

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Real Estate Timeshare Act of 1999 is amended by changing Sections 1-10, 1-15, 5-5, 5-15, 5-20, 5-25, 5-30, 5-40, 5-45, 5-50, 5-55, 5-60, 10-5, 10-15, 10-25, 10-30, 15-5, 15-10, 15-15, 15-20, 15-25, 15-30, 15-35, 15-40, 15-45, 15-50, 15-55, 15-60, 15-65, 15-70, 15-80, 20-5, 20-10, 20-15, 20-20, and 20-25, and by adding Sections 10-45, 10-50, and 10-55 as follows:

(765 ILCS 101/1-10)

Sec. 1-10. Scope of Act.

(a) This Act applies to all of the following:

(1) Timeshare plans with an accommodation or component site in Illinois.

(2) Timeshare plans without an accommodation or component site in Illinois, if those timeshare plans are sold or offered to be sold to any individual located within Illinois.

(3) Exchange programs as defined in this Act.

(4) Resale agents as defined in this Act.

(b) Exemptions. This Act does not apply to the following:

(1) Timeshare plans, whether or not an accommodation is

located in Illinois, consisting of 7 or fewer timeshare periods, the use of which extends over any period of less than 3 years; or-

(2) Timeshare plans, whether or not an accommodation is located in Illinois, under which the prospective purchaser's total financial obligation will be less than \$1,500 during the entire term of the timeshare plan.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/1-15)

Sec. 1-15. Definitions. In this Act, unless the context otherwise requires:

"Accommodation" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or other private or commercial structure containing toilet facilities therein that is designed and available, pursuant to applicable law, for use and occupancy as a residence by one or more individuals, or any unit or berth on a commercial cruise line ship, which is included in the offering of a timeshare plan.

"Acquisition agent" means a person who, directly or through the person's employees, agents, or independent contractors, induces or attempts to induce by means of a promotion or an advertisement any individual located within the State of Illinois to attend a sales presentation for a timeshare plan.

"Advertisement" means any written, oral, or electronic communication that is directed to or targeted to persons within

the State of Illinois and contains a promotion, inducement, or offer to sell a timeshare plan, including but not limited to brochures, pamphlets, radio and television scripts, electronic media, telephone and direct mail solicitations, and other means of promotion.

"Association" means the organized body consisting of the purchasers of interests in a timeshare plan.

"Assessment" means the share of funds required for the payment of common expenses which is assessed from time to time against each purchaser by the managing entity.

~~"Commissioner" means the Commissioner of Banks and Real Estate, or a natural person authorized by the Commissioner, the Office of Banks and Real Estate Act, or this Act to act in the Commissioner's stead.~~

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

"Department" means the Department of Financial and Professional Regulation.

"Developer" means and includes any person or entity, other than a sales agent, acquisition agent, or resale agent, who creates a timeshare plan or is in the business of selling timeshare interests, or employs agents to do the same, or any person or entity who succeeds to the interest of a developer by

sale, lease, assignment, mortgage, or other transfer, but the term includes only those persons who offer timeshare interests for disposition in the ordinary course of business.

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

"Exchange company" means any person owning or operating, or both owning and operating, an exchange program.

"Exchange program" means any method, arrangement, or procedure for the voluntary exchange of timeshare interests or other property interests. The term does not include the assignment of the right to use and occupy accommodations to owners of timeshare interests within a single-site timeshare plan. Any method, arrangement, or procedure that otherwise meets this definition, wherein the purchaser's total contractual financial obligation exceeds \$3,000 per any individual, recurring timeshare period, shall be regulated as a timeshare plan in accordance with this Act.

"Managing entity" means the person who undertakes the duties, responsibilities, and obligations of the management of a timeshare plan.

"Managing entity lien" means a lien created pursuant to Section 10-45.

"Offer" means any inducement, solicitation, or other attempt, whether by marketing, advertisement, oral or written

presentation, or any other means, to encourage a person to acquire a timeshare interest in a timeshare plan, other than as security for an obligation.

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

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

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

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

"Resale agent" means a person who, for another and for compensation, or with the intention or expectation of receiving compensation, either directly or indirectly sells, offers to sell, or advertises to sell within this State any timeshare interest previously sold to a purchaser or solicits within this

State any owner of a timeshare interest to list the owner's timeshare interest, wherever located, for sale. ~~directly or through the person's employees or agents, sells or offers to sell a timeshare interest previously sold to a purchaser or solicits an owner of a timeshare interest to list the owner's timeshare interest for sale.~~

"Reservation system" means the method, arrangement, or procedure by which a purchaser, in order to reserve the use or occupancy of any accommodation of a multi-site timeshare plan for one or more timeshare periods, is required to compete with other purchasers in the same multi-site timeshare plan, regardless of whether the reservation system is operated and maintained by the multi-site timeshare plan managing entity, an exchange company, or any other person. In the event that a purchaser is required to use an exchange program as the purchaser's principal means of obtaining the right to use and occupy accommodations, that arrangement shall be deemed a reservation system. When an exchange company utilizes a mechanism for the exchange of use of timeshare periods among members of an exchange program, that utilization is not a reservation system of a multi-site timeshare plan.

"Sales agent" means a person, other than a resale agent, who, directly or through the person's employees, agents, or independent contractors, sells or offers to sell timeshare interests in a timeshare plan to any individual located in the State of Illinois.

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

"Secretary" means the Secretary of the Department of Financial and Professional Regulation, or a natural person authorized by the Secretary, the Department of Financial and Professional Regulation, or this Act to act in the Secretary's stead.

"Timeshare interest" means and includes either:

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

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

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

"Timeshare plan" means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership agreement, sale, lease, deed, license, or right-to-use agreement or by any other means, whereby a purchaser, in exchange for consideration, receives ownership rights in or the right to use accommodations for a period of

time less than a full year during any given year, but not necessarily for consecutive years. A timeshare plan may be:

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

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

(A) a "specific timeshare interest", which is the right to use accommodations at a specific timeshare property, together with use rights in accommodations at one or more other component sites created by or acquired through the timeshare plan's reservation system; or

(B) a "non-specific timeshare interest", which is the right to use accommodations at more than one component site created by or acquired through the timeshare plan's reservation system, but including no specific right to use any particular accommodations.

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

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-5)

Sec. 5-5. Exemptions from developer registration. A person shall not be required to register as a developer under this Act if:

(1) the person is an owner of a timeshare interest who has acquired the timeshare interest for the person's own use and occupancy and who later offers it for resale; or

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

(3) the person offers a timeshare plan in a national publication or by electronic media, as determined by the Department ~~Office of Banks and Real Estate~~ and provided by rule, which is not directed to or targeted to any individual located in Illinois; or

(4) the person is conveyed, assigned, or transferred more than 7 timeshare periods from a developer in a single voluntary or involuntary transaction and subsequently conveys, assigns, or transfers all of the timeshare interests received from the developer to a single purchaser in a single transaction.

(Source: P.A. 91-585, eff. 1-1-00.)

Sec. 5-15. Developer registration requirements.

(a) Registration required. Any person who, ~~to any individual located in Illinois,~~ sells, offers to sell, or attempts to solicit prospective purchasers or to solicit any individual located in Illinois to purchase a timeshare interest, or any person who creates a timeshare plan with an accommodation in the State of Illinois, shall register as a developer with the Department ~~Office of Banks and Real Estate~~ and shall comply with the provisions of subsection (c) of this Section.

(b) Items to be registered. A developer shall be responsible for registering with the Department ~~Office of Banks and Real Estate,~~ on forms provided by the Department ~~Office of Banks and Real Estate,~~ the following:

(1) All timeshare plans which have accommodations located in Illinois or which are sold or offered for sale to any individual located in Illinois.

(2) All sales agents who sell or offer to sell any timeshare interests in any timeshare plan offered by the developer to any individual located in Illinois.

(3) All acquisition agents who, by means of inducement, promotion, or advertisement, attempt to encourage or procure prospective purchasers located in Illinois to attend a sales presentation for any timeshare plan offered by the developer.

(4) All managing entities who manage any timeshare plan

offered or sold by the developer to any individual located in Illinois, without limitation as to whether the location of the accommodation site managed is within Illinois.

(c) Escrow. The developer shall comply with the following escrow requirements:

(1) A developer of a timeshare plan shall deposit into an escrow account in a federally insured depository 100% of all funds which are received during the purchaser's rescission period. The deposit of such funds shall be evidenced by an executed escrow agreement between the escrow agent and the developer, which shall include provisions that:

(A) funds may be disbursed to the developer by the escrow agent from the escrow account only after expiration of the purchaser's rescission period and in accordance with the purchase contract, subject to paragraph (2) of this subsection; and

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

(2) If a developer contracts to sell a timeshare interest and the construction of any property in which the timeshare interest is located has not been completed, the developer, upon expiration of the rescission period, shall

continue to maintain in an escrow account all funds received by or on behalf of the developer from the purchaser under his or her purchase contract. The Department ~~Office of Banks and Real Estate~~ shall establish, by rule, the types of documentation which shall be required for evidence of completion, including but not limited to a certificate of occupancy, a certificate of substantial completion, or an inspection by the Office of the State Fire Marshal or the State Fire Marshal's designee or an equivalent public safety inspection agency in the applicable jurisdiction. Funds shall be released from escrow as follows:

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

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

(C) If the funds of a purchaser have not been previously disbursed in accordance with the provisions of this paragraph (2), they may be disbursed to the developer by the escrow agent upon the issuance of acceptable evidence of completion of construction as provided herein.

(3) In lieu of the provisions in paragraphs (1) and (2), the Department ~~Office of Banks and Real Estate~~ may accept from the developer a surety bond, irrevocable letter of credit, or other financial assurance acceptable to the Department ~~Office of Banks and Real Estate~~, as provided by rule. Any acceptable financial assurance must be in an amount equal to or in excess of the funds which would otherwise be placed in escrow, or in an amount equal to the cost to complete the incomplete property in which the timeshare interest is located.

(4) The developer shall provide escrow account information to the Department ~~Office of Banks and Real Estate~~ and shall execute in writing an authorization consenting to an audit or examination of the account by the Department ~~Office of Banks and Real Estate~~ on forms provided by the Department ~~Office of Banks and Real Estate~~. The developer shall comply with the reconciliation and records requirements established by rule by the Department ~~Office of Banks and Real Estate~~. The developer shall make documents related to the escrow account or escrow obligation available to the Department ~~Office of Banks and Real Estate~~ upon the Department's ~~Office's~~ request. The developer shall maintain any disputed funds in the escrow account until either:

(A) receipt of written direction agreed to by signature of all parties; or

(B) deposit of the funds with a court of competent jurisdiction in which a civil action regarding the funds has been filed.

(d) Comprehensive registration. In registering a timeshare plan, the developer shall be responsible for providing information on the following:

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

(2) The name of the developer's authorized or registered agent in the State of Illinois upon whom claims can be served or service of process be had, the agent's street address in Illinois, and telephone number;

(3) The name, street address, mailing address, primary contact person, and telephone number of any timeshare plan being registered;

(4) The name, street address, mailing address and telephone number of any sales agent and acquisition agent utilized by the developer, and any managing entity of the timeshare plan;

(5) A public offering statement which complies with the requirements of Sections 5-25; and

(6) Any other information regarding the developer, timeshare plan, sales agents, acquisition agents, or managing entities as reasonably required by the Department ~~Office of Banks and Real Estate~~ and established by rule.

(e) Abbreviated registration. The Department ~~Office of Banks and Real Estate~~ may accept, as provided for by rule, an abbreviated registration application of a developer of a timeshare plan in which all accommodations are located outside of the State of Illinois. ~~The developer shall file a written notice of intent to register under this Section at least 15 days prior to submission.~~ A developer of a timeshare plan with any accommodation located in the State of Illinois may not file an abbreviated filing, with the exception of a succeeding developer after a merger or acquisition when all of the developers' timeshare plans were registered in Illinois immediately preceding the merger or acquisition.

The developer shall provide a certificate of registration or other evidence of registration from the appropriate regulatory agency of any other jurisdiction within the United States in which some or all of such accommodations are located. The other jurisdiction must have disclosure requirements that are substantially equivalent to or greater than the information required to be disclosed to purchasers by the State of Illinois. A developer filing an abbreviated registration application shall provide the following:

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

(2) The name, location, mailing address, primary

contact person, and telephone number of the timeshare plan.

(3) The name of the authorized agent or registered agent in Illinois upon whom claims can be served or service of process can be had, and the address in Illinois of the authorized agent or registered agent.

(4) The names of any sales agent, acquisition agent, and managing entity, and their principal office location, mailing address, and telephone number.

(5) The certificate of registration or other evidence of registration from any jurisdiction in which the timeshare plan is approved or accepted.

(6) A declaration as to whether the timeshare plan is a single-site timeshare plan or a multi-site timeshare plan and, if a multi-site timeshare plan, whether it consists of specific timeshare interests or non-specific timeshare interests.

(7) Disclosure of each jurisdiction in which the developer has applied for registration of the timeshare plan, and whether the timeshare plan, its developer, or any of its acquisition agents, sales agents, or managing entities utilized were denied registration or were the subject of any disciplinary proceeding.

(8) Copies of any disclosure documents required to be given to purchasers or required to be filed with the jurisdiction in which the timeshare plan is approved or accepted as may be requested by the Department ~~Office of~~

~~Banks and Real Estate.~~

(9) The appropriate fee.

(10) Such other information reasonably required by the Department ~~Office of Banks and Real Estate~~ and established by rule.

(f) Preliminary permits. Notwithstanding anything in this Section to the contrary, the Department ~~Office of Banks and Real Estate~~ may grant a 6-month preliminary permit, as established by rule, allowing the developer to begin offering and selling timeshare interests while the registration is in process. To obtain a preliminary permit, the developer shall do all of the following:

(1) (Blank). ~~Submit a formal written request to the Office of Banks and Real Estate for a preliminary permit.~~

(2) Submit an application in form and substance satisfactory to the Department ~~a substantially complete application~~ for registration ~~to the Office of Banks and Real Estate~~, including all appropriate fees and exhibits required under this Article.

(3) Provide evidence acceptable to the Department ~~Office of Banks and Real Estate~~ that all funds received by the developer will be placed into an independent escrow account with instructions that funds will not be released until a final registration has been granted.

(4) Give to each purchaser and potential purchaser a copy of the proposed public offering statement that the

developer has submitted to the Department ~~Office of Banks and Real Estate~~ with the initial application.

(5) Give to each purchaser the opportunity to cancel the purchase contract in accordance with Section 10-10. The purchaser shall have an additional opportunity to cancel upon the issuance of an approved registration if the Department ~~Office of Banks and Real Estate~~ determines that there is a substantial difference in the disclosures contained in the final public offering statement and those given to the purchaser in the proposed public offering statement.

(g) Alternative registration; letter of credit or other assurance; recovery.

(1) Notwithstanding anything in this Act to the contrary, the Department ~~Office of Banks and Real Estate~~ may accept, as established by rule, a registration from a developer for a timeshare plan if the developer provides all of the following:

(A) (Blank). ~~A written notice of intent to register under this Section at least 15 days prior to submission of the alternative registration.~~

(B) An irrevocable letter of credit or other acceptable assurance, as established by rule, in an amount of \$1,000,000, from which an Illinois purchaser aggrieved by any act, representation, transaction, or conduct of a duly registered developer or his or her

acquisition agent, sales agent, managing entity, or employee, which violates any provision of this Act or the rules promulgated under this Act, or which constitutes embezzlement of money or property or results in money or property being unlawfully obtained from any person by false pretenses, artifice, trickery, or forgery or by reason of any fraud, misrepresentation, discrimination, or deceit by or on the part of any developer or agent or employee of the developer and which results in actual monetary loss as opposed to a loss in market value, may recover.

(C) The developer's legal name, any assumed names used by the developer, and the developer's principal office location, mailing address, main contact person, and telephone number.

(D) The name, location, mailing address, main contact person, and telephone number of the timeshare plan included in the filing.

(E) The name of the authorized agent or registered agent in Illinois upon whom claims can be served or service of process can be had, and the address in Illinois of the authorized agent or registered agent.

(F) The names of any sales agent, acquisition agent, and managing entity, and their principal office location, mailing address, and telephone number.

(G) A declaration as to whether the timeshare plan

is a single-site timeshare plan or a multi-site timeshare plan and, if a multi-site timeshare plan, whether it consists of specific timeshare interests or non-specific timeshare interests.

(H) Disclosure of each jurisdiction in which the developer has applied for registration of the timeshare plan, and whether the timeshare plan, its developer, or any of its acquisition agents, sales agents, or managing entities utilized were denied registration or were the subject of any disciplinary proceeding.

(I) The required fee.

(J) Such other information reasonably required by the Department ~~Office of Banks and Real Estate~~ and established by rule.

(2) Any letter of credit or other acceptable assurance shall remain in effect with the Department ~~Office of Banks and Real Estate~~ for a period of 12 months after the date the developer does not renew or otherwise cancel his or her registration with the State of Illinois or 12 months after the Department ~~Office of Banks and Real Estate~~ revokes, suspends, or otherwise disciplines such developer or his or her registration, provided there is no pending litigation alleging a violation of any provision of this Act known by the Department ~~Office of Banks and Real Estate~~ and certified by the developer.

(3) The Department ~~Office of Banks and Real Estate~~ shall establish procedures, by rule, to satisfy claims by any Illinois purchaser pursuant to this Section.

(4) The Department ~~Office of Banks and Real Estate~~ shall automatically suspend the registration of any developer pursuant to Section 15-25 of this Act in the event the Department ~~Office~~ authorizes or directs payment to an Illinois purchaser from the letter of credit or other acceptable assurance pursuant to this Section and as established by rule.

(h) A developer who registers a timeshare plan pursuant to this Act shall provide the purchaser with a public offering statement that complies with Section 5-25 and any disclosures or other written information required by this Act.

(i) Nothing contained in this Section shall affect the Department's ~~Office of Banks and Real Estate's~~ ability to initiate any disciplinary action against a developer in accordance with this Act.

(j) For purposes of this Section, "Illinois purchaser" means a person who, within the State of Illinois, is solicited, offered, or sold a timeshare interest in a timeshare plan registered pursuant to this Section.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-20)

Sec. 5-20. Developer supervisory duties. The developer

shall have the duty to supervise, manage, and control all aspects of the offering of the timeshare plan, including, but not limited to, promotion, advertising, contracting, and closing. The developer shall have responsibility for each timeshare plan registered with the Department ~~Office of Banks and Real Estate~~ and for the actions of any sales agent, managing entity, and acquisition agent utilized by the developer in the offering or selling of any registered timeshare plan. Any violation of this Act which occurs during the offering activities shall be deemed to be a violation by the developer as well as by the acquisition agent, sales agent, or managing entity who actually committed such violation. Notwithstanding anything to the contrary in this Act, the developer shall be responsible for the actions of the association and managing entity only while they are subject to the developer's control.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-25)

Sec. 5-25. Timeshare plan public offering statement requirements.

(a) A developer shall prepare a public offering statement, shall provide the statement to each purchaser of a timeshare interest in any timeshare plan at the time of purchase, and shall fully and accurately disclose those facts concerning the timeshare developer and timeshare plan that are required by

this Act or by rule. The public offering statement shall be in writing and dated and shall require the purchaser to certify in writing the receipt thereof.

(b) With regard to timeshare interests offered in a timeshare plan, a public offering statement shall fully and accurately disclose the following:

(1) The name of the developer and the principal address of the developer.

(2) A description of the type of timeshare interests being offered.

(3) A general description of the existing and proposed accommodations and amenities of the timeshare plan, including their type and number, personal property furnishing the accommodation, any use restrictions, and any required fees for use.

(4) A description of any accommodations and amenities that are committed to be built, including, without limitation:

(A) the developer's schedule of commencement and completion of all accommodations and amenities; and

(B) the estimated number of accommodations per site that may become subject to the timeshare plan.

(5) A brief description of the duration, phases, and operation of the timeshare plan.

(6) The current annual budget, if available, or the projected annual budget for the timeshare plan. The budget

shall include, without limitation:

(A) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;

(B) the projected common expense liability, if any, by category of expenditures for the timeshare plan; and

(C) a statement of any services or expenses not reflected in the budget that the developer provides or pays.

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

(8) A description of any liens, defects, or encumbrances on or affecting the title to the timeshare interests.

(9) A description of any financing offered by or available through the developer.

(10) A statement that within 5 calendar days after receipt of the public offering statement or after execution of the purchase contract, whichever is later, a purchaser may cancel any purchase contract for a timeshare interest from a developer together with a statement providing the name and street address to which the purchaser should mail any notice of cancellation. However, if by agreement of the parties by and through the purchase contract, the purchase

contract allows for cancellation of the purchase contract for a period of time exceeding 5 calendar days, then the public offering statement shall include a statement that the cancellation of the purchase contract is allowed for that period of time exceeding 5 calendar days.

(11) A statement of any pending suits, adjudications, or disciplinary actions material to the timeshare interests of which the developer has knowledge.

(12) Any restrictions on alienation of any number or portion of any timeshare interests.

(13) A statement describing liability and casualty insurance for the timeshare property.

(14) Any current or expected fees or charges to be paid by timeshare purchasers for the use of any amenities related to the timeshare property.

(15) The extent to which financial arrangements have been provided for completion of all promised improvements.

(16) The developer or managing entity must notify the Department ~~Office of Banks and Real Estate~~ of the extent to which an accommodation may become subject to a tax or other lien arising out of claims against other purchasers in the same timeshare plan. The Department ~~Office of Banks and Real Estate~~ may require the developer or managing entity to notify a prospective purchaser of any such potential tax or lien which would materially and adversely affect the prospective purchaser.

(17) A statement indicating that the developer and timeshare plan are registered with the State of Illinois.

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

(19) Such other information reasonably required by the Department ~~Office of Banks and Real Estate~~ and established by administrative rule necessary for the protection of purchasers of timeshare interests in timeshare plans.

(20) Any other information that the developer, with the approval of the Department ~~Office of Banks and Real Estate~~, desires to include in the public offering statement.

(c) A developer offering a multi-site timeshare plan shall also fully and accurately disclose the following information, which may be disclosed in a written, graphic, or tabular form:

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

(2) The number of accommodations and timeshare periods, expressed in periods of 7-day use availability, committed to the multi-site timeshare plan and available for use by purchasers.

(3) Each type of accommodation in terms of the number of bedrooms, bathrooms, and sleeping capacity, and a statement of whether or not the accommodation contains a

full kitchen. For purposes of this description, a "full kitchen" means a kitchen having a minimum of a dishwasher, range, sink, oven, and refrigerator.

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

(5) A description of the reservation system, which shall include the following:

(A) The entity responsible for operating the reservation system.

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

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

(6) A description of any right to make any additions, substitutions, or deletions of accommodations or amenities, and a description of the basis upon which accommodations and amenities may be added to, substituted in, or deleted from the multi-site timeshare plan.

(7) A description of the purchaser's liability for any fees associated with the multi-site timeshare plan.

(8) The location and the anticipated relative use demand of each component site in a multi-site timeshare plan, as well as any periodic adjustment or amendment to

the reservation system which may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at that time within the multi-site timeshare plan.

(9) Such other information reasonably required by the Department ~~Office of Banks and Real Estate~~ and established by administrative rule necessary for the protection of purchasers of timeshare interests in timeshare plans.

(10) Any other information that the developer, with the approval of the Department ~~Office of Banks and Real Estate~~, desires to include in the public offering statement.

(d) If a developer offers a non-specific timeshare interest in a multi-site timeshare plan, the developer shall disclose the information set forth in subsection (b) as to each component site.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-30)

Sec. 5-30. Exchange company registration and disclosure requirements.

(a) An ~~Each~~ exchange company ~~offering an exchange program to purchasers in this State~~ shall register with the Department ~~at least 20 calendar days prior to offering an exchange program to purchasers in this State.~~ ~~Office of Banks and Real Estate by July 1 of each year.~~ The registration shall consist of the information specified in this Section. However, an exchange

~~company shall make its initial registration at least 20 calendar days prior to offering membership in an exchange program to any purchaser in this State.~~

(b) If a purchaser is offered the opportunity to become a member of an exchange program, the developer shall deliver to the purchaser, together with the public offering statement and any other materials required to be furnished under this Section, and prior to the offering or execution of any contract between the purchaser and the exchange company offering membership in the exchange program, or, if the exchange company is dealing directly with the purchaser, the developer or the exchange company shall deliver to the purchaser, prior to the initial offering or execution of any contract between the purchaser and the exchange company, the following written information regarding the exchange program, the form and substance of which shall first be approved by the Department ~~Office of Banks and Real Estate~~ in accordance with this Section:

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

(2) The names of all officers, directors, and shareholders of the exchange company.

(3) Whether the exchange company or any of its officers or directors have any legal or beneficial interest in any developer, seller, or managing entity for any timeshare plan participating in the exchange program and, if so, the identity of the timeshare plan and the nature of the

interest.

(4) Unless otherwise stated, a statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the seller of timeshare interests.

(5) Whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the applicable timeshare plan with the exchange program.

(6) A statement that the purchaser's participation in the exchange program is voluntary.

(7) A complete and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange program and the procedure by which changes thereto may be made.

(8) A complete and accurate description of the procedures necessary to qualify for and effectuate exchanges.

(9) A complete and accurate description of all limitations, restrictions, and priorities employed in the operation of the exchange program, including but not limited to limitations on exchanges based on seasonality, accommodation size, or levels of occupancy, expressed in conspicuous type, and, in the event that those limitations, restrictions, or priorities are not uniformly applied by the exchange company, a clear description of the manner in

which they are applied.

(10) Whether exchanges are arranged on a space-available basis and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange company.

(11) Whether and under what circumstances an owner, in dealing with the exchange program, may lose the right to use and occupy an accommodation of the timeshare plan during a reserved use period with respect to any properly applied-for exchange without being provided with substitute accommodations by the exchange program.

(12) The fees or range of fees for participation by owners in the exchange program, a statement of whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made.

(13) The name and address of the site of each accommodation included within a timeshare plan participating in the exchange program.

(14) The number of accommodations in each timeshare plan that are available for occupancy and that qualify for participation in the exchange program, expressed within the following numerical groups: 1-5; 6-10; 11-20; 21-50; and 51 and over.

(15) The number of currently enrolled owners for each timeshare plan participating in the exchange program, expressed within the following numerical groups: 1-100;

101-249; 250-499; 500-999; and 1,000 and over; and a statement of the criteria used to determine those owners who are currently enrolled with the exchange program.

(16) The disposition made by the exchange company of use periods deposited with the exchange program by owners enrolled in the exchange program and not used by the exchange company in effecting exchanges.

(17) The following information for the preceding calendar year, which shall be independently audited by a certified public accountant in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants and reported on an annual basis on or after August 1 as established by rule ~~annually no later than August 1 of each year:~~

(A) The number of owners currently enrolled in the exchange program.

(B) The number of timeshare plans that have current affiliation agreements with the exchange program.

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

(D) The number of use periods for which the exchange program has an outstanding obligation to

provide an exchange to an owner who relinquished a use period during a particular year in exchange for a use period in any future year.

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

(F) A statement in conspicuous type to the effect that the percentage described in subdivision (17) (C) of this subsection is a summary of the exchange requests entered with the exchange program in the period reported and that the percentage does not indicate the probabilities of an owner's being confirmed to any specific choice or range of choices.

(18) Such other information as may be reasonably required by the Department ~~Office of Banks and Real Estate~~ of any exchange company as established by rule.

(c) No developer shall have any liability with respect to any violation of this Act arising out of the publication by the developer of information provided to it by an exchange company pursuant to this Article. No exchange company shall have any liability with respect to any violation of this Act arising out of the use by a developer of information relating to an exchange program other than that provided to the developer by the exchange company.

(d) All written, visual, and electronic communications relating to an exchange company or an exchange program shall be filed with the Department ~~Office of Banks and Real Estate~~ upon

its request.

(e) The failure of an exchange company to observe the requirements of this Section, and the use of any unfair or deceptive act or practice in connection with the operation of an exchange program, is a violation of this Act.

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

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-40)

Sec. 5-40. Resale agent duties. ~~A Whether registered or exempt from registration under Section 5-35,~~ a resale agent shall comply with all of the following:

(a) Prior to engaging in any resale activities on behalf of any owner of a timeshare interest or accepting anything of value from any owner of a timeshare interest, a resale agent shall enter into a listing agreement with that owner. Every listing agreement shall be in writing and signed by both the resale agent and the timeshare interest owner. The requirements of the written listing agreement shall be established by rule, but at a minimum the listing agreement shall disclose the following:

(1) The name and address of the resale agent and the timeshare interest owner.

(2) The term of the listing agreement.

(3) Whether the resale agent's rights under the listing agreement are exclusive and, if the resale agent's rights are exclusive, the length of such exclusivity period.

(4) Whether any person other than the timeshare interest owner may use the timeshare during the period before the timeshare interest is resold.

(5) Whether any person other than the timeshare interest owner may rent or exchange the use of the timeshare interest during the term of the listing agreement.

(6) The name of any person who will receive any rents, profits, or other thing of value generated from the use of the timeshare interest during the period before the timeshare interest is resold.

(7) A detailed description of any relationship between the resale agent and any other person who receives any benefit from the use of the timeshare interest.

(8) A description of any fees or costs that relate to the listing or sale of the timeshare interest that the timeshare interest owner (or any other person) must pay to the resale agent or any third party. If the timeshare interest owner (or any other person) must pay a fee to the resale agent or any third party before the sale of the

timeshare interest, the listing agreement must identify each of the following:

(A) The amount of each pre-sale fee and to whom such pre-sale fee must be paid.

(B) The time by which each pre-sale fee must be paid.

(C) A reasonable description of each pre-sale cost or fee.

(D) A description and the estimated amount of any other fees or costs associated with the listing or sale of the timeshare interest.

(E) The ratio or percentage of the number of listings of timeshare interests for sale versus the number of timeshare interests sold by the resale agent for each of the past 3 years.

(9) A description of the amount or percentage and procedures for paying any commissions due to the resale agent upon resale of the timeshare interest. ~~the method of compensation, a definite date of termination, whether any fees are non-refundable, and whether the agreement permits the timeshare resale agent or any other person to make any use whatsoever of the owner's timeshare interest or receive any rents or profits generated from such use of the timeshare interest.~~

(b) A resale agent shall maintain records as required by rule. The records required to be maintained include, but are

not limited to, all listing agreements, copies of disbursement authorizations in accordance with subsection (c), and resale contracts.

(c) A resale agent who collects any fees prior to a transfer of an interest from any owner shall deposit the fees in an escrow account. Any fees that are to be paid to the resale agent prior to closing may be disbursed from the escrow account only upon receipt of a disbursement authorization, signed by the owner, in the following form:

"I, (name of owner), am the owner of a timeshare interest in (name of timeshare plan). I understand that for my protection I can require the entire fee to be held in escrow until the closing on the resale of my timeshare interest, but I am authorizing a release before the transfer in the following amount: (amount written in words) (\$ (amount in numbers)), for the following purpose or purposes (description of purpose or purposes). I understand that the resale agent is regulated by the Illinois Department of Financial and Professional Regulation, or its successor agency, Office of Banks and Real Estate under the Real Estate Timeshare Act of 1999. The Illinois Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~ requires the resale agent to obtain this disbursement authorization with my signature before disbursement of my funds."

(d) A resale agent shall utilize a purchase agreement that

discloses to a purchaser of a timeshare interest all of the following:

(1) A legally sufficient description of the timeshare interest being purchased.

(2) The name and address of the managing entity of the timeshare property.

(3) The amount of the most recent ~~current year's~~ assessment for the common expenses allocated to the timeshare interest being purchased including the time period to which the assessment relates (e.g., monthly, quarterly, yearly) and the date on which it is due. If not included in the applicable common expense assessment, the amount of any real or personal property taxes allocated to the timeshare interest being purchased.

(3.5) Whether all assessments and real or personal property taxes that are due against the timeshare interest are paid in full and, if not, the amount owed and the consequences of failure to pay timely any assessment or real or personal property taxes.

(4) A complete and accurate disclosure of the terms and conditions of the purchase and closing, including the obligations of the owner, the purchaser, or both for closing costs and the title insurance.

(5) The entity responsible for providing notification to the managing entity of the timeshare plan and the applicable exchange company regarding any change in the

ownership of the timeshare interest.

(6) A statement of the first year in which the purchaser is entitled to receive the actual use rights and occupancy of the timeshare interest, as determined by the managing entity of the timeshare plan and any exchange company.

(6.5) The name, address, telephone number, and website (if applicable) where the governing documents of the association, if any, and the timeshare instrument may be obtained, together with the following disclosure:

"There are many important documents relating to the timeshare plan that you should review before purchasing a timeshare interest. These may include, but are not limited to, (a) the declaration of condominium, (b) the declaration of timeshare plan, (c) the reciprocal easement and cost sharing agreement, (d) the declaration of restrictions, covenants, and conditions, (e) the owners association articles and bylaws, (f) the current year's operating and reserve budgets, if any, for the owners association, and (g) any rules and regulations affecting the use of the timeshare property or other facility or amenity available for use by timeshare interest owners."

(7) In making the disclosures required by this subsection (d), the timeshare resale agent may rely upon

information provided in writing by the owner or managing entity of the timeshare plan.

(8) The purchaser's 5 calendar day ~~5-day~~ cancellation period as required by Section 10-10.

(9) Any other information determined by the Department Office of Banks and Real Estate and established by rule.

(e) A resale agent must be licensed as a real estate broker or salesperson pursuant to the Real Estate License Act of 2000 or its successor Act.

(f) A resale agent is exempt from the duties imposed by subsections (a) through (d) of this Section if the resale agent offers an aggregate total of no more than 8 timeshare interests per calendar year as a resale agent, regardless of (1) whether those timeshare interests are located in this State and (2) whether the resale agent offers all, or only some, of those timeshare interests, in this State.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-45)

Sec. 5-45. Amendment to registration information or public offering statement. The developer, ~~resale agent,~~ and exchange company shall amend or supplement their disclosure documents and registration information to reflect any material change in any information required by this Act or the rules implementing this Act. All such amendments, supplements, and changes shall be filed with the Department Office of Banks and Real Estate

within 30 ~~20~~ calendar days of the material change.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-50)

Sec. 5-50. Registration review time frames. Every registration required to be filed with the Department ~~Office of Banks and Real Estate~~ under this Act shall be reviewed and issued a certificate of registration in accordance with the following schedule:

(1) Comprehensive registration. Registration shall be effective only upon the issuance of a certificate of registration by the Department ~~Office of Banks and Real Estate~~, which, in the ordinary course of business, should occur no more than 60 calendar days after actual receipt by the Department ~~Office of Banks and Real Estate~~ of the properly completed application. The Department shall ~~Office of Banks and Real Estate must~~ provide a list of deficiencies in the application, if any, within 60 calendar days of receipt. The list may be in a written or electronic format.

(2) Abbreviated registration. Registration shall be effective only upon the issuance of a certificate of registration by the Department ~~Office of Banks and Real Estate~~, which, in the ordinary course of business, should occur no more than 30 calendar days after actual receipt by the Department ~~Office of Banks and Real Estate~~ of the

properly completed application. The Department shall
~~Office of Banks and Real Estate must~~ provide a list of
deficiencies in the application, if any, within 30 calendar
days of receipt. The list may be in a written or electronic
format.

(3) Alternative assurance registration. Registration
shall be ~~deemed~~ effective only upon the issuance of a
certificate of registration by the Department, which, in
the ordinary course of business, should occur no more than
~~within 30~~ 15 calendar days after ~~of~~ receipt by the
Department. The Department shall provide a, unless the
~~Office of Banks and Real Estate provides to the applicant a~~
~~written~~ list of deficiencies in the application, if any,
within 30 ~~15~~ calendar days of receipt. The list may be in a
written or electronic format.

(4) Preliminary permit registration. A preliminary
permit shall be issued only upon the written approval by
the Department, which, in the ordinary course of business,
should occur no more than 30 ~~within 15~~ calendar days after
actual ~~of~~ receipt of the required documentation by the
Department. The Department shall provide a, unless the
~~Office of Banks and Real Estate provides to the applicant a~~
~~written~~ list of deficiencies in the application, if any,
within 30 ~~15~~ calendar days of receipt. The list may be in a
written or electronic format.

(5) Exchange company registration. Registration shall

be effective only upon the issuance of a certificate of registration by the Department, which, in the ordinary course of business, should occur no more than 60 calendar days after the actual receipt by the Office of Banks and Real Estate of a properly completed application by the Department. The Department shall ~~Office of Banks and Real Estate~~ must provide a list of deficiencies in the application, if any, within 60 ~~30~~ calendar days of receipt. The list may be in a written or electronic format.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-55)

Sec. 5-55. Fees. The Department ~~Office of Banks and Real Estate~~ shall provide, by rule, for fees to be paid by applicants and registrants to cover the reasonable costs of the Department ~~Office of Banks and Real Estate~~ in administering and enforcing the provisions of this Act. The Department ~~Office of Banks and Real Estate~~ may also provide, by rule, for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/5-60)

Sec. 5-60. Registration; offer or disposal of interest; renewal.

(a) A developer or ~~an~~ exchange company, ~~or resale agent,~~ or

any of their agents, shall not sell, offer, or dispose of a timeshare interest unless all necessary registrations are filed and approved by the Department Office of Banks and Real Estate, or while an order revoking or suspending a registration is in effect.

(b) An applicant for registration under this Act shall submit the necessary information to complete the application, as required by the Department Office of Banks and Real Estate, within 6 months from the date the initial registration application was received by the Department Office of Banks and Real Estate. If the applicant fails to submit the information necessary to complete the application as required by the Department Office of Banks and Real Estate within the six month period, said application shall be voided, and a new registration application with applicable fees must be submitted.

(c) The registration of a developer, exchange company, individual, or entity registered under this Act shall be renewed as required by rule.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/10-5)

Sec. 10-5. Management and operation provisions.

(a) Before the first sale of a timeshare interest, the developer shall create or provide for a managing entity, which shall be either the developer, a separate manager or management

firm, the board of directors of an owners' association, or some combination thereof.

(b) The duties of the managing entity include, but are not limited to:

(1) Management and maintenance of all accommodations constituting the timeshare plan.

(2) Collection of all assessments as provided in the timeshare instrument.

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

(4) Maintenance of all books and records concerning the timeshare plan.

(5) Scheduling occupancy of accommodations, when purchasers are not entitled to use specific timeshare periods, so that all purchasers will be provided the opportunity to use and possession of the accommodations of the timeshare plan which they have purchased.

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

(c) ~~If In the event~~ a developer, mortgagee, managing entity, or association does not pursue nonjudicial foreclosure as provided in Section 10-50 or 10-55 and instead forecloses against a timeshare interest pursuant to the Illinois Mortgage Foreclosure Law, files a complaint in a foreclosure proceeding

~~involving timeshare interests,~~ the developer, mortgagee, managing entity, or association may join in the same action multiple defendant obligors and junior interest holders of separate timeshare interests, provided:

(1) the foreclosure proceeding involves a single timeshare plan;

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

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

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

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

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/10-15)

Sec. 10-15. Interests, liens, and encumbrances; alternative assurances.

(a) Excluding any encumbrance placed against the purchaser's timeshare interest securing the purchaser's payment of purchase-money financing for such purchase, the developer shall not be entitled to the release of any funds

escrowed under subsection (c) of Section 5-15 with respect to each timeshare interest and any other property or rights to property appurtenant to the timeshare interest, including any amenities represented to the purchaser as being part of the timeshare plan, until the developer has provided satisfactory evidence to the Department ~~Office of Banks and Real Estate~~ of one of the following:

(1) The timeshare interest together with any other property or rights to property appurtenant to the timeshare interest, including any amenities represented to the purchaser as being part of the timeshare plan, are free and clear of any of the claims of the developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor, or any other person having an interest in or lien or encumbrance against the timeshare interest or appurtenant property or property rights.

(2) The developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor, or any other person having an interest in or lien or encumbrance against the timeshare interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the timeshare plan, has recorded a subordination and notice to creditors document in the appropriate public records of the jurisdiction in which the timeshare interest is located. The subordination document shall expressly and effectively provide that the interest

holder's right, lien, or encumbrance shall not adversely affect, and shall be subordinate to, the rights of the owners of the timeshare interests in the timeshare plan regardless of the date of purchase, from and after the effective date of the subordination document.

(3) The developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor, or any other person having an interest in or lien or encumbrance against the timeshare interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the timeshare plan, has transferred the subject accommodations or amenities or all use rights therein to a nonprofit organization or owners' association to be held for the use and benefit of the owners of the timeshare plan, which entity shall act as a fiduciary to the purchasers, provided that the developer has transferred control of such entity to the owners or does not exercise its voting rights in such entity with respect to the subject accommodations or amenities. Prior to the transfer, any lien or other encumbrance against the accommodation or facility shall be made subject to a subordination and notice to creditors instrument pursuant to paragraph (2).

(4) Alternative arrangements have been made which are adequate to protect the rights of the purchasers of the timeshare interests and approved by the Department Office

~~of Banks and Real Estate.~~

(b) Nothing in this Section shall prevent a developer from accessing any escrow funds if the developer has complied with subsection (c) of Section 5-15.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/10-25)

Sec. 10-25. Liability; material misrepresentation;
promotions.

(a) A developer or other person offering a timeshare plan may not do any of the following:

(1) Misrepresent a fact material to a purchaser's decision to buy a timeshare interest.

(2) Predict specific or immediate increases in the value of a timeshare interest represented over a period of time, excluding bona fide pending price increases by the developer.

(3) Materially misrepresent the qualities or characteristics of accommodations or the amenities available to the occupant of those accommodations.

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

(5) Misrepresent the conditions under which a purchaser of a timeshare interest may exchange the right of his or her occupancy for the right to occupy other

accommodations.

(b) A developer or other person using a promotion in connection with the offering of a timeshare interest shall clearly disclose all of the following:

(1) That the purpose of the promotion is to sell timeshare interests, which shall appear in bold face or other conspicuous type.

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

(3) The name of each developer or other person trying to sell a timeshare interest through the promotion, and the name of each person paying for the promotion.

(4) The complete rules of the promotion.

(5) The method of awarding prizes, gifts, vacations, discount vacations, or other benefits under the promotion; a complete and fully detailed description, including approximate retail value, of all prizes, gifts, or benefits under the promotion; the quantity of each prize, gift, or benefit to be awarded or conferred; and the date by which each prize, gift, or benefit will be awarded or conferred.

(6) Any other disclosures provided by rule.

(c) If a person represents that a prize, gift, or benefit will be awarded in connection with a promotion, the prize, gift, or benefit must be awarded or conferred in the manner represented, and on or before the date represented.

(d) A developer or other person using a promotion in connection with the offering of a timeshare interest shall provide the disclosures required by this Section in writing or electronically to the prospective purchaser at least once before the earlier of (1) a reasonable period before the scheduled sales presentation to ensure that the prospective purchaser receives the disclosures before leaving to attend the sales presentation or (2) the payment of any nonrefundable monies by the prospective purchaser in regard to the promotion.

(e) A developer or other person using a promotion in connection with the offering of a timeshare interest is not required to provide the disclosures required by this Section in every advertisement or other written, oral, or electronic communication provided or made to a prospective purchaser.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/10-30)

Sec. 10-30. Records. The managing entity shall keep detailed financial records directly related to the operation of the association. All financial and other records shall be made reasonably available for examination by any purchaser, or the authorized agent of the purchaser, and the Department ~~Office of Banks and Real Estate~~. For purposes of this Section, the books and records of the timeshare plan shall be considered "reasonably available" if copies of the requested portions are delivered to the purchaser or the purchaser's agent or the

~~Department Office of Banks and Real Estate~~ within 7 days of the date the managing entity receives a written request for the records signed by the purchaser or the Department Office of Banks and Real Estate. The managing entity may charge the purchaser a reasonable fee for copying the requested information.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/10-45 new)

Sec. 10-45. Managing entity lien created.

(a) A managing entity has a lien on a timeshare interest for any of the following respectively levied or imposed against a timeshare interest:

(1) Assessments, which for purposes of this Act unless the timeshare instrument provides otherwise, shall include fees, charges, late charges, fines, collection costs, and interest charged in accordance with the timeshare instrument;

(2) Reasonable collection and attorneys fees and costs the managing entity incurs to collect assessments; and

(3) Taxes, interest, penalties, late payment fees or fines in accordance with applicable law or the timeshare instrument.

(b) Managing entity liens pursuant to this Section are created and attached when the charges described in Section 10-45(a) become due. If such amounts are payable in

installments, the full amount of such charges is a managing entity lien from the time that the first installment thereof becomes due.

(c) Managing entity liens pursuant to this Section are perfected on the date that the managing entity:

(1) In the case of a timeshare estate, records a notice of lien against the timeshare estate in the office of the recorder in the county where the timeshare estate is located, which notice of lien must identify each of the following:

(A) The name of the timeshare estate owner;

(B) The name and address of the managing entity;

(C) The description of the timeshare estate in the same manner required for recording a mortgage against a timeshare estate; and

(D) The amount of the debt secured by the managing entity lien.

(2) In the case of a timeshare use, files a notice of lien against the timeshare use in the filing office of the Illinois Secretary of State pursuant to Article 9 of the Uniform Commercial Code, which notice of lien, in addition to any other filing requirements imposed by Article 9 of the Uniform Commercial Code, must identify each of the following:

(A) The name of the timeshare use owner as the debtor;

(B) The name of the managing entity as the secured party;

(C) The address of the managing entity;

(D) The timeshare use as the collateral; and

(E) The amount of the debt secured by the managing entity lien.

(d) The managing entity must send a copy of the recorded or filed notice of lien on the timeshare interest, as the case may be, to the last known address of the timeshare interest owner.

(e) A managing entity lien against a timeshare estate, at the managing entity's option, may (1) be foreclosed as provided in Section 10-50 or (2) be foreclosed in the same manner as a mortgage pursuant to the Illinois Mortgage Foreclosure Law.

(f) A managing entity lien against a timeshare use, at the managing entity's option, may (1) be foreclosed as provided in Section 10-55 or (2) be enforced in the same manner as a security interest pursuant to Article 9 of the Uniform Commercial Code.

(765 ILCS 101/10-50 new)

Sec. 10-50. Nonjudicial foreclosure against timeshare estates.

(a) Notwithstanding anything in the Illinois Mortgage Foreclosure Law or other applicable law to the contrary:

(1) The holder of a mortgage against a timeshare estate may foreclose or otherwise enforce a security interest

pursuant to this Section 10-50; and

(2) The holder of a managing entity lien against a timeshare estate may foreclose such managing entity lien pursuant to this Section 10-50.

(b) Upon default, and after all applicable cure periods identified in the mortgage (if such default is under a mortgage) or the timeshare instrument (if default is under a managing entity lien) have expired, the holder of the mortgage or managing entity lien must:

(1) Provide written notice of the default to the timeshare estate owner at the last known address of the timeshare estate owner by (A) certified mail, return receipt requested and (B) first-class mail.

(2) Provide the timeshare estate owner an additional opportunity to cure for a period of at least 30 days following the later date of the mailing of the notices pursuant to Sections 10-50(b)(1)(A) and 10-50(b)(1)(B).

(c) If, the timeshare estate owner does not cure the default before the expiration of the additional cure period granted pursuant to Section 10-50(b)(2), the holder of the mortgage or managing entity lien may foreclose the mortgage or managing entity lien by conducting a public auction that complies with the following requirements:

(1) The holder of the mortgage or managing entity lien must provide notice of the public auction as follows:

(A) By publishing notice of the public auction in

at least each of 3 successive weeks in a newspaper, whether printed or electronic, of general circulation in the county where the timeshare estate is located. The first notice must be published no more than 30 days before the date of the public auction, which 30-day period shall be calculated by excluding the date of publication of the first notice and the date of the public auction.

(B) By sending written notice identifying the time, date, and place of the public auction to the last known address of the owner of record of the timeshare estate at least 30 days before the date of the public auction by (i) certified mail, return receipt requested and (ii) first-class mail.

(C) By sending notice identifying the time, date, and place of the public auction to all persons known to have a lien against the timeshare estate at least 30 days before the date of the public auction by certified mail, return receipt requested.

(2) The notices given pursuant to Section 10-50(c)(1) must also contain:

(A) The name of the timeshare estate owner;

(B) A general description of the timeshare estate;

and

(C) The terms of the public auction.

(3) If more than one timeshare estate is to be included

in the public auction, all such timeshare estates may be combined into one notice of public auction.

(4) The public notice required by Section 10-50(c)(1)(A) for foreclosing a mortgage against a timeshare estate must be printed in substantially the following form:

NOTICE OF SALE OF TIMESHARE ESTATE OR ESTATES UNDER SECTION 10-50 OF THE ILLINOIS REAL ESTATE TIMESHARE ACT OF 1999

By virtue of 765 ILCS 101/10-50 and in execution of a certain mortgage (or mortgages, if more than one) on the timeshare estate (or estates, if more than one) given by the owner of the timeshare estate (or owners, if more than one) set forth below for breach of the conditions of said mortgage (or mortgages, if more than one) and for the purpose of foreclosing, the same will be sold at public auction starting at..... on..... 20.. at....., Illinois, being all and singular the premises described in said mortgage (or mortgages, if more than one). (For each mortgage, list the name and address of the timeshare estate owner, a general description of the timeshare estate, and the book and page number of the mortgage.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for

payment of the balance or the whole, as the case may be. The timeshare estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case, they may be sold as a group.)

Other terms may be announced at the public auction.

Signed.....

Holder of mortgage or authorized agent.

(5) The public notice required by Section 10-50(c)(1)(A) for foreclosing a managing entity lien against a timeshare estate must be printed in substantially the following form:

NOTICE OF SALE OF TIMESHARE ESTATE OR ESTATES UNDER SECTION 10-50 OF THE ILLINOIS REAL ESTATE TIMESHARE ACT OF 1999

By virtue of the timeshare instrument of the (name and address of timeshare property) and 765 ILCS 101/10-45 establishing a managing entity lien for failure to pay assessments and other costs on the timeshare estate (or estates, if more than one) held by the owner of the timeshare estate (or owners, if more than one) listed below, the timeshare estate (or estates, if more than one) and for the purpose of foreclosing, the same will be sold at public auction

starting at on 20.. at,
Illinois. (For each timeshare estate, list the name and address
of the timeshare estate owner, a general description of the
timeshare estate, and the book and page number of the deed.)

TERMS OF SALE: (State the deposit amount to be paid by the
purchaser at the time and place of the sale and the times for
payment of the balance or the whole, as the case may be. The
timeshare estates, if more than one, must be sold in individual
lots unless there are no individual bidders, in which case,
they may be sold as a group.)

Other terms may be announced at the public auction.

Signed

Managing entity lienholder or authorized agent.

(6) Publishing and sending notices in compliance with
this Section 10-50(c) constitutes sufficient public notice
of the public auction.

(d) Public auctions pursuant to this Section 10-50 must be
conducted as follows:

(1) The public auction must take place within the
county where the timeshare estate is located.

(2) The public auction must be open to the general

public and conducted by an auctioneer licensed pursuant to the Auction License Act.

(3) Notwithstanding anything in the Auction License Act to the contrary, the auctioneer, in his or her discretion, may waive the reading of the names of the timeshare estate owners, if more than one, the description of the timeshare estates, if more than one, and the recording information of the applicable mortgages or managing entity liens (as the case may be), if more than one.

(4) All rights of redemption of the timeshare estate owner are extinguished upon sale of a timeshare estate at the public auction.

(5) The holder of the mortgage or managing entity lien, the developer, the managing entity, and the timeshare estate owner are not precluded from bidding at the public auction.

(6) The successful purchaser at the public auction is not required to complete the purchase of the timeshare estate if the timeshare estate, at the time the auctioneer accepts the successful bid, is subject to liens or other encumbrances, other than those identified in the notice of public auction and those identified at the auction before the auctioneer opens bidding on the applicable timeshare estate.

(7) The purchaser at the public auction takes title to

the timeshare estate free and clear of any outstanding assessments owed by the prior timeshare estate owner to the managing entity.

(e) Upon the sale of a timeshare estate pursuant to this Section 10-50, the holder of the mortgage or managing entity lien must provide the purchaser with (1) a foreclosure deed or other appropriate instrument transferring the mortgage holder's or managing entity's interest in the timeshare estate and (2) an affidavit affirming that all requirements of the foreclosure pursuant to this Section 10-50 have been satisfied.

(f) The timeshare estate is considered sold, and the deed or other instrument transferring the timeshare estate must transfer the timeshare estate, subject to municipal or other taxes and any liens or encumbrances recorded before the recording of the mortgage or the managing entity lien foreclosed pursuant to this Section 10-50 (as the case may be), but not including such managing entity lien.

(g) The purchaser of a timeshare estate at a public auction pursuant to this Section 10-50 must record the foreclosure deed or other instrument with the appropriate recorder of deeds within 30 days after the date the foreclosing mortgage holder or managing entity (as the case may be) delivers the foreclosure deed or other instrument to the purchaser.

(h) If the holder of a mortgage or managing entity lien conducts a nonjudicial foreclosure pursuant to this Section 10-50, the holder of the mortgage or managing entity lien

forfeits its right to pursue a claim for any deficiency in the payment of the obligations of the timeshare estate owner resulting from the application of the proceeds of the sale to such obligations.

(i) For purposes of this Section 10-50, obligations to pay assessments secured by a lien established pursuant to a timeshare instrument before the effective date of this amendatory Act of the 96th General Assembly are considered managing entity liens.

(j) This Section 10-50 applies to the foreclosure of mortgages and liens considered to be managing entity liens that arose before or after the effective date of this amendatory Act of the 96th General Assembly.

(765 ILCS 101/10-55 new)

Sec. 10-55. Foreclosure of lien or security interest on a timeshare use.

(a) Notwithstanding anything in the Illinois Mortgage Foreclosure Law or the Uniform Commercial Code to the contrary, the holder of a managing entity lien on a timeshare use created by Section 10-45, in the case of the failure to pay assessments when due, or a security interest against a timeshare use, in the case of a breach of the security agreement, may do either of the following:

(1) Enforce the security interest pursuant to Part 6 of Article 9 of the Uniform Commercial Code, including

(without limitation) accepting the timeshare use in full or partial satisfaction of the timeshare use owner's obligation pursuant to Section 9-620 of the Uniform Commercial Code; or

(2) Nonjudicially foreclose in the same manner as authorized by Section 10-50 for holders of a mortgage or managing entity lien against a timeshare estate.

(b) All rights of redemption of a timeshare use owner are extinguished upon sale of a timeshare use as authorized by Section 10-55(a).

(c) The holder of the security interest or managing entity lien, the developer, the managing entity and the timeshare use owner are not precluded from bidding at the sale of the timeshare use pursuant to this Section 10-55 and may enter into agreements for the purchase of one or more timeshare uses following the completion of the sale proceedings.

(d) The purchaser at the public auction takes title to the timeshare use free and clear of any outstanding assessments owed by the prior timeshare use owner to the managing entity.

(765 ILCS 101/15-5)

Sec. 15-5. Investigation. The Department Office of Banks and Real Estate may investigate the actions or qualifications of any person or persons holding or claiming to hold a certificate of registration under this Act. Such a person is referred to as "the respondent" in this Article.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-10)

Sec. 15-10. Disciplinary hearings; record; appointment of administrative law judge.

(a) The Department ~~Office of Banks and Real Estate~~ has the authority to conduct hearings before an administrative law judge on proceedings to revoke, suspend, place on probation, reprimand, or refuse to issue or renew registrants registered under this Act, or to impose a civil penalty not to exceed \$25,000 upon any registrant registered under this Act.

(b) The Department ~~Office of Banks and Real Estate~~, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or the revocation, suspension, or other discipline of a registrant. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board, and the orders of the Department ~~Office of Banks and Real Estate~~ shall be the record of proceeding. At all hearings or prehearing conferences, the Department ~~Office of Banks and Real Estate~~ and the respondent shall be entitled to have a court reporter in attendance for purposes of transcribing the proceeding or prehearing conference.

(c) The Secretary ~~Commissioner~~ has the authority to appoint any attorney duly licensed to practice law in the State of

Illinois to serve as an administrative law judge in any action for refusal to issue or renew a certificate of registration or to discipline a registrant or person holding a certificate of registration. The administrative law judge has full authority to conduct the hearing. The administrative law judge shall report his or her findings and recommendations to the Secretary Commissioner. If the Secretary Commissioner disagrees with the recommendation of the administrative law judge, the Secretary Commissioner may issue an order in contravention of the recommendation.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-15)

Sec. 15-15. Notice of proposed disciplinary action; hearing.

(a) Before taking any disciplinary action with regard to any registrant, the Department Office of Banks and Real Estate shall:

(1) notify the respondent in writing, at least 30 calendar days prior to the date set for the hearing, of any charges made, the time and place for the hearing of the charges, and that testimony at the hearing will be heard under oath; and

(2) inform the respondent that upon failure to file an answer and request a hearing before the date originally set for the hearing, default will be taken against the

respondent and the respondent's registration may be suspended or revoked, or the respondent may be otherwise disciplined, as the Department ~~Office of Banks and Real Estate~~ may deem proper.

(b) If the respondent fails to file an answer after receiving notice, the respondent's registration may, in the discretion of the Department ~~Office of Banks and Real Estate~~, be revoked or suspended, or the respondent may be otherwise disciplined as deemed proper, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act.

(c) At the time and place fixed in the notice, the Department ~~Office of Banks and Real Estate~~ shall proceed to hearing of the charges. Both the respondent and the complainant shall be accorded ample opportunity to present in person, or by counsel, statements, testimony, evidence, and argument that may be pertinent to the charges or any defense to the charges.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-20)

Sec. 15-20. Disciplinary consent orders. Notwithstanding any other provisions of this Act concerning the conduct of hearings and recommendations for disciplinary actions, the Department ~~Office of Banks and Real Estate~~ has the authority to negotiate agreements with registrants and applicants resulting in disciplinary consent orders. Any such consent order may

provide for any form of discipline provided for in the Act. Any such consent order shall provide that it is not entered into as a result of any coercion by the Department ~~Office of Banks and Real Estate~~. Any such consent order shall be accepted by signature or rejected by the Secretary ~~Commissioner~~ in a timely manner.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-25)

Sec. 15-25. Disciplinary action; civil penalty. The Department ~~Office of Banks and Real Estate~~ may refuse to issue or renew any registration, or revoke or suspend any registration or place on probation or administrative supervision, or reprimand any registrant, or impose a civil penalty not to exceed \$25,000, for any one or any combination of the following causes:

(1) A registrant's disregard or violation of any provision of this Act or of the rules adopted by the Department ~~Office of Banks and Real Estate~~ to enforce this Act.

(2) A conviction of the registrant or any principal of the registrant of (i) a felony under the laws of any U.S. jurisdiction, (ii) a misdemeanor under the laws of any U.S. jurisdiction if an essential element of the offense is dishonesty, or (iii) a crime under the laws of any U.S. jurisdiction if the crime relates directly to the practice

of the profession regulated by this Act.

(3) A registrant's making any misrepresentation for the purpose of obtaining a registration or certificate of registration.

(4) A registrant's discipline by another U.S. jurisdiction, state agency, or foreign nation regarding the practice of the profession regulated by this Act, if at least one of the grounds for the discipline is the same as or substantially equivalent to one of those set forth in this Act.

(5) A finding by the Department ~~Office of Banks and Real Estate~~ that the registrant, after having his or her registration placed on probationary status, has violated the terms of probation.

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

(7) A registrant's failure to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until the requirements of any such tax Act are satisfied.

(8) A registrant's engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(9) A registrant's aiding or abetting another person or persons in disregarding or violating any provision of this Act or of the rules adopted by the Department ~~Office of Banks and Real Estate~~ to enforce this Act.

(10) Any representation in any document or information filed with the Department ~~Office of Banks and Real Estate~~ which is false or misleading.

(11) A registrant's disseminating or causing to be disseminated any false or misleading promotional materials or advertisements in connection with a timeshare plan.

(12) A registrant's concealing, diverting, or disposing of any funds or assets of any person in a manner that impairs the rights of purchasers of timeshare interests in the timeshare plan.

(13) A registrant's failure to perform any stipulation or agreement made to induce the Department ~~Office of Banks and Real Estate~~ to issue an order relating to the timeshare plan.

(14) A registrant's engaging in any act that constitutes a violation of Section 3-102, 3-103, 3-104, or 3-105 of the Illinois Human Rights Act.

(15) A registrant's failure to provide information requested in writing by the Department ~~Office of Banks and Real Estate~~, within 30 days of the request, either as the result of a formal or informal complaint to the Department ~~Office of Banks and Real Estate~~ or as a result of a random

audit conducted by the Department ~~Office of Banks and Real Estate~~, which would indicate a violation of this Act.

(16) A registrant's failure to account for or remit any escrow funds coming into his or her possession which belonged to others.

(17) A registrant's failure to make available to Department ~~Office of Banks and Real Estate~~ personnel during normal business hours all escrow records and related documents maintained in connection therewith, within 24 hours after a request from the Department ~~Office of Banks and Real Estate~~ personnel.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-30)

Sec. 15-30. Subpoenas; attendance of witnesses; oaths.

(a) The Department ~~Office of Banks and Real Estate~~ has the power to issue subpoenas ad testificandum and to bring before it any persons, and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Department ~~Office of Banks and Real Estate~~ has the power to issue subpoenas duces tecum and to bring before it any documents, papers, files, books, and records, with the same costs and in the same manner as prescribed in civil cases in the courts of this State.

(b) Upon application of the Department ~~Office of Banks and~~

~~Real Estate~~ or its designee or of the applicant, registrant, or person holding a certificate of registration against whom proceedings under this Act are pending, any circuit court may enter an order compelling the enforcement of any subpoena issued by the Department ~~Office of Banks and Real Estate~~ in connection with any hearing or investigation.

(c) The Secretary ~~Commissioner~~ and the designated administrative law judge have power to administer oaths to witnesses at any hearing that the Department ~~Office of Banks and Real Estate~~ is authorized to conduct and any other oaths authorized in any Act administered by the Department ~~Office of Banks and Real Estate~~.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-35)

Sec. 15-35. Administrative law judge's findings of fact, conclusions of law, and recommendations. At the conclusion of the hearing, the administrative law judge shall present to the Secretary ~~Commissioner~~ a written report of the administrative law judge's findings of fact, conclusions of law, and recommendations regarding discipline or a civil penalty. The report shall contain a finding of whether or not the respondent violated this Act or failed to comply with conditions required in this Act. The administrative law judge shall specify the nature of the violation or failure to comply.

If the Secretary ~~Commissioner~~ disagrees in any regard with

the report of the administrative law judge, the Secretary ~~Commissioner~~ may issue an order in contravention of the report. The Secretary ~~Commissioner~~ shall provide a written report to the administrative law judge on any deviation and shall specify with particularity the reasons for that action in the final order.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-40)

Sec. 15-40. Rehearing. After any hearing involving disciplinary action against a registrant, a copy of the administrative law judge's report shall be served on the respondent by the Department ~~Office of Banks and Real Estate~~, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after the service, the respondent may present to the Department ~~Office of Banks and Real Estate~~ a motion in writing for a rehearing. The motion shall specify the particular grounds for rehearing. If the respondent orders a transcript of the record from the reporting service and pays for it within the time for filing a motion for rehearing, the 20 calendar day period within which a motion for rehearing may be filed shall commence upon the delivery of the transcript to the respondent.

If no motion for rehearing is filed, then upon the expiration of the time specified for filing a motion, or if a motion for rehearing is denied, then upon denial, the Secretary

~~Commissioner~~ may enter an order in accordance with the recommendations of the administrative law judge, except as otherwise provided in this Article. Whenever the Secretary ~~Commissioner~~ is not satisfied that substantial justice has been done in the hearing or in the administrative law judge's report, the Secretary ~~Commissioner~~ may order a rehearing by the same or some other duly qualified administrative law judge.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-45)

Sec. 15-45. Order or certified copy. An order or a certified copy of an order, over the seal of the Department ~~Office of Banks and Real Estate~~ and purporting to be signed by the Secretary ~~Commissioner~~, shall be prima facie proof of the following:

(1) That the signature is the genuine signature of the Secretary ~~Commissioner~~.

(2) That the Secretary ~~Commissioner~~ is duly appointed and qualified.

(3) That the administrative law judge is duly appointed and qualified.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-50)

Sec. 15-50. Restoration of certificate of registration. At any time after the suspension or revocation of any certificate

of registration, the Department ~~Office of Banks and Real Estate~~ may restore the certificate of registration to the respondent upon the written recommendation of the Secretary ~~Commissioner~~, unless after an investigation and a hearing the Secretary ~~Commissioner~~ determines that restoration is not in the public interest.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-55)

Sec. 15-55. Surrender of certificate of registration. Upon the revocation or suspension of a certificate of registration, the registrant shall immediately surrender the certificate of registration to the Department ~~Office of Banks and Real Estate~~. If the registrant fails to do so, the Department ~~Office of Banks and Real Estate~~ has the right to seize the certificate of registration.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-60)

Sec. 15-60. Administrative Review Law. All final administrative decisions of the Department ~~Office of Banks and Real Estate~~ under this Act are subject to judicial review under the Administrative Review Law and the rules implementing that Law. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. Proceedings for judicial review shall be commenced in the circuit court of the

county in which the party applying for review resides, but if the party is not a resident of this State, the venue shall be in Cook or Sangamon County.

Pending the court's final decision on administrative review, the acts, orders, sanctions, and rulings of the Department ~~Office of Banks and Real Estate~~ regarding any registration shall remain in full force and effect unless modified or stayed by court order pending a final judicial decision.

The Department ~~Office of Banks and Real Estate~~ shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding unless there is filed in the court, with the complaint, a receipt from the Department ~~Office of Banks and Real Estate~~ acknowledging payment of the costs of furnishing and certifying the record. Failure on the part of the plaintiff to file a receipt in the court is grounds for dismissal of the action.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-65)

Sec. 15-65. Public interest, safety, or welfare; summary suspension. The Secretary ~~Commissioner~~ may temporarily suspend any registration pursuant to this Act, without hearing, simultaneously with the institution of proceedings for a hearing provided for in this Section, if the Secretary

~~Commissioner~~ finds that the evidence indicates that the public interest, safety, or welfare imperatively requires emergency action. If the Secretary ~~Commissioner~~ temporarily suspends any registration without a hearing, a hearing must be held within 30 calendar days after the suspension. The person whose registration is suspended may seek a continuance of the hearing, during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-70)

Sec. 15-70. Non-registered practice; civil penalty; injunction.

(a) Any person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a registrant under this Act without being registered under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department ~~Office of Banks and Real Estate~~ in an amount not to exceed \$25,000 for each offense as determined by the Department ~~Office of Banks and Real Estate~~. The civil penalty shall be assessed by the Department ~~Office of Banks and Real Estate~~ after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a registrant.

(b) The Department ~~Office of Banks and Real Estate~~ has the authority and power to investigate any and all non-registered

activity.

(c) A civil penalty imposed under subsection (a) shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed, and execution may be had thereon, in the same manner as any judgment from any court of record.

(d) Engaging in timeshare practices in Illinois by any entity not holding a valid and current certificate of registration under this Act is declared to be inimical to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The Secretary ~~Commissioner~~, the Attorney General, the State's Attorney of any county in the State, or any person may maintain an action in the name of the People of the State of Illinois, and may apply for injunctive relief in any circuit court to enjoin such entity from engaging in such practice. Upon the filing of a verified petition in the court, the court, if satisfied by affidavit or otherwise that such entity has been engaged in such practice without a valid and current certificate of registration, may enter a temporary restraining order without notice or bond, enjoining the defendant from such further practice. Only the showing of nonregistration, by affidavit or otherwise, is necessary in order for a temporary injunction to issue. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases except as modified by this Section. If

it is established that the defendant has been or is engaged in such unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further practice. In all proceedings hereunder, the court, in its discretion, may apportion the costs among the parties interested in the action, including cost of filing the complaint, service of process, witness fees and expenses, court reporter charges and reasonable attorneys' fees. In the case of a violation of any injunctive order entered under the provisions of this Section, the court may summarily try and punish the offender for contempt of court. Proceedings for an injunction under this Section shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Act.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/15-80)

Sec. 15-80. Cease and desist orders. The Department Office ~~of Banks and Real Estate~~ may issue a cease and desist order to any person who engages in any activity prohibited by this Act. Any person in violation of a cease and desist order entered by the Department Office ~~of Banks and Real Estate~~ is subject to all of the remedies provided by law.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/20-5)

Sec. 20-5. Administration of Act. The Department Office of Banks and Real Estate shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois and shall exercise other powers and duties necessary for effectuating the purposes of this Act. The Department Office of Banks and Real Estate may contract with third parties for services necessary for the proper administration of this Act. The Department Office of Banks and Real Estate has the authority to establish public policies and procedures necessary for the administration of this Act.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/20-10)

Sec. 20-10. Administrative rules. The Department Office of Banks and Real Estate shall adopt rules for the implementation and enforcement of this Act.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/20-15)

Sec. 20-15. Real Estate License Administration Fund.

All fees collected for registration and for civil penalties pursuant to this Act and administrative rules adopted under this Act shall be deposited into the Real Estate License Administration Fund. The moneys deposited in the Real Estate License Administration Fund shall be appropriated to the Department Office of Banks and Real Estate for expenses for the

administration and enforcement of this Act.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/20-20)

Sec. 20-20. Forms. The Department Office of Banks and Real Estate may prescribe forms and procedures for submitting information to the Department Office of Banks and Real Estate.

(Source: P.A. 91-585, eff. 1-1-00.)

(765 ILCS 101/20-25)

Sec. 20-25. Site inspections. The Department Office of Banks and Real Estate shall thoroughly investigate all matters relating to an application for registration under this Act and may require a personal inspection of any developer, timeshare plan, accommodation, exchange company, or resale company and any offices where any of the foregoing may transact business. All reasonable expenses incurred by the Department Office of Banks and Real Estate in investigating such matters shall be borne by the registrant, and the registrant shall reimburse the Department Office of Banks and Real Estate for those expenses within 30 calendar days of receipt of notice of the expenses from the Department Office. The Department Office of Banks and Real Estate may require a deposit sufficient to cover the expenses prior to incurring the expenses.

(Source: P.A. 91-585, eff. 1-1-00.)

Public Act 096-0738

SB2112 Enrolled

LRB096 09414 AJO 19571 b

(765 ILCS 101/5-35 rep.)

Section 10. The Real Estate Timeshare Act of 1999 is amended by repealing Section 5-35.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect upon becoming law.