservation system, its
14 relationship to the developer, and the duration of any agreement for
15 operation of the reservation system;

16 (b) a summary of the rules governing access to and use of the
17 reservation system; and

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

22 (16) The name and principal address of the managing entity for
23 the multi-site timeshare plan and a description of the procedures, if
24 any, for altering the powers and responsibilities of the managing
25 entity and for removing or replacing it, and a description of the
26 relationship between the multi-site timeshare plan managing entity
27 and the managing entity of the component sites of the multi-site
28 timeshare plan, if different from the multi-site timeshare plan
29 managing entity;

30 (17) A statement that within seven days after receipt of the
31 public offering statement or after execution of the purchase
32 contract, whichever is later, a purchaser may cancel any purchase
33 contract for a timeshare interest from a developer together with a
34 statement providing the name and street address to which the
35 purchaser should mail any notice of cancellation. However, if by
36 agreement of the parties by and through the purchase contract, the
37 purchase contract allows for cancellation of the purchase contract
38 for a period of time exceeding seven days, then the public offering
39 statement shall include a statement that the cancellation of the
40 purchase contract is allowed for that period of time exceeding seven
41 days;

42 (18) The current annual budget of the multi-site timeshare plan,
43 if available, or the projected annual budget for the multi-site
44 timeshare plan, which shall include:

45 (a) a statement of the amount reserved or budgeted, if any, for
46 repairs, replacements, and refurbishment;

47 (b) the projected common expense liability, if any, by category
48 of expenditure for the multi-site timeshare plan; and

- 1 (c) a statement of any services or expenses not reflected in the
2 budget that the developer provides or pays;
- 3 (19) The projected assessments and a description of the method
4 for calculating and apportioning those assessments among
5 purchasers of the multi-site timeshare plan;
- 6 (20) Any current fees or charges to be paid by purchasers for the
7 use of any amenities related to the timeshare plan and a statement
8 that the fees or charges are subject to change;
- 9 (21) Any initial or special fee due from the purchaser at closing,
10 together with a description of the purpose and method of calculating
11 the fee;
- 12 (22) A description of the purchaser's liability for any fees
13 associated with the multi-site timeshare plan;
- 14 (23) A description of any lien, defect, or encumbrance on or
15 affecting title to the timeshare interest and, if applicable, a copy of
16 each written warranty provided by the developer;
- 17 (24) The extent to which a timeshare interest may become
18 subject to a tax lien or other lien arising out of claims against
19 purchasers of different timeshare interests;
- 20 (25) A description of those matters required by section 18 of this
21 act;
- 22 (26) A description of any financing offered by or available
23 through the developer;
- 24 (27) A description of any bankruptcy that is pending or which
25 has occurred within the past five years, pending civil or criminal
26 proceeding, adjudication, or disciplinary action material to the
27 timeshare plan of which the developer has knowledge;
- 28 (28) A statement disclosing any right of first refusal or other
29 restraint on the transfer of all or a portion of a timeshare interest;
- 30 (29) A statement disclosing that any deposit made in connection
31 with the purchase of a timeshare interest shall be held by an escrow
32 agent until expiration of any right to cancel the contract and that
33 any deposit shall be returned to the purchaser if the purchaser elects
34 to exercise the right of cancellation; or, if the commission accepts
35 from the developer a surety bond, irrevocable letter of credit, or
36 other form of financial assurance instead of an escrow deposit, a
37 statement disclosing that the developer has provided a surety bond,
38 irrevocable letter of credit, or other form of financial assurance in
39 an amount equal to or in excess of the funds that would otherwise
40 be held by an escrow agent and that the deposit shall be returned if
41 the purchaser elects to exercise the right of cancellation;
- 42 (30) A description of the name and address of the exchange
43 company and the method by which a purchaser accesses the
44 exchange program, if the timeshare plan provides purchasers with
45 the opportunity to participate in an exchange program;
- 46 (31) Any other information the commission determines is
47 necessary to protect prospective purchasers or to implement the
48 purpose of this act. The developer may also include any other

1 information in the timeshare disclosure statement following
2 approval by the commission.

3 e. The developer shall also distribute to the purchaser any
4 additional documents as the commission may require for
5 accommodations in this State as provided by regulation, including
6 such additional documentation as may be required under the
7 "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

8
9 11. (New section) a. Within 30 days after each annual
10 anniversary date of an order registering the timeshare, or on or
11 before a date set by the commission, and while the developer
12 continues to offer any timeshare interests in the timeshare plan in
13 this State, the developer shall file a report in the form prescribed by
14 the rules and regulations promulgated by the commission. The
15 report shall reflect any material changes in the information
16 contained in the original or subsequently submitted applications or
17 documents.

18 b. (1) The developer shall file amendments to its registration to
19 reflect any material change in any information set forth in the
20 project and disclosure documents. The developer shall notify the
21 commission of the material change prior to implementation of the
22 change, unless the change is beyond the control of the developer; in
23 which event, the developer shall provide written notice to the
24 commission as soon as reasonably practicable after the occurrence
25 of the event. All amendments, supplements, and facts relevant to
26 the material change shall be filed with the commission within 20
27 calendar days of the material change.

28 (2) The developer may continue to sell timeshare interests in the
29 timeshare plan so long as, prior to closing, the developer provides a
30 notice to each purchaser that describes the material change and
31 provides to each purchaser the previously approved public offering
32 statement. If the change is material and adverse to the purchasers of
33 the timeshare plan as a whole, as determined by the commission, no
34 closing shall occur until the amendment relating to the material and
35 adverse change has been approved by the commission. After the
36 amendment relating to the material and adverse change has been
37 approved and the amended public offering statement has been
38 issued, the amended public offering statement shall be provided to
39 the purchaser, and an additional seven-day rescission period shall
40 commence. The developer shall be required to maintain evidence
41 of the receipt by each purchaser of the amended public offering
42 statement. If the commission refuses to approve the amendment
43 relating to the material and adverse change, all sales made using the
44 notice shall be subject to rescission and all funds returned.

45 (3) The developer shall update the public offering statement to
46 reflect any changes to the timeshare plan that are not material and
47 adverse, including the addition of any component sites, within a
48 reasonable time as determined by the commission pursuant to

1 regulation.

2 c. Upon a determination by the commission that an annual report
3 is no longer necessary for the protection of the public interest or
4 that the developer no longer retains any interest and no longer has
5 any contractual, bond or other obligations in the subdivision, the
6 commission shall issue an order terminating the responsibilities of
7 the developer under this act.

8
9 12. (New section) Upon receipt of a substantially complete
10 application for registration, in proper form and accompanied by the
11 appropriate filing fees, the commission shall, within 10 business
12 days of receipt of the registration, issue a notice of filing. The
13 notice shall not be construed as an approval of the registration, or
14 any portion thereof.

15
16 13. (New section) Every registration required to be filed with
17 the commission under this act shall be reviewed by the commission
18 and the commission shall issue an order of registration in
19 accordance with the following schedule:

20 a. As to comprehensive registrations, registrations shall be
21 effective upon the issuance of an order of registration by the
22 commission within 60 days after receipt and issuance of a notice of
23 filing. The commission shall provide a list of deficiencies in the
24 application, if any, within 60 days of the issuance of the notice of
25 filing. If a list of deficiencies is not provided to the applicant
26 within 60 days of issuance of the notice of filing, the timeshare plan
27 shall be deemed registered unless the applicant has consented in
28 writing to a delay.

29 b. As to abbreviated registrations, registration shall be effective
30 upon the issuance of an order of registration by the commission 30
31 days after receipt and issuance of a notice of filing. The commission
32 shall provide a list of deficiencies in the application, if any, within
33 30 days of the issuance of the notice of filing. If a list of
34 deficiencies is not provided to the applicant within 30 days of the
35 issuance of the notice of filing, the timeshare plan shall be deemed
36 registered unless the applicant has consented in writing to a delay.

37 c. A preliminary registration shall be effective within 20 days of
38 receipt, unless the commission provides to the applicant a written
39 list of deficiencies in the application, if any, within 20 days of
40 receipt of a completed application and fee. If a list of deficiencies
41 is not provided to the applicant within 20 days of receipt of the
42 application for a preliminary registration, the preliminary
43 registration shall be deemed approved unless the applicant has
44 consented in writing to a delay.

45
46 14. (New section) a. If the commission determines upon
47 inquiry and examination that any of the requirements of this act
48 have not been met, the commission shall notify the applicant that

1 the application for registration shall be corrected as specified in
2 writing within 30 days from the date the notice is received by the
3 applicant. These findings shall be the result of the commission's
4 preliminary inquiry and examination and no hearing shall be
5 required as the basis for those findings.

6 b. In the event that the requirements of the deficiency notice are
7 not met within the time frame provided in subsection a. of this
8 section, and the applicant has not demonstrated a good faith effort
9 to correct the deficiencies, the commission may enter an order
10 rejecting the filing. The order shall include the factual and legal
11 basis for the rejection and shall provide that, unless appealed as
12 provided for in subsection c. of this section, the terms of the order
13 shall become final after 45 days of delivery to the applicant.

14 c. Upon the applicant's receipt of an order of rejection, the
15 applicant shall have the right to file an appeal with the commission
16 and shall be entitled to a hearing thereon provided that the appeal is
17 filed within 45 days of the applicant's receipt of the order of
18 rejection. In the event that an appeal is filed by the applicant, the
19 order of rejection shall not take effect until such time as a
20 determination has been rendered on the appeal. While an appeal of
21 an order of rejection remains pending, a timeshare plan which is the
22 subject of the notice of filing referenced in the order of rejection
23 shall not be considered registered.

24

25 15. (New section) a. The fee for an initial registration shall be
26 \$1,000 plus \$50 per timeshare interest, which fee shall not exceed
27 \$7,500, unless otherwise provided by the commission pursuant to
28 regulation to defray the cost of rendering the services required by
29 the provisions of this act.

30 b. The commission may also provide, by regulation, for fees to
31 cover the reasonable expenses of carrying out other responsibilities
32 established under this act, including, but not limited to, fees for the
33 processing of amendments, exemption applications and preliminary
34 registrations.

35

36 16. (New section) Unless otherwise provided by regulation, a
37 developer, or any of its agents, shall not sell, offer, or dispose of a
38 timeshare interest in this State unless all necessary registrations are
39 filed and approved by the commission, or while an order revoking
40 or suspending a registration is in effect.

41

42 17. (New section) a. Before the first sale of a timeshare
43 interest, the developer shall create or provide for a managing entity,
44 which shall be either the developer, a separate manager or
45 management firm, the board of directors of an owners' association,
46 or some combination thereof.

47 b. The duties of the managing entity shall include, but not be
48 limited to:

- 1 (1) Management and maintenance of all accommodations
2 constituting the timeshare plan;
 - 3 (2) Collection of all assessments as provided in the timeshare
4 instrument;
 - 5 (3) Providing to all purchasers each year an itemized annual
6 budget, which shall include all estimated revenues and expenses;
 - 7 (4) Maintenance of all books and records concerning the
8 timeshare plan;
 - 9 (5) Scheduling occupancy of accommodations, when purchasers
10 are not entitled to use specific timeshare periods, so that all
11 purchasers will be provided the opportunity to possess and use the
12 accommodations of the timeshare plan which they have purchased;
13 and
 - 14 (6) Performing any other functions and duties that are necessary
15 and proper to maintain the accommodations or that are required by
16 the timeshare instrument.
- 17 c. In the event a developer, managing entity or association files
18 a complaint in a foreclosure proceeding involving timeshare
19 interests, the developer, managing entity or association may join in
20 the same action multiple defendant obligors and junior interest
21 holders of separate timeshare interests, provided:
- 22 (1) The foreclosure proceeding involves a single timeshare plan;
 - 23 (2) The foreclosure proceeding is filed by a single plaintiff;
 - 24 (3) The default and remedy provisions in the written instruments
25 on which the foreclosure proceeding is based are substantially the
26 same for each defendant; and
 - 27 (4) The nature of the defaults alleged is the same for each
28 defendant.
- 29 d. In any foreclosure proceeding involving multiple defendants
30 filed under subsection c. of this section, the court shall, if
31 appropriate, sever for separate trial any count of the complaint in
32 which a defense or counterclaim is timely raised by a defendant.
- 33
- 34 18. (New section) Any purchase contract entered into by a
35 purchaser of a timeshare interest under this act shall be voidable by
36 the purchaser, without penalty, within seven calendar days after the
37 receipt of the public offering statement or the execution of the
38 purchase contract, whichever date is later. The purchase contract
39 shall provide notice of the seven-day cancellation period, together
40 with the name and mailing address to which any notice of
41 cancellation shall be delivered. Notice of cancellation shall be
42 timely if the notice is deposited with the United States Postal
43 Service not later than midnight of the seventh day. Upon such
44 cancellation, the developer shall refund to the purchaser all
45 payments made by the purchaser, less the amount of any benefits
46 actually received pursuant to the purchase contract. The refund
47 shall be made within 30 days after the receipt of the notice of
48 cancellation, or receipt of funds from the purchaser's cleared check,

1 whichever occurs later. If a purchaser elects to cancel a purchase
2 contract pursuant to this section, the purchaser may do so by hand
3 delivering a written notice of cancellation or by mailing a notice of
4 cancellation by certified mail, return receipt requested, to the
5 developer, as applicable, at an address set forth in the purchase
6 contract.

7
8 19. (New section) Excluding any encumbrance placed against
9 the purchaser's timeshare interest securing the purchaser's payment
10 of purchase money financing for the purchase, the developer shall
11 not be entitled to the release of any funds escrowed with respect to
12 each timeshare interest and any other property or rights to property
13 appurtenant to the timeshare interest, including any amenities
14 represented to the purchaser as being part of the timeshare plan,
15 until the developer has provided satisfactory evidence to the
16 commission of one of the following:

17 a. The timeshare interest together with any other property or
18 rights to property appurtenant to the timeshare interest, including
19 any amenities represented to the purchaser as being part of the
20 timeshare plan, are free and clear of any of the claims of the
21 developer, any owner of the underlying fee, a mortgagee, judgment
22 creditor, or other lienor or any other person having an interest in or
23 lien or encumbrance against the timeshare interest or appurtenant
24 property or property rights;

25 b. The developer, any owner of the underlying fee, a mortgagee,
26 judgment creditor, or other lienor, or any other person having an
27 interest in or lien or encumbrance against the timeshare interest or
28 appurtenant property or property rights, including any amenities
29 represented to the purchaser as being part of the timeshare plan, has
30 recorded a subordination and notice to creditors document in the
31 jurisdiction in which the timeshare interest is located. The
32 subordination document shall expressly and effectively provide that
33 the interest holder's right, lien or encumbrance shall not adversely
34 affect, and shall be subordinate to, the rights of the owners of the
35 timeshare interests in the timeshare plan regardless of the date of
36 purchase, from and after the effective date of the subordination
37 document;

38 c. The developer, any owner of the underlying fee, a mortgagee,
39 judgment creditor, or other lienor, or any other person having an
40 interest in or lien or encumbrance against the timeshare interest or
41 appurtenant property or property rights, including any amenities
42 represented to the purchaser as being part of the timeshare plan, has
43 transferred the subject accommodations or amenities or all use
44 rights therein to a nonprofit organization or owners' association to
45 be held for the use and benefit of the purchasers of the timeshare
46 plan, which entity shall act as a fiduciary to the purchasers,
47 provided that the developer has transferred control of that entity to
48 the purchasers or does not exercise its voting rights in that entity

1 with respect to the subject accommodations or amenities. Prior to
2 the transfer, any lien or other encumbrance against the
3 accommodation or facility shall be made subject to a subordination
4 and notice to creditors instrument pursuant to subsection b. of this
5 section; or

6 d. Alternative arrangements have been made which are adequate
7 to protect the rights of the purchasers of the timeshare interests and
8 are approved by the commission.
9

10 20. (New section) a. A sales agent in New Jersey shall comply
11 with the provisions of R.S.45:15-1 et seq., and the regulations
12 adopted pursuant thereto, including licensure requirements, unless
13 otherwise exempt by law.

14 b. A timeshare interest owner, who, for non-monetary
15 compensation, as provided for in this act and by regulation, refers in
16 a calendar year no more than 12 prospective purchasers of
17 timeshare interests in the timeshare plan shall not be required to be
18 licensed pursuant to R.S.45:15-1 et seq., provided the referring
19 timeshare interest owner does not show, discuss terms or conditions
20 of purchase or otherwise participate in negotiations with regard to
21 the timeshare purchase. Examples of non-monetary compensation
22 shall include, but shall not be limited to, the following:

- 23 (1) Waiver of association maintenance fees;
24 (2) Free meals at a restaurant or rounds of golf at a golf course;
25 (3) Points or other non-monetary currency associated with hotel,
26 timeshare or other loyalty programs; or
27 (4) Other benefits specifically associated with the timeshare
28 plan.

29 c. A person licensed under R.S.45:15-1 et seq., who also is a
30 bona fide owner of a timeshare property, shall be entitled to receive
31 non-monetary compensation as defined in subsection b. of this
32 section on the same basis as any other owner of a timeshare
33 property. The non-monetary compensation or referral pursuant to
34 subsection b. of this section shall not fall within the scope of
35 R.S.45:15-1 et seq. or the rules and regulations implementing
36 R.S.45:15-1 et seq.
37

38 21. (New section) a. A developer or other person offering a
39 timeshare plan shall not:

- 40 (1) Misrepresent a fact material to a purchaser's decision to buy
41 a timeshare interest;
42 (2) Predict any increase in the value of a timeshare interest
43 represented over a period of time, excluding bona fide pending
44 price increases by the developer;
45 (3) Materially misrepresent the qualities or characteristics of
46 accommodations or the amenities available to the occupant of those
47 accommodations;
48 (4) Misrepresent the length of time accommodations or

1 amenities will be available to the purchaser of a timeshare interest;
2 or

3 (5) Misrepresent the conditions under which a purchaser of a
4 timeshare interest may exchange the right of the purchaser's
5 occupancy for the right to occupy other accommodations.

6 b. A developer or other person using a promotion in connection
7 with the offering of a timeshare interest shall clearly disclose all of
8 the following:

9 (1) That the purpose of the promotion is to sell timeshare
10 interests, which shall appear in bold face or other conspicuous type
11 on all promotional materials;

12 (2) That any person whose name or address is obtained during
13 the promotion may be solicited to purchase a timeshare interest;

14 (3) The name of each developer or other person trying to sell a
15 timeshare interest through the promotion, and the name of each
16 person paying for the promotion if different from the developer;

17 (4) The complete details of participation in the promotion;

18 (5) The method of awarding premiums or other benefits under
19 the promotion;

20 (6) A complete and fully detailed description, including
21 approximate retail value of each premium or benefit under the
22 promotion if the retail value of the premium or benefit is over \$50;

23 (7) The quantity of each premium to be awarded or conferred;

24 (8) The date by which each premium or benefit will be awarded
25 or conferred; and

26 (9) Any other disclosures required by the commission pursuant
27 to regulation.

28 c. The required disclosures for an advertisement that contains a
29 promotion in connection with the offering of a timeshare interest
30 shall be provided or otherwise made available to prospective
31 purchasers in writing or electronically at least once prior to any
32 scheduled sales presentation and received by the prospective
33 purchasers prior to their leaving to attend the sales presentation.
34 The required disclosures need not be included in every written, oral
35 or electronic communication to the prospective purchaser prior to
36 the sales presentation.

37 d. If a person represents that a premium or benefit will be
38 awarded in connection with a promotion, the premium or benefit
39 shall be awarded or conferred in the manner represented, and on or
40 before the date represented for awarding or conferring the premium
41 or benefit.

42

43 22. (New section) The managing entity shall keep detailed
44 financial records directly related to the operation of the time share
45 plan. All financial and other records shall be made reasonably
46 available for examination by any purchaser, or the authorized agent
47 of the purchaser, and the commission. The managing entity may
48 charge the purchaser a reasonable fee for copying any requested

1 information.

2

3 23. (New section) Every developer shall maintain, for a period
4 of two years, records of any real estate brokers, broker-salespersons
5 or salespersons licensed in the State and employed by the
6 developer, as well as all other managerial employees located in the
7 State and employed by the developer, including the last known
8 address of each of those individuals.

9

10 24. (New section) No action for partition of a timeshare interest
11 may be initiated except as permitted by the timeshare instrument.

12

13 25. (New section) The commission may refuse to issue or renew
14 any registration, or revoke or suspend any registration or place on
15 probation or administrative supervision, or reprimand any
16 registrant, or impose an administrative penalty not to exceed
17 \$50,000, in a summary proceeding pursuant to the "Penalty
18 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
19 after notice and an opportunity to be heard, for any of the following
20 causes:

21 a. A registrant's violation of any provision of this act or of the
22 regulations adopted by the commission to enforce this act.

23 b. A conviction of the registrant or any principal of the
24 registrant of:

25 (1) A felony that is punishable by death or imprisonment for a
26 term exceeding one year under the laws of any state or federal
27 jurisdiction;

28 (2) A misdemeanor under the laws of any state or federal
29 jurisdiction if an essential element of the offense is dishonesty; or

30 (3) Any crime under the laws of any state or federal jurisdiction
31 if the crime relates directly to the practice of the profession
32 regulated by this act.

33 c. A registrant's making any misrepresentation for the purpose
34 of obtaining an order of registration or exemption.

35 d. A registrant's discipline in another state or federal
36 jurisdiction, State agency, or foreign country regarding the practice
37 of the profession regulated by this act, if at least one of the grounds
38 for the discipline is the same as or substantially equivalent to one of
39 those set forth in this act.

40 e. A finding by the commission that the registrant, after having
41 his registration placed on probationary status, has violated the terms
42 of probation.

43 f. A registrant's practicing or attempting to practice under a
44 name other than the name as shown on his registration or any other
45 legally authorized name.

46 g. A registrant's failure to file a return, or to pay the tax, penalty,
47 or interest shown in a filed return, or to pay any final assessment of
48 tax, penalty, or interest, as required by any tax law administered by

- 1 the State Department of Treasury or any local government entity,
2 until the requirements of any tax are satisfied.
- 3 h. A registrant's engaging in any conduct likely to deceive,
4 defraud or harm the public.
- 5 i. A registrant's aiding or abetting another person in violating
6 any provision of this act or of the regulations adopted by the
7 commission to enforce this act.
- 8 j. Any representation in any document or information filed with
9 the commission that is materially false or misleading.
- 10 k. A registrant's disseminating or causing to be disseminated any
11 materially false or misleading promotional materials or
12 advertisements in connection with a timeshare plan.
- 13 l. A registrant's concealing, diverting, or disposing of any funds
14 or assets of any person in a manner that impairs the rights of
15 purchasers of timeshare interests in the timeshare plan.
- 16 m. A registrant's failure to perform any stipulation or agreement
17 made to induce the commission to issue an order relating to the
18 timeshare plan.
- 19 n. A registrant's, or its agents or brokers engaging in any act that
20 constitutes a violation of the "Law Against Discrimination,"
21 P.L.1945, c.169 (C.10:5-1 et seq.).
- 22 o. A registrant's, or its agent's or broker's failure to provide
23 information requested in writing by the commission, either as the
24 result of a complaint to the commission or as a result of a random
25 audit conducted by the commission, which would indicate a
26 violation of this act.
- 27 p. A registrant's, or its agent's or broker's, failure to account for
28 or remit any escrow funds coming into his possession which
29 belonged to others.
- 30 q. A registrant's, or its agent's or broker's, failure to make
31 available to commission personnel during normal business hours all
32 escrow records and related documents maintained in connection
33 therewith, within a reasonable period of time after a request from
34 the commission personnel, but in no event later than five business
35 days from the request.
- 36
- 37 26. (New section) The commission may:
- 38 a. Accept registrations filed in this State, in other states, or with
39 the federal government;
- 40 b. Contract with similar agencies in this State or other
41 jurisdictions to perform investigative functions;
- 42 c. Accept grants-in-aid from any governmental or other source;
- 43 d. Cooperate with similar agencies or commissions in this State
44 or other jurisdictions to establish uniform filing procedures and
45 forms, uniform public offering statements, advertising standards,
46 rules and common administrative practices;
- 47 e. Grant exemptions pursuant to the rules and regulations
48 adopted pursuant to this act;

1 f. Make any necessary public or private investigations within or
2 outside of this State to determine whether any person has violated
3 or is about to violate any provision of this act, or to aid in the
4 enforcement of this act or in the prescribing of rules and regulations
5 and forms hereunder;

6 g. Require or permit any person to file a statement in writing,
7 under oath or otherwise, as the commission determines, as to all the
8 facts and circumstances concerning any matter to be investigated;

9 h. For the purpose of any investigation or proceeding under this
10 act, the commission or any officer designated by regulation, may
11 administer oaths, or affirmations, and upon its own motion or upon
12 request of any party may subpoena witnesses and compel their
13 attendance, take evidence, and require the production of any matter
14 which is relevant to the investigation, including the existence,
15 description, nature, custody, condition and location of any books,
16 documents, or other tangible things and the identity and location of
17 persons having knowledge of relevant facts or any other matter
18 reasonably calculated to lead to the discovery of material evidence;
19 and

20 i. Upon failure to obey a subpoena or to answer questions
21 propounded by the investigating officer and upon reasonable notice
22 to all persons affected thereby, the commission may apply to the
23 Superior Court for an order compelling compliance with the
24 subpoena.

25

26 27. (New section) a. If the commission determines after notice
27 and hearing that a person has:

28 (1) Violated any provision of this act;

29 (2) Directly or through an agent or employee engaged in any
30 false, deceptive, or misleading advertising, promotional or sales
31 methods in the State to offer or dispose of an interest in the
32 timeshare plan;

33 (3) Made any material change in the plan of disposition and
34 development of the timeshare plan subsequent to the order of
35 registration without first complying with the provisions of section
36 11 of this act;

37 (4) Disposed of any timeshare plan which have not been
38 registered with the commission; or

39 (5) Violated any lawful order or rule or regulation of the
40 commission;

41 The commission may issue an order requiring the person to cease
42 and desist from the unlawful practice and to take such affirmative
43 action as in the judgment of the commission will carry out the
44 purposes of this act.

45 b. If the commission makes a finding of fact in writing that the
46 public interest will be irreparably harmed by delay in issuing an
47 order, the commission may issue a temporary cease and desist
48 order. Every temporary cease and desist order shall include in its

1 terms a provision that upon request a hearing will be held within 15
2 days of the receipt of the request.

3

4 28. (New section) a. If it appears that a person has engaged, or
5 is about to engage, in an act or practice constituting a violation of a
6 provision of this act, the commission, with or without prior
7 administrative proceedings, may bring an action in the Superior
8 Court to enjoin the acts or practices and to enforce compliance with
9 this act or any rule, regulation or order hereunder. Upon proper
10 showing, injunctive relief or a temporary restraining order shall be
11 granted, and a receiver may be appointed. The commission shall
12 not be required to post a bond in any court proceeding.

13 b. The commission may intervene in any suit relating to this act.
14 Each developer registered pursuant to this act shall provide the
15 commission with notice of any lawsuit that is filed against the
16 developer or the registered timeshare plan that relates to rights,
17 duties, or responsibilities of the developer or timeshare plan as set
18 forth in this act.

19

20 29. (New section) a. For purposes of this act, an application for
21 registration submitted to the commission shall be deemed a
22 submission, by the applicant, to the jurisdiction of the courts of the
23 State of New Jersey.

24 b. In addition to the methods of service provided for in the Rules
25 of Court, service may be made by delivering a copy of the process
26 to a person designated by the commission to receive the process at
27 its office, but that service shall not be effective unless the plaintiff,
28 which may be the commission, in a proceeding instituted by it:

29 (1) Sends a copy of the process and the pleading by certified
30 mail to the defendant or respondent at his last known address; and

31 (2) The plaintiff's affidavit of compliance with this section is
32 filed in the case on or before the return day of the process, if any, or
33 within the time as the court allows.

34 c. If any person, including any nonresident of this State, engages
35 in conduct prohibited by this act and has not filed a consent to
36 service of process, and personal jurisdiction over him cannot
37 otherwise be obtained in this State, that conduct authorizes the
38 commission to receive service of process, in any non criminal
39 proceedings against him or his successor which arises from that
40 conduct and which is brought under this act with the same force as
41 if served on him personally. Notice shall be given as provided in
42 subsection b. of this section.

43

44 30. (New section) a. Any broker, broker-salesperson or
45 salesperson who violates the provisions of this act shall, in addition
46 to the penalties set forth herein, be subject to the penalties as set
47 forth in R.S.45:15-17.

48 b. Any person who violates any provision of this act or any

1 person who, in an application for registration filed with the
2 commission, makes any untrue statement of a material fact or omits
3 to state a material fact shall be fined not less than \$250, nor more
4 than \$50,000, per violation.

5 c. The commission may levy and collect the penalties set forth
6 in subsection b. of this section after affording the person alleged to
7 be in violation of this act an opportunity for a hearing in accordance
8 with the "Administrative Procedure Act," P.L.1968, c.410
9 (C.52:14B-1 et seq.) on the alleged violations and a finding by the
10 commission that the person is guilty of the violation. When a
11 penalty levied by the commission has not been satisfied within 30
12 days of the levy, the penalty may be sued for and recovered by, and
13 in the name of, the commission in a summary proceeding pursuant
14 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
15 (C.2A:58-10 et seq.).

16 d. The commission may, in the interest of justice, compromise
17 any civil penalty, if in its determination the gravity of the offense
18 does not warrant the assessment of the full fine.

19

20 31. (New section) a. Any person who suffers any ascertainable
21 loss of moneys as a result of the failure of another to comply fully
22 with the provisions of this act may bring an action or assert a
23 counterclaim in any court of competent jurisdiction. In any action
24 filed under this section in which a defendant is found to have
25 knowingly engaged in any false, deceptive, misleading promotional
26 or sales methods or discriminatory advertising on the basis of race,
27 sex, creed, color, marital status, national origin or religion,
28 concealed or fraudulently diverted any funds or assets so as to
29 defeat the rights of timeshare plan purchasers, made an intentional
30 misrepresentation or concealed a material fact in an application for
31 registration, or disposed of any timeshare plan required to be
32 registered under this act, which are not so registered, the court shall,
33 in addition to any other appropriate legal or equitable remedy,
34 award double damages suffered, and court costs, including
35 reasonable attorney's fees. In the case of an untruth, omission, or
36 misleading statement the developer sustains the burden of proving
37 that the purchaser knew of the untruth, omission or misleading
38 statement, or that he did not rely on such information, or that the
39 developer did not know, and in the exercise of reasonable care
40 could not have known of the untruth, omission, or misleading
41 statement.

42 b. The court, in addition to the remedies provided in this act,
43 may award any other relief appropriate under the circumstances
44 including, in the court's discretion, restitution of all monies paid
45 and, where a developer has failed to provide to a purchaser a copy
46 of the current public offering statement approved by the
47 commission prior to execution of the contract or agreement,
48 rescission of the contract. If the purchaser fails to establish a cause

1 of action, and the court further determines that the action was
2 wholly without merit, the court shall award attorney's fees to the
3 developer.

4 c. Any stipulation or provision purporting to bind a purchaser
5 acquiring an interest in a timeshare plan subject to the provisions of
6 this act to a waiver of compliance with the provisions of this act
7 shall be void.

8
9 32. (New section) a. An action shall not be maintained by any
10 developer in any court in this State with respect to any agreement,
11 contract, or services for which registration is required by this act, or
12 to recover the agreed price or any consideration under any
13 agreement, or to recover for services for which a registration is
14 required by this act, without proving that the developer had a valid
15 order of registration at the time of making the agreement or
16 performing the work.

17 b. A person licensed in this State as a real estate broker pursuant
18 to R.S.45:15-1 et seq. shall not represent any unregistered timeshare
19 plan and shall not accept or collect any commission or other form of
20 consideration from any developer unless the timeshare plan is
21 registered pursuant to the requirements of this act.

22
23 33. (New section) The commission shall adopt rules for the
24 implementation and enforcement of this act in accordance with the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.).

27
28 34. (New section) The commission may prescribe forms and
29 procedures for submitting information to the commission.

30
31 35. (New section) The commission shall thoroughly investigate
32 all matters relating to an application for registration under this act
33 and may require a personal inspection of any timeshare plan,
34 accommodation, and any offices where any of the foregoing may
35 transact business. All reasonable expenses incurred by the
36 commission in investigating such matters shall be paid by the
37 registrant. The commission may require a deposit sufficient to
38 cover the expenses prior to incurring the expenses.

39
40 36. (New section) All timeshare plans that were registered and
41 approved pursuant to the provisions of the "Real Estate Sales Full
42 Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The
43 Planned Real Estate Development Full Disclosure Act," P.L.1977,
44 c.419 (C.45:22A-21 et seq.) in effect on the effective date of this act
45 shall remain in full force and effect after the effective date of this
46 act and shall be considered registered under this act and shall not be
47 required to file any further documentation under this act, except as
48 to comply with the requirements of section 11.

1 Developers who have filed timeshare plans that were exempt
2 from the requirements of the "Real Estate Sales Full Disclosure
3 Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned
4 Real Estate Development Full Disclosure Act," P.L.1977, c.419
5 (C.45:22A-21 et seq.) shall be required to file a registration
6 application with the commission within 90 days from the effective
7 date of this act unless they are otherwise exempt under this act.
8 These developers and timeshare plans shall be allowed to continue
9 operating as long as a registration application is filed with the
10 commission within the timeframe stated above and as long as they,
11 in good faith, continue to work with the commission to correct any
12 and all deficiencies in the registration application.

13 Any existing injunction or temporary restraining order validly
14 obtained under the "Real Estate Sales Full Disclosure Act,"
15 P.L.1989, c.239 (C.45:15-16.27 et seq.) or "The Planned Real
16 Estate Development Full Disclosure Act," P.L.1977, c.419
17 (C.45:22A-21 et seq.) which prohibits unregistered practice of
18 timeshare developers, timeshare plans, and their agents shall not be
19 invalidated by the enactment of this act and shall continue to have
20 full force and effect on and after the effective date of this act. Any
21 existing disciplinary action or investigation pursuant to a violation
22 under the "Real Estate Sales Full Disclosure Act" P.L.1989, c.239
23 (C.45:15-16.27 et seq.) or "The Planned Real Estate Development
24 Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.) shall
25 not be invalidated by the enactment of this act and shall continue to
26 have full force and effect on and after the effective date of this act.

27
28 37. Section 2 of P.L.1989, c.239 (C.45:15-16.28) is amended to
29 read as follows:

30 2. As used in this act:

31 "Advertising" means the publication, or causing to be published,
32 of any information offering for sale, or for the purpose of causing or
33 inducing any other person to purchase or acquire, an interest in the
34 title to subdivided lands, including the land sales contract to be used
35 and any photographs or drawings or artist's representation of
36 physical conditions or facilities on the property existing or to exist
37 by means of any:

- 38 (1) Newspaper or periodical;
- 39 (2) Radio or television broadcast;
- 40 (3) Written or printed or photographic matter produced by any
41 duplicating process producing 10 copies or more;
- 42 (4) Billboards or signs;
- 43 (5) Display of model homes or units;
- 44 (6) Material used in connection with the disposition or offer of
45 subdivided lands by radio, television, telephone or any other
46 electronic means; or
- 47 (7) Material used by subdividers or their agents to induce
48 prospective purchasers to visit the subdivision; particularly vacation

1 certificates which require the holders of those certificates to attend
2 or submit to a sales presentation by a subdivider or its agents.

3 "Advertising" does not mean: stockholder communications such
4 as annual reports and interim financial reports, proxy materials,
5 registration statements, securities prospectuses, applications for
6 listing securities on stock exchanges, or similar documents;
7 prospectuses, property reports, offering statements, or other
8 documents required to be delivered to a prospective purchaser by an
9 agency of any other state or the federal government; all
10 communications addressed to and relating to the account of any
11 person who has previously executed a contract for the purchase of
12 the subdivider's lands except when directed to the sale of additional
13 lands.

14 "Blanket encumbrance" means a trust deed, mortgage, judgment,
15 or any other lien or encumbrance, including an option or contract to
16 sell or a trust agreement, affecting a subdivision or affecting more
17 than one lot offered within a subdivision, except that term shall not
18 include any lien or other encumbrance arising as the result of the
19 imposition of any tax assessment by any public authority.

20 "Broker" or "salesperson" means any person who performs
21 within this State as an agent or employee of a subdivider any one or
22 more of the services or acts as set forth in this act, and includes any
23 real estate broker or salesperson licensed pursuant to R.S.45:15 1 et
24 seq. or any person who purports to act in any such capacity.

25 "Commission" means the New Jersey Real Estate Commission.

26 "Common promotional plan" means any offer for the disposition
27 of lots, parcels, units or interests of real property by a single person
28 or group of persons acting in concert, where those lots, parcels,
29 units or interests are contiguous, or are known, designated or
30 advertised as a common entity or by a common name regardless of
31 the number of lots, parcels, units or interests covered by each
32 individual offering.

33 "Disposition" means the sale, lease, assignment, award by
34 lottery, or any other transaction concerning a subdivision if
35 undertaken for gain or profit.

36 "Notice" means a communication by mail from the commission
37 executed by its secretary or other duly authorized officer. Notice to
38 subdividers shall be deemed complete when mailed to the
39 subdivider's address currently on file with the commission.

40 "Offer" means every inducement, solicitation or attempt to
41 encourage a person to acquire an interest in a subdivision if
42 undertaken for gain or profit.

43 "Person" means an individual, corporation, government or
44 governmental subdivision or agency, business trust, estate, trust,
45 partnership, unincorporated association, two or more of any of the
46 foregoing having a joint or common interest, or any other legal or
47 commercial entity.

48 "Purchaser" means a person who acquires or attempts to acquire

1 or succeeds to an interest in a subdivision.

2 ["Time-share estates" includes both "fee simple" and "right to
3 use" time-share interests and means:

4 (1) An "interval estate" meaning a combination of an estate for
5 years in a lot, parcel or unit, during the term of which title rotates
6 among the time-share owners, coupled with a vested undivided fee
7 simple interest in the remainder in that unit as established by the
8 declaration or deed creating the interval estate; or

9 (2) A "time-span estate" meaning a combination of an undivided
10 interest in a present estate in fee simple in a lot, parcel or unit
11 established by the declaration or deed creating the time-span estate,
12 coupled with the exclusive right to possession and occupancy of the
13 parcel or unit during a regularly recurring period; or

14 (3) A "vacation license" meaning the exclusive right to
15 possession and occupancy of a lot, unit or parcel during a regularly
16 recurring period established by club membership, lease or license.]

17 "Subdivider" or "developer" means any owner of subdivided
18 lands or the agent of that owner who offers the subdivided lands for
19 disposition.

20 "Subdivision" and "subdivided lands" mean any land situated
21 outside the State of New Jersey whether contiguous or not, if one or
22 more lots, parcels, units or interests are offered as a part of a
23 common promotional plan of advertising and sale and expressly
24 means and includes such units or interests commonly referred to as
25 a "condominium," defined in the "Condominium Act," P.L.1969,
26 c.257 (C.46:8B-1 et seq.). In addition to condominiums, this
27 definition shall also specifically include, but shall not be limited to,
28 any form of homeowners association, any housing cooperative[.]
29 and any community trust[.] or other trust device [and any form of
30 time-sharing].

31 (cf: P.L.1989, c.239, s.2)

32

33 38. Section 6 of P.L.1989, c.239 (C.45:15-16.32) is amended to
34 read as follows:

35 6. a. Unless the method of disposition is adopted for the purpose
36 of evasion of this act, the provisions of this act are not applicable to
37 offers or dispositions of an interest in a subdivision:

38 (1) By an owner for his own account in a single or isolated
39 transaction;

40 (2) Wholly for industrial or commercial purposes;

41 (3) Pursuant to court order;

42 (4) By any governmental agency;

43 (5) As cemetery lots or interests;

44 (6) Of less than 100 lots, parcels, units or interests; but, this
45 exemption shall not apply to condominiums, cooperatives, [time
46 shares,] retirement communities and offers or dispositions by

1 entities comprised of or acting on behalf of the owners of other
2 units in the subdivision, including, but not limited to entities
3 designated as homeowners associations, regardless of the number of
4 lots, parcels, units or interests offered or disposed of;

5 (7) Where the common elements or interests, which would
6 otherwise subject the offering to this act, are limited to the
7 provision of unimproved, unencumbered open space, except where
8 registration is required by the "Interstate Land Sales Full Disclosure
9 Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of
10 Interstate Land Sales Registration, in the Department of Housing
11 and Urban Development; or

12 (8) In a development comprised wholly of rental units, where
13 the relationship created is one of landlord and tenant [; but this
14 exemption shall not apply to time shares, regardless of the manner
15 in which an interest in such a time share subdivision is evidenced].

16 b. Unless the method of disposition is adopted for the purpose of
17 evasion of this act, the provisions of this act are not applicable to:

18 (1) Offers or dispositions of evidences of indebtedness secured
19 by a mortgage or deed of trust of real estate;

20 (2) Offers or dispositions of securities or units of interest issued
21 by a real estate investment trust regulated under any State or federal
22 statute;

23 (3) Offers or dispositions of securities currently registered with
24 the Bureau of Securities in the Department of Law and Public
25 Safety; or

26 (4) Offers or dispositions of any interest in oil, gas or other
27 minerals or any royalty interest therein if the offers or dispositions
28 of such interests are regulated as securities by federal law or by the
29 State Bureau of Securities.

30 c. The commission may, from time to time, pursuant to any rules
31 and regulations promulgated pursuant to this act, exempt from any
32 of the provisions of this act any subdivision or any lots in a
33 subdivision, if it finds that the enforcement of this act with respect
34 to that subdivision or the lots therein, is not necessary in the public
35 interest, or required for the protection of purchasers, by reason of
36 the small amount involved or the limited character of the offering.

37 (cf: P.L.1989, c.239, s.6)

38

39 39. Section 3 of P.L.1977, c.419 (C.45:22A-23) is amended to
40 read as follows:

41 3. As used in this act unless the context clearly indicates
42 otherwise:

43 a. "Disposition" means any sales, contract, lease, assignment, or
44 other transaction concerning a planned real estate development.

45 b. "Developer" or "subdivider" means any person who disposes
46 or offers to dispose of any lot, parcel, unit, or interest in a planned
47 real estate development.

1 c. "Offer" means any inducement, solicitation, advertisement, or
2 attempt to encourage a person to acquire a unit, parcel, lot, or
3 interest in a planned real estate development.

4 d. "Purchaser" or "owner" means any person or persons who
5 acquires a legal or equitable interest in a unit, lot, or parcel in a
6 planned real estate development, and shall be deemed to include a
7 prospective purchaser or owner.

8 e. "State" means the State of New Jersey.

9 f. "Commissioner" means the Commissioner of Community
10 Affairs.

11 g. "Person" shall be defined as in R.S.1:1 2.

12 h. "Planned real estate development" or "development" means
13 any real property situated within the State, whether contiguous or
14 not, which consists of or will consist of, separately owned areas,
15 irrespective of form, be it lots, parcels, units, or interest, and which
16 are offered or disposed of pursuant to a common promotional plan,
17 and providing for common or shared elements or interests in real
18 property. This definition shall not apply to any form of
19 timesharing.

20 This definition shall specifically include, but shall not be limited
21 to, property subject to the "Condominium Act," P.L.1969, c.257
22 (C.46:8B 1 et seq.), any form of homeowners' association, any
23 housing cooperative or to any community trust or other trust device.

24 This definition shall be construed liberally to effectuate the
25 purposes of this act.

26 i. "Common promotional plan" means any offer for the
27 disposition of lots, parcels, units or interests of real property by a
28 single person or group of persons acting in concert, where such lots,
29 parcels, units or interests are contiguous, or are known, designated
30 or advertised as a common entity or by a common name.

31 j. "Advertising" means and includes the publication or causing
32 to be published of any information offering for disposition or for
33 the purpose of causing or inducing any other person to purchase an
34 interest in a planned real estate development, including the land
35 sales contract to be used and any photographs or drawings or artist's
36 representations of physical conditions or facilities on the property
37 existing or to exist by means of any:

- 38 (1) Newspaper or periodical;
- 39 (2) Radio or television broadcast;
- 40 (3) Written or printed or photographic matter;
- 41 (4) Billboards or signs;
- 42 (5) Display of model houses or units;
- 43 (6) Material used in connection with the disposition or offer of
44 the development by radio, television, telephone or any other
45 electronic means; or
- 46 (7) Material used by developers or their agents to induce
47 prospective purchasers to visit the development, particularly
48 vacation certificates which require the holders of such certificates to

1 attend or submit to a sales presentation by a developer or his agents.

2 "Advertising" does not mean and shall not be deemed to include:
3 Stockholder communications such as annual reports and interim
4 financial reports, proxy materials, registration statements, securities
5 prospectuses, applications for listing securities on stock exchanges,
6 and the like; all communications addressed to and relating to the
7 account of any person who has previously executed a contract for
8 the purchase of the subdivider's lands except when directed to the
9 sale of additional lands.

10 k. "Non-binding reservation agreement" means an agreement
11 between the developer and a purchaser and which may be canceled
12 without penalty by either party upon written notice at any time prior
13 to the formation of a contract for the disposition of any lot, parcel,
14 unit or interest in a planned real estate development.

15 l. "Blanket encumbrance" means a trust deed, mortgage,
16 judgment, or any other lien or encumbrance, including an option or
17 contract to sell or a trust agreement, affecting a development or
18 affecting more than one lot, unit, parcel, or interest therein, but does
19 not include any lien or other encumbrance arising as the result of
20 the imposition of any tax assessment by any public authority.

21 m. "Conversion" means any change with respect to a real estate
22 development or subdivision, apartment complex or other entity
23 concerned with the ownership, use or management of real property
24 which would make such entity a planned real estate development.

25 n. ["Association" means an association for the management of
26 common elements and facilities, organized pursuant to section 1 of
27 P.L.1993, c.30 (C.45:22A-43.) (Deleted by amendment
28 P.L. .c.), (pending before the Legislature as this bill.)

29 o. ["Executive board" means the executive board of an
30 association, as provided for in section 3 of P.L.1993, c.30
31 (C.45:22A-45).] (Deleted by amendment P.L. c.), (pending
32 before the Legislature as this bill.)

33 p. ["Unit" means any lot, parcel, unit or interest in a planned real
34 estate development that is, or is intended to be, a separately owned
35 area thereof.] (Deleted by amendment P.L. c.), (pending
36 before the Legislature as this bill.)
37 (cf: P.L.1993, c.30, s.7)

38

39 40. Section 5 of P.L.1977, c.419 (C.45:22A-25) is amended to
40 read as follows:

41 5. a. Unless the method of disposition is adopted for purposes
42 of evasion, the provision of this act shall not apply to offers or
43 dispositions:

44 (1) By an owner for his own account in a single or isolated
45 transaction;

46 (2) Wholly for industrial, commercial, or other nonresidential

- 1 purposes;
- 2 (3) Pursuant to court order;
- 3 (4) By the United States, by this State or any of its agencies or
- 4 political subdivisions;
- 5 (5) Of real property located without the State;
- 6 (6) Of cemetery lots or interests;
- 7 (7) Of less than 100 lots, parcels, units or interests; provided,
- 8 however, that with respect to condominiums and cooperatives, this
- 9 exemption shall not apply, irrespective of the number of lots,
- 10 parcels, units, or interests offered or disposed of;
- 11 (8) Of developments where the common elements or interests,
- 12 which would otherwise subject the offering to this act, are limited to
- 13 the provision of unimproved, unencumbered open space;
- 14 (9) In a development composed wholly of rental units, where the
- 15 relationship created is one of landlord and tenant ;
- 16 (10) Of any form of timesharing.
- 17 b. The agency may from time to time, pursuant to its rules and
- 18 regulations, exempt from any of the provisions of this act any
- 19 development, or any lots, units, parcels, or interests in a
- 20 development, if it finds that the enforcement of this act with
- 21 respect to such, is not necessary in the public interest or required for
- 22 the protection of purchasers by reason of the small amount of the
- 23 purchase price involved, the limited character of the offering, or the
- 24 limited nature of the common or shared elements.
- 25 (cf: P.L.1977, c.419, s.5)

26

27 41. This act shall take effect on the 90th day following

28 enactment.

29

30

31 STATEMENT

32

33 This bill regulates timeshares offerings by creating a

34 comprehensive system that includes registration of offerings, public

35 offering requirements and consumer protections. This bill, which

36 creates the "New Jersey Real Estate Timeshare Act," removes the

37 regulation of timeshares from the "Planned Real Estate

38 Development Full Disclosure Act" and the "Real Estate Sales Full

39 Disclosure Act."

40 Currently, these acts separately regulate various aspects of

41 timeshare offerings, and place regulatory authority partly in the

42 Department of Community Affairs, and partly in the New Jersey

43 Real Estate Commission within the Department of Banking and

44 Insurance. Neither of these acts provides an adequate system of

45 regulation to protect consumer interests.

46 Timesharing has grown extensively and timeshare offerings have

47 become more complex. Recent industry studies indicate that in

48 2003, three million Americans owned timeshares. That level is

1 nearly twice the number of timeshares owned just seven years prior.
2 As the volume of timesharing increases, consistent regulation is
3 essential to protect the interests of New Jersey consumers.

4 This bill is intended to resolve issues regarding shared authority
5 between departments by placing all regulatory authority within the
6 New Jersey Real Estate Commission. This restructuring will
7 provide a single regulatory framework for multi-site timeshare
8 offering, which have components located both within and outside
9 the State.

10 Specifically, the bill provides that timeshare plans must maintain
11 a one-to-one purchaser-to-accommodation ratio. Any person who
12 offers or sells a timeshare interest, or any developer who creates a
13 timeshare interest in the State, is required to register its timeshare
14 plan with the commission, by providing certain information
15 specified in the bill. The commission may issue an abbreviated
16 registration, preliminary registration, conditional registration or
17 preliminary permit under certain conditions.

18 Timeshare developers must also meet certain escrow
19 requirements, and have responsibility for all sales, managing and
20 marketing entities involved in the offering or selling of timeshares.

21 Developers must also prepare a public offering statement,
22 disclosing certain information, the extent of which is dependent on
23 whether the timeshare plan is a single-site, specific timeshare
24 interest multi-site, or non-specific timeshare interest multi-site plan.
25 The statement must be provided to each purchaser of a timeshare at
26 the time of purchase.

27 The bill also provides for annual reports by developers,
28 registration filing fees, and timelines by which the commission
29 must review applications for registrations. The bill delineates duties
30 of the managing entity and provides consumers a seven-day right of
31 cancellation for a timeshare contract.

32 Further, the bill regulates the release of escrow funds to the
33 developer, as the timeshare units are purchased, requires a sales
34 agent for a developer to be licensed under the State's real estate
35 licensing act, and prohibits certain unfair sales practices. The bill
36 provides for the commission to administer and take certain other
37 actions, for violations of the provisions of the bill.

38 The bill also provides an individual cause of action for any
39 person who suffers an ascertainable loss of moneys as a result of a
40 violation. Finally, the bill "grandfathers" all registrations of
41 timeshare plans in effect under the "Real Estate Sales Full
42 Disclosure Act" and the "Planned Real Estate Development Full
43 Disclosure Act."

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1321

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2006

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1321.

This bill, as amended, the "New Jersey Real Estate Timeshare Act," regulates timeshare offerings by creating a comprehensive system that includes registration of offerings, public offering requirements, and consumer protections.

The bill, as amended, removes the regulation of timeshares from the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.). Currently, these acts separately regulate various aspects of timeshare offerings, and place regulatory authority partly with the Department of Community Affairs, and partly with the New Jersey Real Estate Commission within the Department of Banking and Insurance. Under the provisions of the bill, all regulatory authority is instead assigned solely to the Real Estate Commission, in order to avoid any further issues regarding shared authority between the two departments. This restructuring is intended to provide a single regulatory framework for overseeing timeshare offerings directed or targeted to persons within the State.

Specifically, the bill provides that timeshare plans shall maintain a one-to-one purchaser-to-accommodation ratio. Any person who offers or sells a timeshare interest, or any developer who creates a timeshare interest, in the State, is required to register its timeshare plan with the commission, by providing certain information specified in the bill. The commission may issue an abbreviated registration, preliminary registration, conditional registration or preliminary permit under certain conditions.

Timeshare developers shall also meet certain escrow requirements, and have responsibility for all sales, managing and marketing entities involved in the offering or selling of timeshares. Developers must also prepare a public offering statement, disclosing certain information, the extent of which is dependent on whether the timeshare plan is a single-site, specific timeshare interest multi-site, or non-specific timeshare interest multi-site plan. The statement shall be provided to each

purchaser of a timeshare at the time of purchase.

The bill also provides for annual reports by developers, registration filing fees, and timelines by which the commission shall review applications for registrations. The bill delineates duties of the managing entity, and provides consumers a seven-day right of cancellation for a timeshare contract.

Further, the bill regulates the release of escrow funds to the developer as the timeshare units are purchased, requires a sales agent for a developer to be licensed under the State's real estate licensing act, and prohibits certain unfair sales practices.

The bill provides for the commission to administer and take certain other actions for violations of the provisions of the bill. It also provides an individual cause of action for any person who suffers an ascertainable loss of monies as a result of a violation.

Finally, the bill "grandfathers" all registrations of timeshare plans in effect under the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

The committee amendments to the bill:

- clarify, with respect to determining the term of a timeshare plan, that the period of any automatic renewal shall be included, unless: a purchaser has the right to terminate the purchaser's participation in the timeshare plan at any time and receive a pro rata refund; or the purchaser receives a notice, not less than 30 days, but not more than 60 days, prior to the date of renewal, informing the purchaser of the right to terminate at any time prior to the date of automatic renewal. This clarification assists in determining whether a particular timeshare shall be regulated under the bill's provisions, as a timeshare with a period of use which extends over any period of three years or less is not subject to regulation under the bill.

STATEMENT TO
[First Reprint]
SENATE, No. 1321

with Senate Floor Amendments
(Proposed By Senator ADLER)

ADOPTED: JUNE 22, 2006

This amendment reinserts into "The Planned Real Estate Development Full Disclosure Act" definitions for the terms "association," "executive board," and "unit," which were deleted from that law by the bill as introduced.

The terms are being reinserted into the law because they are still relevant to the regulation of condominiums, cooperatives, and various other common-interest communities under "The Planned Real Estate Development Full Disclosure Act."

FISCAL NOTE
[Second Reprint]
SENATE, No. 1321
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JUNE 29, 2006

SUMMARY

Synopsis: The “New Jersey Real Estate Timeshare Act.”
Type of Impact: Expenditure first year; Revenue gain
Agencies Affected: Department of Banking and Insurance

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$227,151	\$109,802	\$114,276
State Revenue	\$204,000	\$212,250	\$220,750
Net Deficit/Surplus	-\$23,151	+\$102,448	+\$106,474

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- The bill places all regulatory authority of time share offerings within the New Jersey Real Estate Commission in the Department of Banking and Insurance. Currently, timeshare offerings are regulated partly by the Department of Community Affairs and partly by the New Jersey Real Estate Commission.
- The bill provides that the fee for initial registrations shall be \$1,000 plus \$50 per timeshare interest, which fee shall not exceed \$7,500. In addition, the bill also establishes that the commission may assess, by regulation, for fees to cover the expenses of administering the provisions of the bill, including fees for the processing of amendments to registrations, exemption applications and preliminary registrations.
- The Department of Banking and Insurance estimates that revenues raised as a result of the bill should support expenditures, with the exception of the start-up costs in the first year following the bill’s enactment. Total costs to the Department of Banking and Insurance would be \$227,121 in the first year, \$109,802 in the second year, and \$114,276 in the third year, following the bill’s enactment.

- The department estimates that revenues resulting from the bill's provisions will amount to \$204,000, \$212,250, and \$220,750 for each of the first three years following the bill's enactment. This estimate results in a deficit of \$23,151 for the first year, which does not cover estimated expenditures. However, OLS estimates that the \$23,151 costs from the bill will have no effect on State funds because under existing law the Real Estate Commission is supported by industry assessments. Following the first year of the bill's enactment, revenues are estimated to exceed expenditures.
- The department states that two additional staff: an investigator and typist, are necessary to meet the increased responsibilities proposed under the bill. The salaries and benefits for these two additional employees during the first three years following the bill's enactment will be \$89,201, \$95,275, and \$99,342, respectively. Additional materials and supplies are estimated to be \$8,920 in the first year, \$9,527 in the second year, and \$9,934 in the third year.
- The department estimates a start-up cost of \$129,000 for data processing. Data processing costs are estimated to decrease to \$5,000 for the second and third years.

BILL DESCRIPTION

Senate Bill No. 1321 (2R) of 2006, the "New Jersey Real Estate Timeshare Act," regulates timeshare offerings by creating a comprehensive system that includes registration of offerings, public offering requirements, and consumer protections. The bill removes the regulation of timeshares from the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.). Currently, these acts separately regulate various aspects of timeshare offerings, and place regulatory authority partly with the Department of Community Affairs, and partly with the New Jersey Real Estate Commission within the Department of Banking and Insurance. Under the provisions of the bill, all regulatory authority is instead assigned solely to the Real Estate Commission, in order to avoid any further issues regarding shared authority between the two departments. This restructuring is intended to provide a single regulatory framework for overseeing timeshare offerings directed or targeted to persons within the State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Banking and Insurance estimates that revenues raised as a result of the bill should support expenditures, with the exception of the start-up costs in the first year following the bill's enactment. Total costs to the Department of Banking and Insurance would be \$227,121 in the first year, \$109,802 in the second year, and \$114,276 in the third year, following the bill's enactment. The department estimates that revenues resulting from the bill's provisions will amount to \$204,000, \$212,250, and \$220,750 for each of the first three years following the bill's enactment. This estimate results in a deficit of \$23,151 for the first year, which does not cover estimated expenditures. Following the first year of the bill's enactment, revenues are estimated to exceed expenditures. The department states that two additional staff: an investigator and typist, are necessary to meet the increased responsibilities proposed under the

bill. The salaries and benefits for these two additional employees during the first three years following the bill's enactment will be \$89,201, \$95,275, and \$99,342, respectively. Additional materials and supplies are estimated to be \$8,920 in the first year, \$9,527 in the second year, and \$9,934 in the third year. The department estimates a start-up cost of \$129,000 for data processing. Data processing costs are estimated to decrease to \$5,000 for the second and third years.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive estimate and notes that additional costs as a result of the bill's enactment will have no effect on State funds because under existing law the Real Estate Commission is supported by industry assessments.

Section: Commerce, Labor, and Industry

*Analyst: Sonya S. Davis
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2705

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Co-Sponsored by:

Assemblyman Connors

SYNOPSIS

The "New Jersey Real Estate Timeshare Act."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/13/2006)

1 AN ACT concerning timeshare sales, supplementing chapter 15 of
2 Title 45 of the Revised Statutes and amending P.L.1989, c.239
3 and P.L.1977, c.419.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) Sections 1 through 36 of this act shall be
9 known and may be cited as the "New Jersey Real Estate Timeshare
10 Act."

11
12 2. (New section) As used in sections 1 through 36 of this act:
13 "Accommodation" means any apartment, condominium or
14 cooperative unit, cabin, lodge, hotel or motel room, or other private
15 or commercial structure containing toilet facilities therein that is
16 designed and available, pursuant to applicable law, for use and
17 occupancy as a residence by one or more individuals which is a part
18 of the timeshare property.

19 "Advertisement" means any written, oral or electronic
20 communication that is directed to or targeted to persons within the
21 State and contains a promotion, inducement or offer to sell a
22 timeshare plan, including but not limited to brochures, pamphlets,
23 radio and television scripts, electronic media, telephone and direct
24 mail solicitations and other means of promotion.

25 "Advertisement" does not mean:

26 (1) Any stockholder communication such as an annual report or
27 interim financial report, proxy material, a registration statement, a
28 securities prospectus, a registration, a property report or other
29 material required to be delivered to a prospective purchaser by an
30 agency of any state or federal government;

31 (2) Any oral or written statement disseminated by a developer to
32 broadcast or print media, other than paid advertising or promotional
33 material, regarding plans for the acquisition or development of
34 timeshare property. However, any rebroadcast or any other
35 dissemination of such oral statements to prospective purchasers by a
36 seller in any manner, or any distribution of copies of newspaper
37 magazine articles or press releases, or any other dissemination of
38 such written statement to a prospective purchaser by a seller in any
39 manner, shall constitute an advertisement; or

40 (3) Any communication addressed to and relating to the account
41 of any person who has previously executed a contract for the sale or
42 purchase of a timeshare period in a timeshare plan to which the
43 communication relates shall not be considered advertising under
44 this act, provided they are delivered to any person who has
45 previously executed a contract for the purchase of a timeshare

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 interest or is an existing owner of a timeshare interest in a timeshare
2 plan.

3 "Assessment" means the share of funds required for the payment
4 of common expenses which is assessed from time to time against
5 each timeshare interest by the association.

6 "Association" means the organized body consisting of the
7 purchasers of interests in a timeshare property.

8 "Commission" means the New Jersey Real Estate Commission.

9 "Common expense" means casualty and liability insurance, and
10 those expenses properly incurred for the maintenance, operation,
11 and repair of all accommodations constituting the timeshare plan
12 and any other expenses designated as common expenses by the
13 timeshare instrument.

14 "Component site" means a specific geographic location where
15 accommodations which are part of a multi-site timeshare plan are
16 located. Separate phases of a single timeshare property in a specific
17 geographic location and under common management shall be
18 deemed a single component site.

19 "Department" means the Department of Banking and Insurance.

20 "Developer" means and includes any person or entity, who
21 creates a timeshare plan or is in the business of selling timeshare
22 interests, or employs agents or brokers to do the same, or any
23 person or entity who succeeds to the interest of a developer by sale,
24 lease, assignment, mortgage or other transfer, except that the term
25 shall include only those persons who offer timeshare interests for
26 disposition in the ordinary course of business.

27 "Dispose" or "disposition" means a voluntary transfer or
28 assignment of any legal or equitable interest in a timeshare plan,
29 other than the transfer, assignment or release of a security interest.

30 "Escrow agent" means an independent person, including an
31 independent bonded escrow company, an independent financial
32 institution whose accounts are insured by a governmental agency or
33 instrumentality, or an independent licensed title insurance agent
34 who is responsible for the receipt and disbursement of funds in
35 accordance with this act. If the escrow agent is not located in the
36 State of New Jersey, then this person shall subject themselves to the
37 jurisdiction of the commission with respect to disputes that arise out
38 of the provisions of this act.

39 "Incidental benefit" means an accommodation, product, service,
40 discount, or other benefit which is offered to a prospective
41 purchaser of a timeshare plan or to a purchaser of a timeshare plan
42 prior to the
43 expiration of his or her rescission period pursuant to section 18 of
44 this act and which is not an exchange program, provided that:

45 (1) use or participation in the incidental benefit is completely
46 voluntary;

47 (2) no costs of the incidental benefit are included as common
48 expenses of the timeshare plan;

1 (3) the good faith represented aggregate value of all incidental
2 benefits offered by a developer to a purchaser may not exceed 20
3 percent of the actual price paid by the purchaser for his or her
4 timeshare interest; and

5 (4) the purchaser is provided a disclosure that fairly describes
6 the material terms of the incidental benefit. The term shall not
7 include an offer of the use of the accommodations of the timeshare
8 plan on a free or discounted one-time basis.

9 "Managing entity" means the person who undertakes the duties,
10 responsibilities and obligations of the management of the timeshare
11 property.

12 "Offer" means any inducement, solicitation, or other attempt,
13 whether by marketing, advertisement, oral or written presentation or
14 any other means, to encourage a person to acquire a timeshare
15 interest in a timeshare plan, for gain or profit.

16 "Person" means a natural person, corporation, limited liability
17 company, partnership, joint venture, association, estate, trust,
18 government, governmental subdivision or agency, or other legal
19 entity or any combination thereof.

20 "Promotion" means a plan or device, including one involving the
21 possibility of a prospective purchaser receiving a vacation, discount
22 vacation, gift, or prize, used by a developer, or an agent,
23 independent contractor, or employee of a developer, agent or
24 independent contractor on behalf of the developer, in connection
25 with the offering and sale of timeshare interests in a timeshare plan.

26 "Purchaser" means any person, other than a developer, who by
27 means of a voluntary transfer acquires a legal or equitable interest
28 in a timeshare plan other than as security for an obligation.

29 "Purchase contract" means a document pursuant to which a
30 person becomes legally obligated to sell, and a purchaser becomes
31 legally obligated to buy, a timeshare interest.

32 "Reservation system" means the method, arrangement or
33 procedure by which a purchaser, in order to reserve the use or
34 occupancy of any accommodation of a multi-site timeshare plan for
35 one or more timeshare periods, is required to compete with other
36 purchasers in the same multi-site timeshare plan, regardless of
37 whether the reservation system is operated and maintained by the
38 multi-site timeshare plan managing entity or any other person.

39 "Sales agent" means any person who performs within this State
40 as an agent or employee of a developer any one or more of the
41 services or acts as set forth in this act, and includes any real estate
42 broker, broker salesperson or salesperson licensed pursuant to R.S.
43 45:15-1 et seq., or any person who purports to act in any such
44 capacity.

45 "Timeshare instrument" means one or more documents, by
46 whatever name denominated, creating or governing the operation of
47 a timeshare plan.

48 "Timeshare interest" means and includes either:

1 (1) A "timeshare estate," which is the right to occupy a timeshare
2 property, coupled with a freehold estate or an estate for years with a
3 future interest in a timeshare property or a specified portion thereof;
4 or

5 (2) A "timeshare use," which is the right to occupy a timeshare
6 property, which right is neither coupled with a freehold interest, nor
7 coupled with an estate for years with a future interest, in a
8 timeshare property.

9 "Timeshare period" means the period or periods of time when the
10 purchaser of a timeshare plan is afforded the opportunity to use the
11 accommodations of a timeshare plan.

12 "Timeshare plan" means any arrangement, plan, scheme, or
13 similar device, whether by membership agreement, sale, lease,
14 deed, license, or right to use agreement or by any other means,
15 whereby a purchaser, in exchange for consideration, receives
16 ownership rights in or the right to use accommodations for a period
17 of time less than a full year during any given year on a recurring
18 basis, but not necessarily for consecutive years. A timeshare plan
19 may be:

20 (1) A "single-site timeshare plan," which is the right to use
21 accommodations at a single timeshare property; or

22 (2) A "multi-site timeshare plan," which includes:

23 (a) A "specific timeshare interest," which means an interest
24 wherein a purchaser has, only through a reservation system:

25 (i) a priority right to reserve accommodations at a specific
26 timeshare property without competing with owners of timeshare
27 interests at other component sites that are part of the multi-site
28 timeshare plan, which priority right extends for at least 60 days; and

29 (ii) the right to reserve accommodations on a non-priority basis
30 at other component sites that are part of the multi-site timeshare
31 plan; or

32 (b) A "non-specific timeshare interest", which means an interest
33 wherein a purchaser has, only through a reservation system, the
34 right to reserve accommodations at any component site of the multi-
35 site timeshare plan, with no priority right to reserve
36 accommodations at any specific component site.

37 "Timeshare property" means one or more accommodations
38 subject to the same timeshare instrument, together with any other
39 property or rights to property appurtenant to those accommodations.
40

41 3. (New section) This act shall apply to the following:

42 a. Timeshare plans with an accommodation or component site in
43 the State; and

44 b. Timeshare plans without an accommodation or component
45 site in this State if those timeshare plans are offered to be sold
46 within this State, regardless of whether the offer originates from
47 within or outside of this State.

1 4. (New section) a. This act shall not apply to any of the
2 following:

3 (1) Timeshare plans, whether or not an accommodation or
4 component site is located in the State, consisting of 10 or fewer
5 timeshare interests;

6 (2) Timeshare plans, whether or not an accommodation or
7 component site is located in this State, the use of which extends
8 over any period of three years or less. For purposes of determining
9 the term of a timeshare plan, the period of any renewal or renewal
10 option shall be included;

11 (3) Timeshare plans, whether or not an accommodation or
12 component site is located in the State, under which the prospective
13 purchaser's total financial obligation will be equal to or less than
14 \$3,000 during the entire term of the timeshare plan;

15 (4) Component sites of specific timeshare interest multi-site
16 timeshare plans that are neither located in nor offered for sale in
17 this State, except that these component sites are still subject to the
18 disclosure requirements of section 10 of this act;

19 (5) Offers or dispositions of securities or units of interest issued
20 by a real estate investment trust regulated under any State or federal
21 statute;

22 (6) Offers or dispositions of securities currently registered with
23 the Bureau of Securities within the Division of Consumer Affairs in
24 the Department of Law and Public Safety.

25 b. A person shall not be required to register as a developer under
26 this act if:

27 (1) The person is an owner of a timeshare interest who has
28 acquired the timeshare interest for the person's own use and
29 occupancy and who later offers it for resale in a single or isolated
30 transaction; or

31 (2) The person is a managing entity or an association that is not
32 otherwise a developer of a timeshare plan in its own right, solely
33 while acting as an association or under a contract with an
34 association to offer or sell a timeshare interest transferred to the
35 association through foreclosure, deed in lieu of foreclosure, or
36 gratuitous transfer, if such acts are performed in the regular course
37 of, or as an incident to, the management of the association for its
38 own account in the timeshare plan.

39 c. If a developer has already registered a timeshare plan under
40 this act, the developer may offer or dispose of an interest in a
41 timeshare plan that is not registered under this act if the developer
42 is offering a timeshare interest in the additional timeshare plan to a
43 current timeshare interest owner of a timeshare interest in a
44 timeshare plan created or operated by that same developer subject
45 to the rules and regulations adopted by the commission.

46 d. The commission may, from time to time, pursuant to any
47 rules and regulations adopted pursuant to this act, exempt from any
48 of the provisions of this act any timeshare plan, if it finds that the

1 enforcement of this act with respect to that plan is not necessary in
2 the public interest, or required for the protection of purchasers, by
3 reason of the small amount of the purchase price or the limited
4 character of the offering.

5

6 5. (New section) This act shall be administered by the New
7 Jersey Real Estate Commission in the Department of Banking and
8 Insurance.

9

10 6. (New section) Except as provided in this section, no
11 provision of this act shall invalidate or modify any provision of any
12 zoning, subdivision, or building code, law, ordinance or regulation.
13 In case of conflict between the provisions of this act and the
14 provisions of any other law, ordinance or regulation governing or
15 purporting to govern the creation, registration, disclosure
16 requirements or sale of timeshare interests in a component site, the
17 provisions of this act shall control.

18

19 7. (New section) A timeshare plan may be created in any
20 accommodation unless otherwise prohibited. A timeshare plan shall
21 maintain a one-to-one purchaser-to-accommodation ratio, which
22 means the ratio of the number of purchasers eligible to use the
23 accommodations of a timeshare plan on a given day to the number
24 of accommodations available for use within the plan on that day,
25 such that the total number of purchasers eligible to use the
26 accommodations of the timeshare plan during a given consecutive
27 12-month period never exceeds the total number of
28 accommodations available for use in the timeshare plan during that
29 consecutive 12-month period. For purposes of the calculation under
30 this section, each purchaser shall be counted at least once, and an
31 individual accommodation shall not be counted more than one time
32 per day per year. An owner of a timeshare interest who is
33 delinquent in the payment of a timeshare plan assessment shall
34 continue to be considered eligible to use the accommodations of the
35 timeshare plan for purposes of calculating the one-to-one purchaser-
36 to-accommodation ratio.

37

38 8. (New section) a. A developer who sells, offers to sell, or
39 attempts to solicit prospective purchasers in this State to purchase a
40 timeshare interest, or any person who creates a timeshare plan with
41 an accommodation in the State, shall register with the commission,
42 on forms provided by the commission or in electronic formats
43 authorized by the commission, all timeshare plans which have
44 accommodations located in the State or which are sold or offered
45 for sale to any individual located in the State.

46 b. Upon the submission of an application approved by the
47 commission, the commission may grant a 90 day preliminary
48 registration to allow the developer to begin offering and selling

1 timeshare interests in a timeshare plan regardless of whether the
2 accommodations of the timeshare plan are located within or outside
3 of the State. Upon submission of a substantially complete
4 application for an abbreviated or comprehensive registration under
5 this act, including all appropriate fees, to the commission prior to
6 the expiration date of the preliminary registration, the preliminary
7 registration will be automatically extended during the registration
8 review period provided that the developer is actively and diligently
9 pursuing registration under this act. The preliminary registration
10 shall automatically terminate with respect to those timeshare
11 interests covered by a final public offering statement that is issued
12 before the scheduled termination date of the preliminary
13 registration. The preliminary registration shall also terminate upon
14 the issuance of any notice of rejection due to the developer's failure
15 to comply with the provisions of this act.

16 To obtain a preliminary registration, the developer shall provide
17 all of the following:

18 (1) Submit the reservation instrument to be used in a form
19 previously approved by the department with at least the following
20 provisions:

21 (a) The right of both the developer and the potential purchaser to
22 unilaterally cancel the reservation at any time;

23 (b) The payment to the potential purchaser of his or her total
24 deposit following cancellation of the reservation by either party;

25 (c) The placing of the deposit into an escrow account; and

26 (d) A statement to the effect that the offering has not yet received
27 final approval from the commission, and that no offering can be
28 made until an offering plan has been filed with, and accepted by,
29 the commission;

30 (2) Agree to provide each potential purchaser with a copy of the
31 preliminary public offering statement and an executed receipt for a
32 copy before any money or other thing of value has been accepted by
33 or on behalf of the developer in connection with the reservation;

34 (3) Agree to provide a copy of the reservation instrument signed
35 by the potential purchaser and by or on behalf of the developer to
36 the potential purchaser;

37 (4) Provide evidence acceptable to the commission that all funds
38 received by the developer will be placed into an independent escrow
39 account with instructions that no funds will be released until a final
40 order of registration has been granted;

41 (5) Submit the filing fee for a preliminary registration as
42 provided for by regulation. The filing fee shall be in addition to the
43 filing fees for an abbreviated or comprehensive registration as
44 established by this act;

45 (6) File all advertisements to be utilized by the developer under
46 the preliminary registration with the commission before use.

47 All advertisements and advertising literature shall contain the
48 following, or substantially similar, disclaimer:

1 "This advertising material is being used for the purpose of
2 soliciting sales of timeshare interests.";

3 (7) Such other information as the commission may require in
4 order to further the provisions of this act, to assure full and fair
5 disclosure and for the protection of purchaser interests.

6 c. Prior to the issuance of an order of registration for an
7 abbreviated or comprehensive registration, the commission may
8 issue a conditional registration approval for a timeshare plan if the
9 filing is deemed to be substantially complete by the commission
10 and the commission determines that the deficiencies are likely to be
11 corrected by the applicant in a reasonable time and manner. Once
12 the commission issues a conditional registration approval, the
13 applicant may begin entering into purchase contracts with the
14 purchaser and provide the purchaser with the most current version
15 of the public offering statement; however, no rescission period may
16 begin to run until the final approved public offering statement is
17 delivered to the purchaser. If there is no material difference
18 between the documents provided to the purchaser pursuant to the
19 conditional registration and the documents approved as part of the
20 final order of approval, then those documents need not be delivered
21 again to the purchaser. All purchase contracts that are executed
22 under the authority of a conditional registration approval shall
23 contain the following provisions:

24 (1) No escrow will close, funds will not be released from
25 escrow, and the interest contracted for will not be conveyed until a
26 final approved public offering statement for the timeshare plan is
27 furnished to the purchaser.

28 (2) The contract may be rescinded, in which event the entire
29 sum of money paid or advanced by the purchaser shall be returned
30 if the purchaser or lessee is dissatisfied with the final public
31 offering statement.

32 (3) The term for a conditional registration approval shall be six
33 months from the date of approval by the commission, and may be
34 extended upon application to the commission for an additional six
35 month period.

36 d. A developer shall include in its application for registration
37 with the commission, the following information:

38 (1) The developer's legal name, any assumed names used by the
39 developer, and the developer's principal office location, mailing
40 address, primary contact person and telephone number;

41 (2) The name, location, mailing address, primary contact person
42 and telephone number of the timeshare plan;

43 (3) The name and principal address of the developer's authorized
44 New Jersey representative who shall be a licensed real estate broker
45 licensed to maintain offices within this State;

46 (4) A declaration as to whether the timeshare plan is a single-
47 site timeshare plan or a multi-site timeshare plan and, if a multi-site
48 timeshare plan, whether it consists of specific timeshare interests or

1 non-specific timeshare interests;

2 (5) The name and principal address of all brokers within New
3 Jersey who sell or offer to sell any timeshare interests in any
4 timeshare plan offered by the developer to any person in this State,
5 who shall be licensed as a real estate broker pursuant to R.S.45:15-1
6 et seq., and who are the authorized representatives of the developer;

7 (6) The name and principal address of all non affiliated
8 marketing entities who, by means of inducement, promotion or
9 advertisement, attempt to encourage or procure prospective
10 purchasers located in the State to attend a sales presentation for any
11 timeshare plan offered by the developer or authorized broker;

12 (7) The name and principal address of all managing entities who
13 manage the timeshare plan;

14 (8) A public offering statement which complies with the
15 requirements of this act; and

16 (9) Any other information regarding the developer, timeshare
17 plan, brokers, marketing entities or managing entities as required by
18 the commission and established by the commission by regulation.

19 e. The developer shall comply with the following escrow
20 requirements:

21 (1) A developer of a timeshare plan shall deposit with an escrow
22 agent all funds which are received during the purchaser's
23 cancellation period set forth in section 18 of this act, into an escrow
24 account in a federally insured depository or a depository acceptable
25 to the commission. The deposit of such funds shall be evidenced by
26 an executed escrow agreement between the escrow agent and the
27 developer. The escrow agreement shall include provisions that
28 funds may be disbursed to the developer by the escrow agent from
29 the escrow account only after expiration of the purchaser's
30 cancellation period and in accordance with the purchase contract,
31 subject to paragraph (2) of this subsection.

32 (2) If a developer contracts to sell a timeshare interest and the
33 construction of any property in which the timeshare interest is
34 located has not been completed, the developer, upon expiration of
35 the cancellation period set forth in section 18 of this act, shall
36 continue to maintain in an escrow account all funds received by or
37 on behalf of the developer from the purchaser under the purchase
38 contract. The commission shall establish by rule the type of
39 documentation which shall be required for evidence of completion,
40 including but not limited to a certificate of occupancy, a certificate
41 of substantial completion, or equivalent certificate from a public
42 safety inspection agency in the applicable jurisdiction. Funds shall
43 be released from escrow as follows:

44 (a) If a purchaser properly cancels the purchase contract pursuant
45 to its terms, the funds shall be paid to the purchaser or paid to the
46 developer if the purchaser's funds have been previously refunded by
47 the developer.

48 (b) If a purchaser defaults in the performance of the purchaser's

1 obligations under the purchase contract, the funds shall be paid to
2 the developer.

3 (c) If the funds of a purchaser have not been previously
4 disbursed in accordance with the provisions of this paragraph, they
5 may be disbursed to the developer by the escrow agent upon the
6 issuance of acceptable evidence of completion of construction as
7 provided herein.

8 (3) In lieu of the provisions in paragraphs (1) and (2) of this
9 subsection, the commission may accept from the developer a surety
10 bond, bond in lieu of escrow, irrevocable letter of credit or other
11 financial assurance acceptable to the commission. Any acceptable
12 financial assurance shall be in an amount equal to or in excess of
13 the lesser of the funds which would otherwise be placed in escrow
14 in accordance with the provisions of paragraph (1) of this
15 subsection, or in an amount equal to the cost to complete the
16 incomplete property in which the timeshare interest is located.
17 However, in no event shall the amount be less than the amount of
18 funds that would otherwise be placed in escrow pursuant to
19 paragraph (1) of this subsection.

20 (4) The developer shall provide escrow account information to
21 the commission and shall execute in writing an authorization
22 consenting to an audit or examination of the account by the
23 commission on forms provided by the commission. The developer
24 shall comply with the reconciliation and records requirements
25 established by rule by the commission. The developer shall make
26 documents related to the escrow account or escrow obligation
27 available to the commission upon the commission's request. The
28 escrow agent shall maintain any disputed funds in the escrow
29 account until either:

30 (a) Receipt of written direction agreed to by signature of all
31 parties; or

32 (b) Deposit of the funds with a court of competent jurisdiction in
33 which a civil action regarding the funds has been filed.

34 f. The commission may accept, as provided by regulation, an
35 abbreviated registration application of a developer of a timeshare
36 plan in which all accommodations are located outside of the State.
37 The developer shall provide evidence that the timeshare plan is
38 registered with the applicable regulatory agency in a state or
39 jurisdiction where the timeshare plan is offered or sold, or that the
40 timeshare plan is in compliance with the laws and regulations of the
41 applicable state jurisdiction in which some or all of the
42 accommodations are located, which state or jurisdiction shall have
43 disclosure requirements that are substantially equivalent to or
44 greater than the information required to be disclosed pursuant to
45 subsection b. and c. of this section to purchasers in this State. A
46 developer filing an abbreviated registration application shall
47 provide the following:

48 (1) The developer's legal name, any assumed names used by the

- 1 developer, and the developer's principal office location, mailing
2 address, primary contact person and telephone number;
 - 3 (2) The name, location, mailing address, primary contact person
4 and telephone number of the timeshare plan;
 - 5 (3) The name and principal address of the developer's authorized
6 New Jersey representative who shall be a licensed real estate broker
7 licensed to maintain offices within this State;
 - 8 (4) The name and principal address of all brokers within New
9 Jersey who sell or offer to sell any timeshare interests in any
10 timeshare plan offered by the developer to any person in this State,
11 who shall be licensed as a real estate broker pursuant to R.S. 45:15-
12 1 et seq., and who are the authorized representatives of the
13 developer;
 - 14 (5) The name and principal address of all non-affiliated
15 marketing entities who, by means of inducement, promotion or
16 advertisement, attempt to encourage or procure prospective
17 purchasers located in the State to attend a sales presentation for any
18 timeshare plan offered by the developer or authorized broker;
 - 19 (6) The name and principal address of all managing entities who
20 manage the timeshare plan;
 - 21 (7) Evidence of registration or compliance with the laws and
22 regulations of the jurisdiction in which the timeshare plan is
23 located, approved or accepted;
 - 24 (8) A declaration as to whether the timeshare plan is a single-
25 site timeshare plan or a multi-site timeshare plan and, if a multi-site
26 timeshare plan, whether it consists of specific timeshare interests or
27 non-specific timeshare interests;
 - 28 (9) Disclosure of each jurisdiction in which the developer has
29 applied for registration of the timeshare plan, and whether the
30 timeshare plan or its developer were denied registration or were the
31 subject of any disciplinary proceeding;
 - 32 (10) Copies of any disclosure documents required to be given to
33 purchasers or required to be filed with the jurisdiction in which the
34 timeshare plan is located, approved or accepted as may be requested
35 by the commission;
 - 36 (11) The appropriate fee; and
 - 37 (12) Any other information regarding the developer, timeshare
38 plan, brokers, marketing entities or managing entities as required by
39 the commission and established by the commission by regulation.
- 40 A developer of a timeshare plan with any accommodation
41 located in this State may not file an abbreviated filing with regard
42 to such timeshare plan, with the exception of a succeeding
43 developer after a merger or acquisition when the developer's
44 timeshare plan was registered in this State prior to the merger or
45 acquisition.
- 46
- 47 9. (New section) The developer shall have responsibility for
48 each timeshare plan registered with the commission and for the

1 actions of any sales agent, managing entity or marketing entity
2 utilized by the developer in the offering or promotional selling of
3 any registered timeshare plan. Any violation of this act which
4 occurs during the offering activities shall be a violation by the
5 developer as well as by the sales agent, marketing entity or
6 managing entity who actually committed the violation.
7 Notwithstanding anything to the contrary in this act, the developer
8 shall be responsible for the actions of the association and managing
9 entity only while they are subject to the developer's control.

10

11 10. (New section) a. A developer shall: (1) prepare a public
12 offering statement; (2) provide the statement to each purchaser of a
13 timeshare interest in any timeshare plan at the time of purchase; and
14 (3) fully and accurately disclose those facts concerning the
15 timeshare developer and timeshare plan that are required by this act
16 or by regulations promulgated by the commission.

17 The public offering statement shall be in writing and dated and
18 shall require the purchaser to certify in writing that the purchaser
19 received the statement. Upon approval of the commission, the
20 developer may offer to deliver the public offering statement and
21 other documents on CD-ROM format, Internet website or other
22 electronic media if the purchaser consents.

23 b. The public offering disclosure statement for a single-site
24 timeshare plan shall include:

25 (1) The name and address of the developer;

26 (2) A description of the duration and operation of the timeshare
27 plan;

28 (3) A description of the existing or proposed accommodations,
29 including the type and number of timeshare interests in the
30 accommodations expressed in periods of seven-day use availability
31 or other time increments applicable to the timeshare plan. The
32 description of each type of accommodation included in the
33 timeshare plan shall be categorized by the number of bedrooms, the
34 number of bathrooms, and sleeping capacity, and shall include a
35 statement indicating whether the accommodation contains a full
36 kitchen, which means a kitchen that has a minimum of a
37 dishwasher, range, sink, oven, and refrigerator. If the
38 accommodations are proposed or incomplete, a schedule for
39 commencement, completion, and availability of the
40 accommodations shall be provided;

41 (4) A description of any existing or proposed amenities of the
42 timeshare plan and, if the amenities are proposed or incomplete, a
43 schedule for commencement, completion, and availability of the
44 amenities;

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

48 (6) A description of the method and timing for performing

1 maintenance of the accommodations;

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

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

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

13 (10) A statement that within seven days after receipt of the
14 public offering statement or after execution of the purchase
15 contract, whichever is later, a purchaser may cancel any purchase
16 contract for a timeshare interest from a developer together with a
17 statement providing the name and street address to which the
18 purchaser should mail any notice of cancellation. However, if by
19 agreement of the parties by and through the purchase contract, the
20 purchase contract allows for cancellation of the purchase contract
21 for a period of time exceeding seven days, then the public offering
22 statement shall include a statement that the cancellation of the
23 purchase contract is allowed for that period of time exceeding seven
24 days;

25 (11) Copies of the following documents, if applicable, including
26 any amendments to the documents, unless separately provided to
27 the purchaser simultaneously with the public offering statement:

28 (a) the timeshare instrument;

29 (b) the association articles of incorporation;

30 (c) the association bylaws;

31 (d) the association rules; and

32 (e) any lease or contract, excluding the purchase contract and
33 other loan documents required to be signed by the purchaser at
34 closing;

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

39 (13) The current annual budget, if available, or the projected
40 annual budget for the timeshare plan. The budget shall include:

41 (a) a statement of the amount reserved or budgeted for repairs or
42 replacements, if any;

43 (b) the projected common expense liability, if any, by category
44 of expenditure for the timeshare plan; and

45 (c) a statement of any services or expenses not reflected in the
46 budget that the developer provides or pays;

47 (14) The projected assessments and a description of the method
48 for calculating and apportioning those assessments among

1 purchasers;

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

5 (16) A description of any lien, defect, or encumbrance on or
6 affecting title to the timeshare interest and, if applicable, a copy of
7 each written warranty provided by the developer;

8 (17) A description of any bankruptcy that is pending or which
9 has occurred within the past five years, pending civil or criminal
10 proceeding, adjudication, or disciplinary action material to the
11 timeshare plan of which the developer has knowledge;

12 (18) A description of any financing offered by or available
13 through the developer;

14 (19) Any current or anticipated fees or charges to be paid by
15 timeshare purchasers for the use of any accommodations or
16 amenities related to the timeshare plan, and a statement that the fees
17 or charges are subject to change;

18 (20) A description and amount of insurance coverage provided
19 for the protection of the purchaser;

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

23 (22) A description of those matters required by section 18 of this
24 act;

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

27 (24) A statement disclosing that any deposit made in connection
28 with the purchase of a timeshare interest shall be held by an escrow
29 agent until expiration of any right to cancel the contract and that
30 any deposit shall be returned to the purchaser if the purchaser
31 elects to exercise the right of cancellation; or, if the commission
32 accepts from the developer a surety bond, irrevocable letter of
33 credit, or other form of financial assurance instead of an escrow
34 deposit, a statement disclosing that the developer has provided a
35 surety bond, irrevocable letter of credit, or other form of financial
36 assurance in an amount equal to or in excess of the funds that would
37 otherwise be held by an escrow agent and that the deposit shall be
38 returned if the purchaser elects to exercise the right of cancellation;

39 (25) A description of the name and address of the exchange
40 company and the method by which a purchaser accesses the
41 exchange program, if the timeshare plan provides purchasers with
42 the opportunity to participate in an exchange program; and

43 (26) Any other information the commission determines is
44 necessary to protect prospective purchasers or to implement the
45 purpose of this act.

46 The developer may also include any other information in the
47 timeshare disclosure statement following approval by the
48 commission.

- 1 c. The disclosure statement for a specific timeshare interest
2 multi-site timeshare plan shall include:
- 3 (1) With regard to the timeshare property in which the purchaser
4 will receive a specific timeshare interest that includes a reservation
5 priority right, all of the applicable information related to that
6 timeshare property as required under subsection b. of this section;
- 7 (2) With regard to the component site in which the purchaser
8 does not receive a specific timeshare interest, the following
9 information:
- 10 (a) a description of each component site, including the name and
11 address of each component site;
- 12 (b) a description of each type of accommodation in each
13 component site, categorized by the number of bedrooms, the
14 number of bathrooms, and sleeping capacity, and a statement
15 indicating whether the accommodation contains a full kitchen,
16 which means a kitchen that has a minimum of a dishwasher, range,
17 sink, oven, and refrigerator;
- 18 (c) a description of the amenities at each component site
19 available for use by the purchaser;
- 20 (d) a description of the reservation system, which shall include:
- 21 (i) the entity responsible for operating the reservation system, its
22 relationship to the developer, and the duration of any agreement for
23 operation of the reservation system;
- 24 (ii) a summary of the rules governing access to and use of the
25 reservation system; and
- 26 (iii) the existence of and explanation regarding any priority
27 reservation features that affect a purchaser's ability to make
28 reservations for the use of a given accommodation on a first-come,
29 first-served basis;
- 30 (e) The name and principal address of the managing entity for
31 the multi-site timeshare plan and a description of the procedures, if
32 any, for altering the powers and responsibilities of the managing
33 entity and for removing or replacing it;
- 34 (f) A description of any right to make additions to, substitutions
35 in, or deletions from accommodations, amenities, or component
36 sites, and a description of the basis on which accommodations,
37 amenities, or component sites may be added to, substituted in, or
38 deleted from the multi-site timeshare plan;
- 39 (g) A description of the purchaser's liability for any fees
40 associated with the multi-site timeshare plan;
- 41 (h) The location of each component site of the multi-site
42 timeshare plan, as well as any periodic adjustment or amendment to
43 the reservation system that may be needed in order to respond to
44 actual purchaser use patterns and changes in purchaser use demand
45 for the accommodations existing at the time within the multi-site
46 timeshare plan; and
- 47 (i) Any other information the commission determines is
48 necessary to protect prospective purchasers or to implement the

1 purpose of this act.

2 d. The public offering statement for a non-specific timeshare
3 interest multi-site timeshare plan shall include:

4 (1) The name and address of the developer;

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

7 (3) A description of the duration and operation of the timeshare
8 plan;

9 (4) A description of the type of insurance coverage provided for
10 each component site;

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

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

15 (7) A description of the existing or proposed accommodations
16 expressed in periods of seven-day use availability or other time
17 increments applicable to the timeshare plan. The description of each
18 type of accommodation included in the timeshare plan shall be
19 categorized by the number of bedrooms, the number of bathrooms,
20 and sleeping capacity, and shall include a statement indicating
21 whether the accommodation contains a full kitchen, which means a
22 kitchen that has a minimum of a dishwasher, range, sink, oven, and
23 refrigerator. If the accommodations are proposed or incomplete, a
24 schedule for commencement, completion and availability of the
25 accommodations shall be provided;

26 (8) A statement that an association for the multi-site timeshare
27 plan exists or is expected to be created or that such an association
28 does not exist and is not expected to be created and, if such an
29 association exists or is reasonably contemplated, a description of its
30 powers and responsibilities;

31 (9) If applicable, copies of the following documents applicable
32 to the multi-site timeshare plan, including any amendments to such
33 documents, unless separately provided to the purchaser
34 simultaneously with the timeshare disclosure statement:

35 (a) the timeshare instrument;

36 (b) the association articles of incorporation;

37 (c) the association bylaws; and

38 (d) the association rules;

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

41 (11) A statement indicating that, on an annual basis, the total
42 number of purchasers eligible to use the accommodations of the
43 timeshare plan during a given consecutive 12 month period never
44 exceeds the total number of accommodations available for use in
45 the timeshare plan during that consecutive 12 month period;

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

48 (13) The location of each component site of the multi-site

1 timeshare plan, as well as any periodic adjustment or amendment to
2 the reservation system that may be needed in order to respond to
3 actual purchaser use patterns and changes in purchaser use demand
4 for the accommodations existing at the time within the multi-site
5 timeshare plan;

6 (14) A description of any right to make any additions,
7 substitutions, or deletions of accommodations, amenities, or
8 component sites, and a description of the basis upon which
9 accommodations, amenities, or component sites may be added to,
10 substituted in, or deleted from the multi-site timeshare plan;

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

13 (a) the entity responsible for operating the reservation system, its
14 relationship to the developer, and the duration of any agreement for
15 operation of the reservation system;

16 (b) a summary of the rules governing access to and use of the
17 reservation system; and

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

22 (16) The name and principal address of the managing entity for
23 the multi-site timeshare plan and a description of the procedures, if
24 any, for altering the powers and responsibilities of the managing
25 entity and for removing or replacing it, and a description of the
26 relationship between the multi-site timeshare plan managing entity
27 and the managing entity of the component sites of the multi-site
28 timeshare plan, if different from the multi-site timeshare plan
29 managing entity;

30 (17) A statement that within seven days after receipt of the
31 public offering statement or after execution of the purchase
32 contract, whichever is later, a purchaser may cancel any purchase
33 contract for a timeshare interest from a developer together with a
34 statement providing the name and street address to which the
35 purchaser should mail any notice of cancellation. However, if by
36 agreement of the parties by and through the purchase contract, the
37 purchase contract allows for cancellation of the purchase contract
38 for a period of time exceeding seven days, then the public offering
39 statement shall include a statement that the cancellation of the
40 purchase contract is allowed for that period of time exceeding seven
41 days;

42 (18) The current annual budget of the multi-site timeshare plan,
43 if available, or the projected annual budget for the multi-site
44 timeshare plan, which shall include:

45 (a) a statement of the amount reserved or budgeted, if any, for
46 repairs, replacements, and refurbishment;

47 (b) the projected common expense liability, if any, by category
48 of expenditure for the multi-site timeshare plan; and

- 1 (c) a statement of any services or expenses not reflected in the
2 budget that the developer provides or pays;
- 3 (19) The projected assessments and a description of the method
4 for calculating and apportioning those assessments among
5 purchasers of the multi-site timeshare plan;
- 6 (20) Any current fees or charges to be paid by purchasers for the
7 use of any amenities related to the timeshare plan and a statement
8 that the fees or charges are subject to change;
- 9 (21) Any initial or special fee due from the purchaser at closing,
10 together with a description of the purpose and method of calculating
11 the fee;
- 12 (22) A description of the purchaser's liability for any fees
13 associated with the multi-site timeshare plan;
- 14 (23) A description of any lien, defect, or encumbrance on or
15 affecting title to the timeshare interest and, if applicable, a copy of
16 each written warranty provided by the developer;
- 17 (24) The extent to which a timeshare interest may become
18 subject to a tax lien or other lien arising out of claims against
19 purchasers of different timeshare interests;
- 20 (25) A description of those matters required by section 18 of this
21 act;
- 22 (26) A description of any financing offered by or available
23 through the developer;
- 24 (27) A description of any bankruptcy that is pending or which
25 has occurred within the past five years, pending civil or criminal
26 proceeding, adjudication, or disciplinary action material to the
27 timeshare plan of which the developer has knowledge;
- 28 (28) A statement disclosing any right of first refusal or other
29 restraint on the transfer of all or a portion of a timeshare interest;
- 30 (29) A statement disclosing that any deposit made in connection
31 with the purchase of a timeshare interest shall be held by an escrow
32 agent until expiration of any right to cancel the contract and that
33 any deposit shall be returned to the purchaser if the purchaser elects
34 to exercise the right of cancellation; or, if the commission accepts
35 from the developer a surety bond, irrevocable letter of credit, or
36 other form of financial assurance instead of an escrow deposit, a
37 statement disclosing that the developer has provided a surety bond,
38 irrevocable letter of credit, or other form of financial assurance in
39 an amount equal to or in excess of the funds that would otherwise
40 be held by an escrow agent and that the deposit shall be returned if
41 the purchaser elects to exercise the right of cancellation;
- 42 (30) A description of the name and address of the exchange
43 company and the method by which a purchaser accesses the
44 exchange program, if the timeshare plan provides purchasers with
45 the opportunity to participate in an exchange program;
- 46 (31) Any other information the commission determines is
47 necessary to protect prospective purchasers or to implement the
48 purpose of this act. The developer may also include any other

1 information in the timeshare disclosure statement following
2 approval by the commission.

3 e. The developer shall also distribute to the purchaser any
4 additional documents as the commission may require for
5 accommodations in this State as provided by regulation, including
6 such additional documentation as may be required under the
7 "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

8
9 11. (New section) a. Within 30 days after each annual
10 anniversary date of an order registering the timeshare, or on or
11 before a date set by the commission, and while the developer
12 continues to offer any timeshare interests in the timeshare plan in
13 this State, the developer shall file a report in the form prescribed by
14 the rules and regulations promulgated by the commission. The
15 report shall reflect any material changes in the information
16 contained in the original or subsequently submitted applications or
17 documents.

18 b. (1) The developer shall file amendments to its registration to
19 reflect any material change in any information set forth in the
20 project and disclosure documents. The developer shall notify the
21 commission of the material change prior to implementation of the
22 change, unless the change is beyond the control of the developer; in
23 which event, the developer shall provide written notice to the
24 commission as soon as reasonably practicable after the occurrence
25 of the event. All amendments, supplements, and facts relevant to
26 the material change shall be filed with the commission within 20
27 calendar days of the material change.

28 (2) The developer may continue to sell timeshare interests in the
29 timeshare plan so long as, prior to closing, the developer provides a
30 notice to each purchaser that describes the material change and
31 provides to each purchaser the previously approved public offering
32 statement. If the change is material and adverse to the purchasers of
33 the timeshare plan as a whole, as determined by the commission, no
34 closing shall occur until the amendment relating to the material and
35 adverse change has been approved by the commission. After the
36 amendment relating to the material and adverse change has been
37 approved and the amended public offering statement has been
38 issued, the amended public offering statement shall be provided to
39 the purchaser, and an additional seven-day rescission period shall
40 commence. The developer shall be required to maintain evidence
41 of the receipt by each purchaser of the amended public offering
42 statement. If the commission refuses to approve the amendment
43 relating to the material and adverse change, all sales made using the
44 notice shall be subject to rescission and all funds returned.

45 (3) The developer shall update the public offering statement to
46 reflect any changes to the timeshare plan that are not material and
47 adverse, including the addition of any component sites, within a
48 reasonable time as determined by the commission pursuant to

1 regulation.

2 c. Upon a determination by the commission that an annual report
3 is no longer necessary for the protection of the public interest or
4 that the developer no longer retains any interest and no longer has
5 any contractual, bond or other obligations in the subdivision, the
6 commission shall issue an order terminating the responsibilities of
7 the developer under this act.

8
9 12. (New section) Upon receipt of a substantially complete
10 application for registration, in proper form and accompanied by the
11 appropriate filing fees, the commission shall, within 10 business
12 days of receipt of the registration, issue a notice of filing. The
13 notice shall not be construed as an approval of the registration, or
14 any portion thereof.

15
16 13. (New section) Every registration required to be filed with
17 the commission under this act shall be reviewed by the commission
18 and the commission shall issue an order of registration in
19 accordance with the following schedule:

20 a. As to comprehensive registrations, registrations shall be
21 effective upon the issuance of an order of registration by the
22 commission within 60 days after receipt and issuance of a notice of
23 filing. The commission shall provide a list of deficiencies in the
24 application, if any, within 60 days of the issuance of the notice of
25 filing. If a list of deficiencies is not provided to the applicant
26 within 60 days of issuance of the notice of filing, the timeshare plan
27 shall be deemed registered unless the applicant has consented in
28 writing to a delay.

29 b. As to abbreviated registrations, registration shall be effective
30 upon the issuance of an order of registration by the commission 30
31 days after receipt and issuance of a notice of filing. The commission
32 shall provide a list of deficiencies in the application, if any, within
33 30 days of the issuance of the notice of filing. If a list of
34 deficiencies is not provided to the applicant within 30 days of the
35 issuance of the notice of filing, the timeshare plan shall be deemed
36 registered unless the applicant has consented in writing to a delay.

37 c. A preliminary registration shall be effective within 20 days of
38 receipt, unless the commission provides to the applicant a written
39 list of deficiencies in the application, if any, within 20 days of
40 receipt of a completed application and fee. If a list of deficiencies
41 is not provided to the applicant within 20 days of receipt of the
42 application for a preliminary registration, the preliminary
43 registration shall be deemed approved unless the applicant has
44 consented in writing to a delay.

45
46 14. (New section) a. If the commission determines upon
47 inquiry and examination that any of the requirements of this act
48 have not been met, the commission shall notify the applicant that

1 the application for registration shall be corrected as specified in
2 writing within 30 days from the date the notice is received by the
3 applicant. These findings shall be the result of the commission's
4 preliminary inquiry and examination and no hearing shall be
5 required as the basis for those findings.

6 b. In the event that the requirements of the deficiency notice are
7 not met within the time frame provided in subsection a. of this
8 section, and the applicant has not demonstrated a good faith effort
9 to correct the deficiencies, the commission may enter an order
10 rejecting the filing. The order shall include the factual and legal
11 basis for the rejection and shall provide that, unless appealed as
12 provided for in subsection c. of this section, the terms of the order
13 shall become final after 45 days of delivery to the applicant.

14 c. Upon the applicant's receipt of an order of rejection, the
15 applicant shall have the right to file an appeal with the commission
16 and shall be entitled to a hearing thereon provided that the appeal is
17 filed within 45 days of the applicant's receipt of the order of
18 rejection. In the event that an appeal is filed by the applicant, the
19 order of rejection shall not take effect until such time as a
20 determination has been rendered on the appeal. While an appeal of
21 an order of rejection remains pending, a timeshare plan which is the
22 subject of the notice of filing referenced in the order of rejection
23 shall not be considered registered.

24

25 15. (New section) a. The fee for an initial registration shall be
26 \$1,000 plus \$50 per timeshare interest, which fee shall not exceed
27 \$7,500, unless otherwise provided by the commission pursuant to
28 regulation to defray the cost of rendering the services required by
29 the provisions of this act.

30 b. The commission may also provide, by regulation, for fees to
31 cover the reasonable expenses of carrying out other responsibilities
32 established under this act, including, but not limited to, fees for the
33 processing of amendments, exemption applications and preliminary
34 registrations.

35

36 16. (New section) Unless otherwise provided by regulation, a
37 developer, or any of its agents, shall not sell, offer, or dispose of a
38 timeshare interest in this State unless all necessary registrations are
39 filed and approved by the commission, or while an order revoking
40 or suspending a registration is in effect.

41

42 17. (New section) a. Before the first sale of a timeshare
43 interest, the developer shall create or provide for a managing entity,
44 which shall be either the developer, a separate manager or
45 management firm, the board of directors of an owners' association,
46 or some combination thereof.

47 b. The duties of the managing entity shall include, but not be
48 limited to:

- 1 (1) Management and maintenance of all accommodations
- 2 constituting the timeshare plan;
- 3 (2) Collection of all assessments as provided in the timeshare
- 4 instrument;
- 5 (3) Providing to all purchasers each year an itemized annual
- 6 budget, which shall include all estimated revenues and expenses;
- 7 (4) Maintenance of all books and records concerning the
- 8 timeshare plan;
- 9 (5) Scheduling occupancy of accommodations, when purchasers
- 10 are not entitled to use specific timeshare periods, so that all
- 11 purchasers will be provided the opportunity to possess and use the
- 12 accommodations of the timeshare plan which they have purchased;
- 13 and
- 14 (6) Performing any other functions and duties that are necessary
- 15 and proper to maintain the accommodations or that are required by
- 16 the timeshare instrument.
- 17 c. In the event a developer, managing entity or association files
- 18 a complaint in a foreclosure proceeding involving timeshare
- 19 interests, the developer, managing entity or association may join in
- 20 the same action multiple defendant obligors and junior interest
- 21 holders of separate timeshare interests, provided:
- 22 (1) The foreclosure proceeding involves a single timeshare plan;
- 23 (2) The foreclosure proceeding is filed by a single plaintiff;
- 24 (3) The default and remedy provisions in the written instruments
- 25 on which the foreclosure proceeding is based are substantially the
- 26 same for each defendant; and
- 27 (4) The nature of the defaults alleged is the same for each
- 28 defendant.
- 29 d. In any foreclosure proceeding involving multiple defendants
- 30 filed under subsection c. of this section, the court shall, if
- 31 appropriate, sever for separate trial any count of the complaint in
- 32 which a defense or counterclaim is timely raised by a defendant.
- 33
- 34 18. (New section) Any purchase contract entered into by a
- 35 purchaser of a timeshare interest under this act shall be voidable by
- 36 the purchaser, without penalty, within seven calendar days after the
- 37 receipt of the public offering statement or the execution of the
- 38 purchase contract, whichever date is later. The purchase contract
- 39 shall provide notice of the seven-day cancellation period, together
- 40 with the name and mailing address to which any notice of
- 41 cancellation shall be delivered. Notice of cancellation shall be
- 42 timely if the notice is deposited with the United States Postal
- 43 Service not later than midnight of the seventh day. Upon such
- 44 cancellation, the developer shall refund to the purchaser all
- 45 payments made by the purchaser, less the amount of any benefits
- 46 actually received pursuant to the purchase contract. The refund
- 47 shall be made within 30 days after the receipt of the notice of
- 48 cancellation, or receipt of funds from the purchaser's cleared check,

1 whichever occurs later. If a purchaser elects to cancel a purchase
2 contract pursuant to this section, the purchaser may do so by hand
3 delivering a written notice of cancellation or by mailing a notice of
4 cancellation by certified mail, return receipt requested, to the
5 developer, as applicable, at an address set forth in the purchase
6 contract.

7
8 19. (New section) Excluding any encumbrance placed against
9 the purchaser's timeshare interest securing the purchaser's payment
10 of purchase money financing for the purchase, the developer shall
11 not be entitled to the release of any funds escrowed with respect to
12 each timeshare interest and any other property or rights to property
13 appurtenant to the timeshare interest, including any amenities
14 represented to the purchaser as being part of the timeshare plan,
15 until the developer has provided satisfactory evidence to the
16 commission of one of the following:

17 a. The timeshare interest together with any other property or
18 rights to property appurtenant to the timeshare interest, including
19 any amenities represented to the purchaser as being part of the
20 timeshare plan, are free and clear of any of the claims of the
21 developer, any owner of the underlying fee, a mortgagee, judgment
22 creditor, or other lienor or any other person having an interest in or
23 lien or encumbrance against the timeshare interest or appurtenant
24 property or property rights;

25 b. The developer, any owner of the underlying fee, a mortgagee,
26 judgment creditor, or other lienor, or any other person having an
27 interest in or lien or encumbrance against the timeshare interest or
28 appurtenant property or property rights, including any amenities
29 represented to the purchaser as being part of the timeshare plan, has
30 recorded a subordination and notice to creditors document in the
31 jurisdiction in which the timeshare interest is located. The
32 subordination document shall expressly and effectively provide that
33 the interest holder's right, lien or encumbrance shall not adversely
34 affect, and shall be subordinate to, the rights of the owners of the
35 timeshare interests in the timeshare plan regardless of the date of
36 purchase, from and after the effective date of the subordination
37 document;

38 c. The developer, any owner of the underlying fee, a mortgagee,
39 judgment creditor, or other lienor, or any other person having an
40 interest in or lien or encumbrance against the timeshare interest or
41 appurtenant property or property rights, including any amenities
42 represented to the purchaser as being part of the timeshare plan, has
43 transferred the subject accommodations or amenities or all use
44 rights therein to a nonprofit organization or owners' association to
45 be held for the use and benefit of the purchasers of the timeshare
46 plan, which entity shall act as a fiduciary to the purchasers,
47 provided that the developer has transferred control of that entity to
48 the purchasers or does not exercise its voting rights in that entity

1 with respect to the subject accommodations or amenities. Prior to
2 the transfer, any lien or other encumbrance against the
3 accommodation or facility shall be made subject to a subordination
4 and notice to creditors instrument pursuant to subsection b. of this
5 section; or

6 d. Alternative arrangements have been made which are adequate
7 to protect the rights of the purchasers of the timeshare interests and
8 are approved by the commission.
9

10 20. (New section) a. A sales agent in New Jersey shall comply
11 with the provisions of R.S.45:15-1 et seq., and the regulations
12 adopted pursuant thereto, including licensure requirements, unless
13 otherwise exempt by law.

14 b. A timeshare interest owner, who, for non-monetary
15 compensation, as provided for in this act and by regulation, refers in
16 a calendar year no more than 12 prospective purchasers of
17 timeshare interests in the timeshare plan shall not be required to be
18 licensed pursuant to R.S.45:15-1 et seq., provided the referring
19 timeshare interest owner does not show, discuss terms or conditions
20 of purchase or otherwise participate in negotiations with regard to
21 the timeshare purchase. Examples of non-monetary compensation
22 shall include, but shall not be limited to, the following:

- 23 (1) Waiver of association maintenance fees;
24 (2) Free meals at a restaurant or rounds of golf at a golf course;
25 (3) Points or other non-monetary currency associated with hotel,
26 timeshare or other loyalty programs; or
27 (4) Other benefits specifically associated with the timeshare
28 plan.

29 c. A person licensed under R.S.45:15-1 et seq., who also is a
30 bona fide owner of a timeshare property, shall be entitled to receive
31 non-monetary compensation as defined in subsection b. of this
32 section on the same basis as any other owner of a timeshare
33 property. The non-monetary compensation or referral pursuant to
34 subsection b. of this section shall not fall within the scope of
35 R.S.45:15-1 et seq. or the rules and regulations implementing
36 R.S.45:15-1 et seq.
37

38 21. (New section) a. A developer or other person offering a
39 timeshare plan shall not:

- 40 (1) Misrepresent a fact material to a purchaser's decision to buy
41 a timeshare interest;
42 (2) Predict any increase in the value of a timeshare interest
43 represented over a period of time, excluding bona fide pending
44 price increases by the developer;
45 (3) Materially misrepresent the qualities or characteristics of
46 accommodations or the amenities available to the occupant of those
47 accommodations;
48 (4) Misrepresent the length of time accommodations or amenities

1 will be available to the purchaser of a timeshare interest; or

2 (5) Misrepresent the conditions under which a purchaser of a
3 timeshare interest may exchange the right of the purchaser's
4 occupancy for the right to occupy other accommodations.

5 b. A developer or other person using a promotion in connection
6 with the offering of a timeshare interest shall clearly disclose all of
7 the following:

8 (1) That the purpose of the promotion is to sell timeshare
9 interests, which shall appear in bold face or other conspicuous type
10 on all promotional materials;

11 (2) That any person whose name or address is obtained during
12 the promotion may be solicited to purchase a timeshare interest;

13 (3) The name of each developer or other person trying to sell a
14 timeshare interest through the promotion, and the name of each
15 person paying for the promotion if different from the developer;

16 (4) The complete details of participation in the promotion;

17 (5) The method of awarding premiums or other benefits under
18 the promotion;

19 (6) A complete and fully detailed description, including
20 approximate retail value of each premium or benefit under the
21 promotion if the retail value of the premium or benefit is over \$50;

22 (7) The quantity of each premium to be awarded or conferred;

23 (8) The date by which each premium or benefit will be awarded
24 or conferred; and

25 (9) Any other disclosures required by the commission pursuant
26 to regulation.

27 c. The required disclosures for an advertisement that contains a
28 promotion in connection with the offering of a timeshare interest
29 shall be provided or otherwise made available to prospective
30 purchasers in writing or electronically at least once prior to any
31 scheduled sales presentation and received by the prospective
32 purchasers prior to their leaving to attend the sales presentation.
33 The required disclosures need not be included in every written, oral
34 or electronic communication to the prospective purchaser prior to
35 the sales presentation.

36 d. If a person represents that a premium or benefit will be
37 awarded in connection with a promotion, the premium or benefit
38 shall be awarded or conferred in the manner represented, and on or
39 before the date represented for awarding or conferring the premium
40 or benefit.

41

42 22. (New section) The managing entity shall keep detailed
43 financial records directly related to the operation of the time share
44 plan. All financial and other records shall be made reasonably
45 available for examination by any purchaser, or the authorized agent
46 of the purchaser, and the commission. The managing entity may
47 charge the purchaser a reasonable fee for copying any requested
48 information.

1 23. (New section) Every developer shall maintain, for a period
2 of two years, records of any real estate brokers, broker-salespersons
3 or salespersons licensed in the State and employed by the
4 developer, as well as all other managerial employees located in the
5 State and employed by the developer, including the last known
6 address of each of those individuals.

7

8 24. (New section) No action for partition of a timeshare interest
9 may be initiated except as permitted by the timeshare instrument.

10

11 25. (New section) The commission may refuse to issue or renew
12 any registration, or revoke or suspend any registration or place on
13 probation or administrative supervision, or reprimand any
14 registrant, or impose an administrative penalty not to exceed
15 \$50,000, in a summary proceeding pursuant to the "Penalty
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
17 after notice and an opportunity to be heard, for any of the following
18 causes:

19 a. A registrant's violation of any provision of this act or of the
20 regulations adopted by the commission to enforce this act.

21 b. A conviction of the registrant or any principal of the
22 registrant of:

23 (1) A felony that is punishable by death or imprisonment for a
24 term exceeding one year under the laws of any state or federal
25 jurisdiction;

26 (2) A misdemeanor under the laws of any state or federal
27 jurisdiction if an essential element of the offense is dishonesty; or

28 (3) Any crime under the laws of any state or federal jurisdiction
29 if the crime relates directly to the practice of the profession
30 regulated by this act.

31 c. A registrant's making any misrepresentation for the purpose
32 of obtaining an order of registration or exemption.

33 d. A registrant's discipline in another state or federal
34 jurisdiction, State agency, or foreign country regarding the practice
35 of the profession regulated by this act, if at least one of the grounds
36 for the discipline is the same as or substantially equivalent to one of
37 those set forth in this act.

38 e. A finding by the commission that the registrant, after having
39 his registration placed on probationary status, has violated the terms
40 of probation.

41 f. A registrant's practicing or attempting to practice under a
42 name other than the name as shown on his registration or any other
43 legally authorized name.

44 g. A registrant's failure to file a return, or to pay the tax, penalty,
45 or interest shown in a filed return, or to pay any final assessment of
46 tax, penalty, or interest, as required by any tax law administered by
47 the State Department of Treasury or any local government entity,
48 until the requirements of any tax are satisfied.

- 1 h. A registrant's engaging in any conduct likely to deceive,
2 defraud or harm the public.
- 3 i. A registrant's aiding or abetting another person in violating
4 any provision of this act or of the regulations adopted by the
5 commission to enforce this act.
- 6 j. Any representation in any document or information filed with
7 the commission that is materially false or misleading.
- 8 k. A registrant's disseminating or causing to be disseminated any
9 materially false or misleading promotional materials or
10 advertisements in connection with a timeshare plan.
- 11 l. A registrant's concealing, diverting, or disposing of any funds
12 or assets of any person in a manner that impairs the rights of
13 purchasers of timeshare interests in the timeshare plan.
- 14 m. A registrant's failure to perform any stipulation or agreement
15 made to induce the commission to issue an order relating to the
16 timeshare plan.
- 17 n. A registrant's, or its agents or brokers engaging in any act that
18 constitutes a violation of the "Law Against Discrimination,"
19 P.L.1945, c.169 (C.10:5-1 et seq.).
- 20 o. A registrant's, or its agent's or broker's failure to provide
21 information requested in writing by the commission, either as the
22 result of a complaint to the commission or as a result of a random
23 audit conducted by the commission, which would indicate a
24 violation of this act.
- 25 p. A registrant's, or its agent's or broker's, failure to account for
26 or remit any escrow funds coming into his possession which
27 belonged to others.
- 28 q. A registrant's, or its agent's or broker's, failure to make
29 available to commission personnel during normal business hours all
30 escrow records and related documents maintained in connection
31 therewith, within a reasonable period of time after a request from
32 the commission personnel, but in no event later than five business
33 days from the request.
- 34
- 35 26. (New section) The commission may:
- 36 a. Accept registrations filed in this State, in other states, or with
37 the federal government;
- 38 b. Contract with similar agencies in this State or other
39 jurisdictions to perform investigative functions;
- 40 c. Accept grants-in-aid from any governmental or other source;
- 41 d. Cooperate with similar agencies or commissions in this State
42 or other jurisdictions to establish uniform filing procedures and
43 forms, uniform public offering statements, advertising standards,
44 rules and common administrative practices;
- 45 e. Grant exemptions pursuant to the rules and regulations
46 adopted pursuant to this act;
- 47 f. Make any necessary public or private investigations within or
48 outside of this State to determine whether any person has violated

1 or is about to violate any provision of this act, or to aid in the
2 enforcement of this act or in the prescribing of rules and regulations
3 and forms hereunder;

4 g. Require or permit any person to file a statement in writing,
5 under oath or otherwise, as the commission determines, as to all the
6 facts and circumstances concerning any matter to be investigated;

7 h. For the purpose of any investigation or proceeding under this
8 act, the commission or any officer designated by regulation, may
9 administer oaths, or affirmations, and upon its own motion or upon
10 request of any party may subpoena witnesses and compel their
11 attendance, take evidence, and require the production of any matter
12 which is relevant to the investigation, including the existence,
13 description, nature, custody, condition and location of any books,
14 documents, or other tangible things and the identity and location of
15 persons having knowledge of relevant facts or any other matter
16 reasonably calculated to lead to the discovery of material evidence;
17 and

18 i. Upon failure to obey a subpoena or to answer questions
19 propounded by the investigating officer and upon reasonable notice
20 to all persons affected thereby, the commission may apply to the
21 Superior Court for an order compelling compliance with the
22 subpoena.

23

24 27. (New section) a. If the commission determines after notice
25 and hearing that a person has:

26 (1) Violated any provision of this act;

27 (2) Directly or through an agent or employee engaged in any
28 false, deceptive, or misleading advertising, promotional or sales
29 methods in the State to offer or dispose of an interest in the
30 timeshare plan;

31 (3) Made any material change in the plan of disposition and
32 development of the timeshare plan subsequent to the order of
33 registration without first complying with the provisions of section
34 11 of this act;

35 (4) Disposed of any timeshare plan which have not been
36 registered with the commission; or

37 (5) Violated any lawful order or rule or regulation of the
38 commission;

39 The commission may issue an order requiring the person to cease
40 and desist from the unlawful practice and to take such affirmative
41 action as in the judgment of the commission will carry out the
42 purposes of this act.

43 b. If the commission makes a finding of fact in writing that the
44 public interest will be irreparably harmed by delay in issuing an
45 order, the commission may issue a temporary cease and desist
46 order. Every temporary cease and desist order shall include in its
47 terms a provision that upon request a hearing will be held within 15
48 days of the receipt of the request.

1 28. (New section) a. If it appears that a person has engaged, or
2 is about to engage, in an act or practice constituting a violation of a
3 provision of this act, the commission, with or without prior
4 administrative proceedings, may bring an action in the Superior
5 Court to enjoin the acts or practices and to enforce compliance with
6 this act or any rule, regulation or order hereunder. Upon proper
7 showing, injunctive relief or a temporary restraining order shall be
8 granted, and a receiver may be appointed. The commission shall
9 not be required to post a bond in any court proceeding.

10 b. The commission may intervene in any suit relating to this act.
11 Each developer registered pursuant to this act shall provide the
12 commission with notice of any lawsuit that is filed against the
13 developer or the registered timeshare plan that relates to rights,
14 duties, or responsibilities of the developer or timeshare plan as set
15 forth in this act.

16

17 29. (New section) a. For purposes of this act, an application for
18 registration submitted to the commission shall be deemed a
19 submission, by the applicant, to the jurisdiction of the courts of the
20 State of New Jersey.

21 b. In addition to the methods of service provided for in the Rules
22 of Court, service may be made by delivering a copy of the process
23 to a person designated by the commission to receive the process at
24 its office, but that service shall not be effective unless the plaintiff,
25 which may be the commission, in a proceeding instituted by it:

26 (1) Sends a copy of the process and the pleading by certified
27 mail to the defendant or respondent at his last known address; and

28 (2) The plaintiff's affidavit of compliance with this section is
29 filed in the case on or before the return day of the process, if any, or
30 within the time as the court allows.

31 c. If any person, including any nonresident of this State, engages
32 in conduct prohibited by this act and has not filed a consent to
33 service of process, and personal jurisdiction over him cannot
34 otherwise be obtained in this State, that conduct authorizes the
35 commission to receive service of process, in any non criminal
36 proceedings against him or his successor which arises from that
37 conduct and which is brought under this act with the same force as
38 if served on him personally. Notice shall be given as provided in
39 subsection b. of this section.

40

41 30. (New section) a. Any broker, broker-salesperson or
42 salesperson who violates the provisions of this act shall, in addition
43 to the penalties set forth herein, be subject to the penalties as set
44 forth in R.S.45:15-17.

45 b. Any person who violates any provision of this act or any
46 person who, in an application for registration filed with the
47 commission, makes any untrue statement of a material fact or omits
48 to state a material fact shall be fined not less than \$250, nor more

1 than \$50,000, per violation.

2 c. The commission may levy and collect the penalties set forth
3 in subsection b. of this section after affording the person alleged to
4 be in violation of this act an opportunity for a hearing in accordance
5 with the "Administrative Procedure Act," P.L.1968, c.410
6 (C.52:14B-1 et seq.) on the alleged violations and a finding by the
7 commission that the person is guilty of the violation. When a
8 penalty levied by the commission has not been satisfied within 30
9 days of the levy, the penalty may be sued for and recovered by, and
10 in the name of, the commission in a summary proceeding pursuant
11 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
12 (C.2A:58-10 et seq.).

13 d. The commission may, in the interest of justice, compromise
14 any civil penalty, if in its determination the gravity of the offense
15 does not warrant the assessment of the full fine.

16

17 31. (New section) a. Any person who suffers any ascertainable
18 loss of moneys as a result of the failure of another to comply fully
19 with the provisions of this act may bring an action or assert a
20 counterclaim in any court of competent jurisdiction. In any action
21 filed under this section in which a defendant is found to have
22 knowingly engaged in any false, deceptive, misleading promotional
23 or sales methods or discriminatory advertising on the basis of race,
24 sex, creed, color, marital status, national origin or religion,
25 concealed or fraudulently diverted any funds or assets so as to
26 defeat the rights of timeshare plan purchasers, made an intentional
27 misrepresentation or concealed a material fact in an application for
28 registration, or disposed of any timeshare plan required to be
29 registered under this act, which are not so registered, the court shall,
30 in addition to any other appropriate legal or equitable remedy,
31 award double damages suffered, and court costs, including
32 reasonable attorney's fees. In the case of an untruth, omission, or
33 misleading statement the developer sustains the burden of proving
34 that the purchaser knew of the untruth, omission or misleading
35 statement, or that he did not rely on such information, or that the
36 developer did not know, and in the exercise of reasonable care
37 could not have known of the untruth, omission, or misleading
38 statement.

39 b. The court, in addition to the remedies provided in this act,
40 may award any other relief appropriate under the circumstances
41 including, in the court's discretion, restitution of all monies paid
42 and, where a developer has failed to provide to a purchaser a copy
43 of the current public offering statement approved by the
44 commission prior to execution of the contract or agreement,
45 rescission of the contract. If the purchaser fails to establish a cause
46 of action, and the court further determines that the action was
47 wholly without merit, the court shall award attorney's fees to the
48 developer.

1 c. Any stipulation or provision purporting to bind a purchaser
2 acquiring an interest in a timeshare plan subject to the provisions of
3 this act to a waiver of compliance with the provisions of this act
4 shall be void.

5
6 32. (New section) a. An action shall not be maintained by any
7 developer in any court in this State with respect to any agreement,
8 contract, or services for which registration is required by this act, or
9 to recover the agreed price or any consideration under any
10 agreement, or to recover for services for which a registration is
11 required by this act, without proving that the developer had a valid
12 order of registration at the time of making the agreement or
13 performing the work.

14 b. A person licensed in this State as a real estate broker pursuant
15 to R.S.45:15-1 et seq. shall not represent any unregistered timeshare
16 plan and shall not accept or collect any commission or other form of
17 consideration from any developer unless the timeshare plan is
18 registered pursuant to the requirements of this act.

19
20 33. (New section) The commission shall adopt rules for the
21 implementation and enforcement of this act in accordance with the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.).

24
25 34. (New section) The commission may prescribe forms and
26 procedures for submitting information to the commission.

27
28 35. (New section) The commission shall thoroughly investigate
29 all matters relating to an application for registration under this act
30 and may require a personal inspection of any timeshare plan,
31 accommodation, and any offices where any of the foregoing may
32 transact business. All reasonable expenses incurred by the
33 commission in investigating such matters shall be paid by the
34 registrant. The commission may require a deposit sufficient to
35 cover the expenses prior to incurring the expenses.

36
37 36. (New section) All timeshare plans that were registered and
38 approved pursuant to the provisions of the "Real Estate Sales Full
39 Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The
40 Planned Real Estate Development Full Disclosure Act," P.L.1977,
41 c.419 (C.45:22A-21 et seq.) in effect on the effective date of this act
42 shall remain in full force and effect after the effective date of this
43 act and shall be considered registered under this act and shall not be
44 required to file any further documentation under this act, except as
45 to comply with the requirements of section 11.

46 Developers who have filed timeshare plans that were exempt
47 from the requirements of the "Real Estate Sales Full Disclosure
48 Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned

1 Real Estate Development Full Disclosure Act," P.L.1977, c.419
2 (C.45:22A-21 et seq.) shall be required to file a registration
3 application with the commission within 90 days from the effective
4 date of this act unless they are otherwise exempt under this act.
5 These developers and timeshare plans shall be allowed to continue
6 operating as long as a registration application is filed with the
7 commission within the timeframe stated above and as long as they,
8 in good faith, continue to work with the commission to correct any
9 and all deficiencies in the registration application.

10 Any existing injunction or temporary restraining order validly
11 obtained under the "Real Estate Sales Full Disclosure Act,"
12 P.L.1989, c.239 (C.45:15-16.27 et seq.) or "The Planned Real
13 Estate Development Full Disclosure Act," P.L.1977, c.419
14 (C.45:22A-21 et seq.) which prohibits unregistered practice of
15 timeshare developers, timeshare plans, and their agents shall not be
16 invalidated by the enactment of this act and shall continue to have
17 full force and effect on and after the effective date of this act. Any
18 existing disciplinary action or investigation pursuant to a violation
19 under the "Real Estate Sales Full Disclosure Act" P.L.1989, c.239
20 (C.45:15-16.27 et seq.) or "The Planned Real Estate Development
21 Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.) shall
22 not be invalidated by the enactment of this act and shall continue to
23 have full force and effect on and after the effective date of this act.
24

25 37. Section 2 of P.L.1989, c.239 (C.45:15-16.28) is amended to
26 read as follows:

27 2. As used in this act:

28 "Advertising" means the publication, or causing to be published,
29 of any information offering for sale, or for the purpose of causing or
30 inducing any other person to purchase or acquire, an interest in the
31 title to subdivided lands, including the land sales contract to be used
32 and any photographs or drawings or artist's representation of
33 physical conditions or facilities on the property existing or to exist
34 by means of any:

- 35 (1) Newspaper or periodical;
- 36 (2) Radio or television broadcast;
- 37 (3) Written or printed or photographic matter produced by any
38 duplicating process producing 10 copies or more;
- 39 (4) Billboards or signs;
- 40 (5) Display of model homes or units;
- 41 (6) Material used in connection with the disposition or offer of
42 subdivided lands by radio, television, telephone or any other
43 electronic means; or
- 44 (7) Material used by subdividers or their agents to induce
45 prospective purchasers to visit the subdivision; particularly vacation
46 certificates which require the holders of those certificates to attend
47 or submit to a sales presentation by a subdivider or its agents.

48 "Advertising" does not mean: stockholder communications such

1 as annual reports and interim financial reports, proxy materials,
2 registration statements, securities prospectuses, applications for
3 listing securities on stock exchanges, or similar documents;
4 prospectuses, property reports, offering statements, or other
5 documents required to be delivered to a prospective purchaser by an
6 agency of any other state or the federal government; all
7 communications addressed to and relating to the account of any
8 person who has previously executed a contract for the purchase of
9 the subdivider's lands except when directed to the sale of additional
10 lands.

11 "Blanket encumbrance" means a trust deed, mortgage, judgment,
12 or any other lien or encumbrance, including an option or contract to
13 sell or a trust agreement, affecting a subdivision or affecting more
14 than one lot offered within a subdivision, except that term shall not
15 include any lien or other encumbrance arising as the result of the
16 imposition of any tax assessment by any public authority.

17 "Broker" or "salesperson" means any person who performs
18 within this State as an agent or employee of a subdivider any one or
19 more of the services or acts as set forth in this act, and includes any
20 real estate broker or salesperson licensed pursuant to R.S.45:15 1 et
21 seq. or any person who purports to act in any such capacity.

22 "Commission" means the New Jersey Real Estate Commission.

23 "Common promotional plan" means any offer for the disposition
24 of lots, parcels, units or interests of real property by a single person
25 or group of persons acting in concert, where those lots, parcels,
26 units or interests are contiguous, or are known, designated or
27 advertised as a common entity or by a common name regardless of
28 the number of lots, parcels, units or interests covered by each
29 individual offering.

30 "Disposition" means the sale, lease, assignment, award by
31 lottery, or any other transaction concerning a subdivision if
32 undertaken for gain or profit.

33 "Notice" means a communication by mail from the commission
34 executed by its secretary or other duly authorized officer. Notice to
35 subdividers shall be deemed complete when mailed to the
36 subdivider's address currently on file with the commission.

37 "Offer" means every inducement, solicitation or attempt to
38 encourage a person to acquire an interest in a subdivision if
39 undertaken for gain or profit.

40 "Person" means an individual, corporation, government or
41 governmental subdivision or agency, business trust, estate, trust,
42 partnership, unincorporated association, two or more of any of the
43 foregoing having a joint or common interest, or any other legal or
44 commercial entity.

45 "Purchaser" means a person who acquires or attempts to acquire
46 or succeeds to an interest in a subdivision.

47 ["Time-share estates" includes both "fee simple" and "right to
48 use" time-share interests and means:

1 (1) An "interval estate" meaning a combination of an estate for
2 years in a lot, parcel or unit, during the term of which title rotates
3 among the time-share owners, coupled with a vested undivided fee
4 simple interest in the remainder in that unit as established by the
5 declaration or deed creating the interval estate; or

6 (2) A "time-span estate" meaning a combination of an undivided
7 interest in a present estate in fee simple in a lot, parcel or unit
8 established by the declaration or deed creating the time-span estate,
9 coupled with the exclusive right to possession and occupancy of the
10 parcel or unit during a regularly recurring period; or

11 (3) A "vacation license" meaning the exclusive right to
12 possession and occupancy of a lot, unit or parcel during a regularly
13 recurring period established by club membership, lease or license.】

14 "Subdivider" or "developer" means any owner of subdivided
15 lands or the agent of that owner who offers the subdivided lands for
16 disposition.

17 "Subdivision" and "subdivided lands" mean any land situated
18 outside the State of New Jersey whether contiguous or not, if one or
19 more lots, parcels, units or interests are offered as a part of a
20 common promotional plan of advertising and sale and expressly
21 means and includes such units or interests commonly referred to as
22 a "condominium," defined in the "Condominium Act," P.L.1969,
23 c.257 (C.46:8B-1 et seq.). In addition to condominiums, this
24 definition shall also specifically include, but shall not be limited to,
25 any form of homeowners association, any housing cooperative【,】
26 and any community trust【,】 or other trust device 【and any form of
27 time-sharing】.

28 (cf: P.L.1989, c.239, s.2)

29

30 38. Section 6 of P.L.1989, c.239 (C.45:15-16.32) is amended to
31 read as follows:

32 6. a. Unless the method of disposition is adopted for the purpose
33 of evasion of this act, the provisions of this act are not applicable to
34 offers or dispositions of an interest in a subdivision:

35 (1) By an owner for his own account in a single or isolated
36 transaction;

37 (2) Wholly for industrial or commercial purposes;

38 (3) Pursuant to court order;

39 (4) By any governmental agency;

40 (5) As cemetery lots or interests;

41 (6) Of less than 100 lots, parcels, units or interests; but, this
42 exemption shall not apply to condominiums, cooperatives, 【time
43 shares,】 retirement communities and offers or dispositions by
44 entities comprised of or acting on behalf of the owners of other
45 units in the subdivision, including, but not limited to entities
46 designated as homeowners associations, regardless of the number of
47 lots, parcels, units or interests offered or disposed of;

48 (7) Where the common elements or interests, which would

1 otherwise subject the offering to this act, are limited to the
2 provision of unimproved, unencumbered open space, except where
3 registration is required by the "Interstate Land Sales Full Disclosure
4 Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of
5 Interstate Land Sales Registration, in the Department of Housing
6 and Urban Development; or

7 (8) In a development comprised wholly of rental units, where
8 the relationship created is one of landlord and tenant [; but this
9 exemption shall not apply to time shares, regardless of the manner
10 in which an interest in such a time share subdivision is evidenced].

11 b. Unless the method of disposition is adopted for the purpose of
12 evasion of this act, the provisions of this act are not applicable to:

13 (1) Offers or dispositions of evidences of indebtedness secured
14 by a mortgage or deed of trust of real estate;

15 (2) Offers or dispositions of securities or units of interest issued
16 by a real estate investment trust regulated under any State or federal
17 statute;

18 (3) Offers or dispositions of securities currently registered with
19 the Bureau of Securities in the Department of Law and Public
20 Safety; or

21 (4) Offers or dispositions of any interest in oil, gas or other
22 minerals or any royalty interest therein if the offers or dispositions
23 of such interests are regulated as securities by federal law or by the
24 State Bureau of Securities.

25 c. The commission may, from time to time, pursuant to any rules
26 and regulations promulgated pursuant to this act, exempt from any
27 of the provisions of this act any subdivision or any lots in a
28 subdivision, if it finds that the enforcement of this act with respect
29 to that subdivision or the lots therein, is not necessary in the public
30 interest, or required for the protection of purchasers, by reason of
31 the small amount involved or the limited character of the offering.

32 (cf: P.L.1989, c.239, s.6)

33

34 39. Section 3 of P.L.1977, c.419 (C.45:22A-23) is amended to
35 read as follows:

36 3. As used in this act unless the context clearly indicates
37 otherwise: a. "Disposition" means any sales, contract, lease,
38 assignment, or other transaction concerning a planned real estate
39 development.

40 b. "Developer" or "subdivider" means any person who disposes
41 or offers to dispose of any lot, parcel, unit, or interest in a planned
42 real estate development.

43 c. "Offer" means any inducement, solicitation, advertisement, or
44 attempt to encourage a person to acquire a unit, parcel, lot, or
45 interest in a planned real estate development.

46 d. "Purchaser" or "owner" means any person or persons who
47 acquires a legal or equitable interest in a unit, lot, or parcel in a
48 planned real estate development, and shall be deemed to include a

1 prospective purchaser or owner.

2 e. "State" means the State of New Jersey.

3 f. "Commissioner" means the Commissioner of Community
4 Affairs.

5 g. "Person" shall be defined as in R.S.1:1 2.

6 h. "Planned real estate development" or "development" means
7 any real property situated within the State, whether contiguous or
8 not, which consists of or will consist of, separately owned areas,
9 irrespective of form, be it lots, parcels, units, or interest, and which
10 are offered or disposed of pursuant to a common promotional plan,
11 and providing for common or shared elements or interests in real
12 property. This definition shall not apply to any form of timesharing.

13 This definition shall specifically include, but shall not be limited
14 to, property subject to the "Condominium Act," P.L.1969, c.257
15 (C.46:8B 1 et seq.), any form of homeowners' association, any
16 housing cooperative or to any community trust or other trust device.

17 This definition shall be construed liberally to effectuate the
18 purposes of this act.

19 i. "Common promotional plan" means any offer for the
20 disposition of lots, parcels, units or interests of real property by a
21 single person or group of persons acting in concert, where such lots,
22 parcels, units or interests are contiguous, or are known, designated
23 or advertised as a common entity or by a common name.

24 j. "Advertising" means and includes the publication or causing
25 to be published of any information offering for disposition or for
26 the purpose of causing or inducing any other person to purchase an
27 interest in a planned real estate development, including the land
28 sales contract to be used and any photographs or drawings or artist's
29 representations of physical conditions or facilities on the property
30 existing or to exist by means of any:

31 (1) Newspaper or periodical;

32 (2) Radio or television broadcast;

33 (3) Written or printed or photographic matter;

34 (4) Billboards or signs;

35 (5) Display of model houses or units;

36 (6) Material used in connection with the disposition or offer of
37 the development by radio, television, telephone or any other
38 electronic means; or

39 (7) Material used by developers or their agents to induce
40 prospective purchasers to visit the development, particularly
41 vacation certificates which require the holders of such certificates to
42 attend or submit to a sales presentation by a developer or his agents.

43 "Advertising" does not mean and shall not be deemed to include:
44 Stockholder communications such as annual reports and interim
45 financial reports, proxy materials, registration statements, securities
46 prospectuses, applications for listing securities on stock exchanges,
47 and the like; all communications addressed to and relating to the
48 account of any person who has previously executed a contract for

1 the purchase of the subdivider's lands except when directed to the
2 sale of additional lands.

3 k. "Non-binding reservation agreement" means an agreement
4 between the developer and a purchaser and which may be canceled
5 without penalty by either party upon written notice at any time prior
6 to the formation of a contract for the disposition of any lot, parcel,
7 unit or interest in a planned real estate development.

8 l. "Blanket encumbrance" means a trust deed, mortgage,
9 judgment, or any other lien or encumbrance, including an option or
10 contract to sell or a trust agreement, affecting a development or
11 affecting more than one lot, unit, parcel, or interest therein, but does
12 not include any lien or other encumbrance arising as the result of
13 the imposition of any tax assessment by any public authority.

14 m. "Conversion" means any change with respect to a real estate
15 development or subdivision, apartment complex or other entity
16 concerned with the ownership, use or management of real property
17 which would make such entity a planned real estate development.

18 n. ["Association" means an association for the management of
19 common elements and facilities, organized pursuant to section 1 of
20 P.L.1993, c.30 (C.45:22A 43.) (Deleted by amendment P.L. .c.),
21 (pending before the Legislature as this bill.)

22 o. ["Executive board" means the executive board of an
23 association, as provided for in section 3 of P.L.1993, c.30
24 (C.45:22A 45.) (Deleted by amendment P.L. c.), (pending
25 before the Legislature as this bill.)

26 p. ["Unit" means any lot, parcel, unit or interest in a planned real
27 estate development that is, or is intended to be, a separately owned
28 area thereof.] (Deleted by amendment P.L. c.), (pending
29 before the Legislature as this bill.)

30 (cf: P.L.1993, c.30, s.7)

31

32 40. Section 5 of P.L.1977, c.419 (C.45:22A-25) is amended to
33 read as follows:

34 5. a. Unless the method of disposition is adopted for purposes
35 of evasion, the provision of this act shall not apply to offers or
36 dispositions:

37 (1) By an owner for his own account in a single or isolated
38 transaction;

39 (2) Wholly for industrial, commercial, or other nonresidential
40 purposes;

41 (3) Pursuant to court order;

42 (4) By the United States, by this State or any of its agencies or
43 political subdivisions;

44 (5) Of real property located without the State;

45 (6) Of cemetery lots or interests;

46 (7) Of less than 100 lots, parcels, units or interests; provided,
47 however, that with respect to condominiums and cooperatives, this
48 exemption shall not apply, irrespective of the number of lots,

1 parcels, units, or interests offered or disposed of;

2 (8) Of developments where the common elements or interests,
3 which would otherwise subject the offering to this act, are limited to
4 the provision of unimproved, unencumbered open space;

5 (9) In a development composed wholly of rental units, where the
6 relationship created is one of landlord and tenant ;

7 (10) Of any form of timesharing.

8 b. The agency may from time to time, pursuant to its rules and
9 regulations, exempt from any of the provisions of this act any
10 development, or any lots, units, parcels, or interests in a
11 development, if it finds that the enforcement of this act with
12 respect to such, is not necessary in the public interest or required for
13 the protection of purchasers by reason of the small amount of the
14 purchase price involved, the limited character of the offering, or the
15 limited nature of the common or shared elements.

16 (cf: P.L.1977, c.419, s.5)

17

18 41. This act shall take effect on the 90th day following
19 enactment.

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STATEMENT

23

24 This bill regulates timeshares offerings by creating a
25 comprehensive system that includes registration of offerings, public
26 offering requirements and consumer protections. This bill, which
27 creates the "New Jersey Real Estate Timeshare Act," removes the
28 regulation of timeshares from the "Planned Real Estate
29 Development Full Disclosure Act" and the "Real Estate Sales Full
30 Disclosure Act." Currently, these acts separately regulate
31 various aspects of timeshare offerings, and place regulatory
32 authority partly in the Department of Community Affairs, and partly
33 in the New Jersey Real Estate Commission within the Department
34 of Banking and Insurance. Neither of these acts provides an
35 adequate system of regulation to protect consumer interests.

36 Timesharing has grown extensively and timeshare offerings have
37 become more complex. Recent industry studies indicate that in
38 2003, three million Americans owned timeshares. That level is
39 nearly twice the number of timeshares owned just seven years prior.
40 As the volume of timesharing increases, consistent regulation is
41 essential to protect the interests of New Jersey consumers.

42 This bill is intended to resolve issues regarding shared authority
43 between departments by placing all regulatory authority within the
44 New Jersey Real Estate Commission. This restructuring will
45 provide a single regulatory framework for multi-site timeshare
46 offering, which have components located both within and outside
47 the State.

48 Specifically, the bill provides that timeshare plans must maintain

1 a one-to-one purchaser-to-accommodation ratio. Any person who
2 offers or sells a timeshare interest, or any developer who creates a
3 timeshare interest in the State, is required to register its timeshare
4 plan with the commission, by providing certain information
5 specified in the bill. The commission may issue an abbreviated
6 registration, preliminary registration, conditional registration or
7 preliminary permit under certain conditions.

8 Timeshare developers must also meet certain escrow
9 requirements, and have responsibility for all sales, managing and
10 marketing entities involved in the offering or selling of timeshares.

11 Developers must also prepare a public offering statement,
12 disclosing certain information, the extent of which is dependent on
13 whether the timeshare plan is a single-site, specific timeshare
14 interest multi-site, or non-specific timeshare interest multi-site plan.
15 The statement must be provided to each purchaser of a timeshare at
16 the time of purchase.

17 The bill also provides for annual reports by developers,
18 registration filing fees, and timelines by which the commission
19 must review applications for registrations. The bill delineates duties
20 of the managing entity and provides consumers a seven-day right of
21 cancellation for a timeshare contract.

22 Further, the bill regulates the release of escrow funds to the
23 developer, as the timeshare units are purchased, requires a sales
24 agent for a developer to be licensed under the State's real estate
25 licensing act, and prohibits certain unfair sales practices. The bill
26 provides for the commission to administer and take certain other
27 actions, for violations of the provisions of the bill.

28 The bill also provides an individual cause of action for any
29 person who suffers an ascertainable loss of moneys as a result of a
30 violation. Finally, the bill "grandfathers" all registrations of
31 timeshare plans in effect under the "Real Estate Sales Full
32 Disclosure Act" and the "Planned Real Estate Development Full
33 Disclosure Act."

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2705

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2006

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 2705.

This bill, as amended, the "New Jersey Real Estate Timeshare Act," regulates timeshare offerings by creating a comprehensive system that includes registration of offerings, public offering requirements, and consumer protections.

The bill, as amended, removes the regulation of timeshares from the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.). Currently, these acts separately regulate various aspects of timeshare offerings, and place regulatory authority partly with the Department of Community Affairs, and partly with the New Jersey Real Estate Commission within the Department of Banking and Insurance. Under the provisions of the bill, all regulatory authority is instead assigned solely to the Real Estate Commission, in order to avoid any further issues regarding shared authority between the two departments. This restructuring is intended to provide a single regulatory framework for overseeing timeshare offerings directed or targeted to persons within the State.

Specifically, the bill provides that timeshare plans shall maintain a one-to-one purchaser-to-accommodation ratio. Any person who offers or sells a timeshare interest, or any developer who creates a timeshare interest, in the State, is required to register its timeshare plan with the commission, by providing certain information specified in the bill. The commission may issue an abbreviated registration, preliminary registration, conditional registration, or preliminary permit under certain conditions.

Timeshare developers shall also meet certain escrow requirements, and have responsibility for all sales, managing and marketing entities involved in the offering or selling of timeshares. Developers must also prepare a public offering statement, disclosing certain information, the

extent of which is dependent on whether the timeshare plan is a single-site, specific timeshare interest multi-site, or non-specific time share interest multi-site plan. The statement shall be provided to each purchaser of a timeshare at the time of purchase.

The bill also provides for annual reports by developers, registration filing fees, and timelines by which the commission shall review applications for registrations. The bill delineates duties of the managing entity, and provides consumers a seven-day right of cancellation for a timeshare contract.

Further, the bill regulates the release of escrow funds to the developer as the timeshare units are purchased, requires a sales agent for a developer to be licensed under the State's real estate licensing act, and prohibits certain unfair sales practices.

The bill provides for the commission to administer and take certain other actions for violations of the provisions of the bill. It also provides an individual cause of action for any person who suffers an ascertainable loss of monies as a result of a violation.

Finally, the bill "grandfathers" all registrations of timeshare plans in effect under the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.).

COMMITTEE AMENDMENTS

The committee amended the bill to clarify, with respect to determining the term of a timeshare plan, that the period of any automatic renewal shall be included, unless: a purchaser has the right to terminate the purchaser's participation in the timeshare plan at any time and receive a pro rata refund; or the purchaser receives a notice, not less than 30 days, but not more than 60 days, prior to the date of renewal, informing the purchaser of the right to terminate at any time prior to the date of automatic renewal. This clarification assists in determining whether a particular timeshare shall be regulated under the bill's provisions, as a timeshare with a period of use which extends over any period of three years or less is not subject to regulation under the bill.

As reported, this bill is identical to Senate Bill No.1321(1R).

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2705

with Assembly Floor Amendments
(Proposed By Assemblyman COHEN)

ADOPTED: JUNE 22, 2006

This amendment reinserts into "The Planned Real Estate Development Full Disclosure Act" definitions for the terms "association," "executive board," and "unit," which were deleted from that law by the bill as introduced.

The terms are being reinserted into the law because they are still relevant to the regulation of condominiums, cooperatives, and various other common-interest communities under "The Planned Real Estate Development Full Disclosure Act."

FISCAL NOTE
[Second Reprint]
ASSEMBLY, No. 2705
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JULY 14, 2006

SUMMARY

Synopsis: The "New Jersey Real Estate Timeshare Act."
Type of Impact: Expenditure first year; Revenue gain
Agencies Affected: Department of Banking and Insurance

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$227,151	\$109,802	\$114,276
State Revenue	\$204,000	\$212,250	\$220,750
Net Deficit/Surplus	-\$23,151	+\$102,448	+\$106,474

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- The bill places all regulatory authority of time share offerings within the New Jersey Real Estate Commission in the Department of Banking and Insurance. Currently, timeshare offerings are regulated partly by the Department of Community Affairs and partly by the New Jersey Real Estate Commission.
- The bill provides that the fee for initial registrations shall be \$1,000 plus \$50 per timeshare interest, which fee shall not exceed \$7,500. In addition, the bill also establishes that the commission may assess, by regulation, for fees to cover the expenses of administering the provisions of the bill, including fees for the processing of amendments to registrations, exemption applications and preliminary registrations.
- The Department of Banking and Insurance estimates that revenues raised as a result of the bill should support expenditures, with the exception of the start-up costs in the first year following the bill's enactment. Total costs to the Department of Banking and Insurance would be \$227,121 in the first year, \$109,802 in the second year, and \$114,276 in the third year, following the bill's enactment.

- The department estimates that revenues resulting from the bill's provisions will amount to \$204,000, \$212,250, and \$220,750 for each of the first three years following the bill's enactment. This estimate results in a deficit of \$23,151 for the first year, which does not cover estimated expenditures. However, OLS estimates that the \$23,151 costs from the bill will have no effect on State funds because under existing law the Real Estate Commission is supported by industry assessments. Following the first year of the bill's enactment, revenues are estimated to exceed expenditures.
- The department states that two additional staff: an investigator and typist, are necessary to meet the increased responsibilities proposed under the bill. The salaries and benefits for these two additional employees during the first three years following the bill's enactment will be \$89,201, \$95,275, and \$99,342, respectively. Additional materials and supplies are estimated to be \$8,920 in the first year, \$9,527 in the second year, and \$9,934 in the third year.
- The department estimates a start-up cost of \$129,000 for data processing. Data processing costs are estimated to decrease to \$5,000 for the second and third years.

BILL DESCRIPTION

Assembly Bill No. 2705 (2R) of 2006, the "New Jersey Real Estate Timeshare Act," regulates timeshare offerings by creating a comprehensive system that includes registration of offerings, public offering requirements, and consumer protections. The bill removes the regulation of timeshares from the "Real Estate Sales Full Disclosure Act," P.L.1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.). Currently, these acts separately regulate various aspects of timeshare offerings, and place regulatory authority partly with the Department of Community Affairs, and partly with the New Jersey Real Estate Commission within the Department of Banking and Insurance. Under the provisions of the bill, all regulatory authority is instead assigned solely to the Real Estate Commission, in order to avoid any further issues regarding shared authority between the two departments. This restructuring is intended to provide a single regulatory framework for overseeing timeshare offerings directed or targeted to persons within the State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Banking and Insurance estimates that revenues raised as a result of the bill should support expenditures, with the exception of the start-up costs in the first year following the bill's enactment. Total costs to the Department of Banking and Insurance would be \$227,121 in the first year, \$109,802 in the second year, and \$114,276 in the third year, following the bill's enactment. The department estimates that revenues resulting from the bill's provisions will amount to \$204,000, \$212,250, and \$220,750 for each of the first three years following the bill's enactment. This estimate results in a deficit of \$23,151 for the first year, which does not cover estimated expenditures. Following the first year of the bill's enactment, revenues are estimated to exceed expenditures. The department states that two additional staff:

an investigator and typist, are necessary to meet the increased responsibilities proposed under the bill. The salaries and benefits for these two additional employees during the first three years following the bill's enactment will be \$89,201, \$95,275, and \$99,342, respectively. Additional materials and supplies are estimated to be \$8,920 in the first year, \$9,527 in the second year, and \$9,934 in the third year. The department estimates a start-up cost of \$129,000 for data processing. Data processing costs are estimated to decrease to \$5,000 for the second and third years.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive estimate and notes that additional costs as a result of the bill's enactment will have no effect on State funds because under existing law the Real Estate Commission is supported by industry assessments.

Section: Commerce, Labor and Industry
Analyst: Sonya S. Davis
Associate Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.