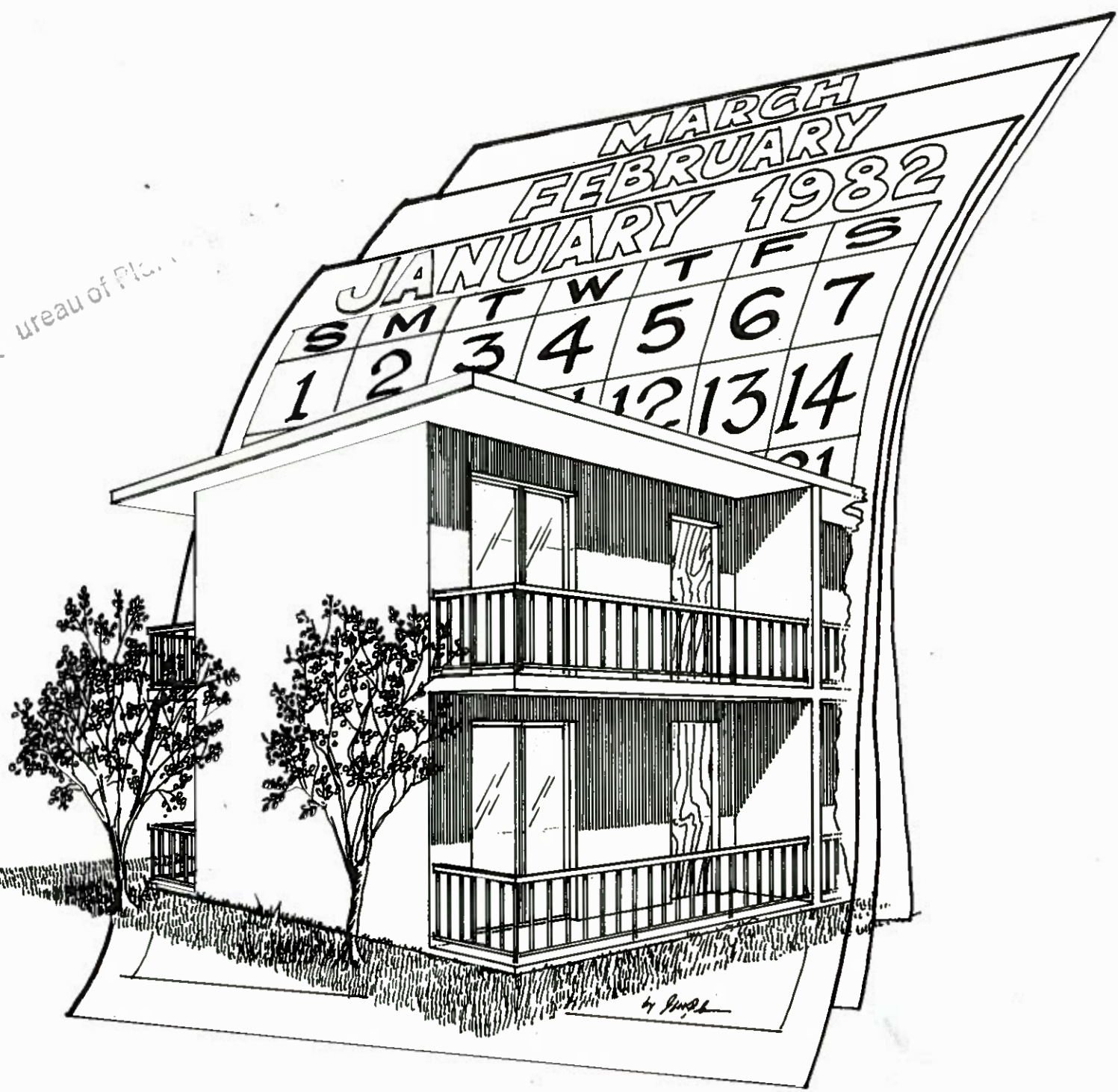


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TIME SHARE OWNERSHIP

DEPARTMENT OF LAND MANAGEMENT, PLANNING DIVISION, 1981

GOVERNMENT CODE

TITLE VII

TIME SHARE OWNERSHIP

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Chapter I

General Provisions

Section 1350. Definitions. As used in this Title and unless otherwise required by the context or expressly provided in any governing instruments, laws, or other governmental regulations:

- (1) Acquisition Agent means a person who by means of telephone, mail, advertisement, inducement, solicitation or otherwise attempts directly to encourage any person to attend a sales presentation for a time-share program;
- (2) Agency means the Department of Land Management;
- (3) Developer means, in the case of any given property, any person or entity which is in the business of creating, or which is in the business of selling its own time-share intervals in any time-share program. Developer does not include a person acting solely as a sales agent;
- (4) Development, Project or Property means of the real property subject to a project instrument and containing more than one (1) unit;
- (5) Exchange Agent means a person who exchange or offers to exchange time-share intervals in an exchange program with other time-share program;
- (6) Managing Agent means a person who undertakes the duties, responsibilities and obligations of the management of a time-share program;
- (7) Offering means any offer to sell, solicitation, inducement or advertisement whether by radio, television, newspaper, magazine or by mail, whereby a person is given an opportunity to acquire a time-share interval. Any offering of a time-share interval which is not located in this territory shall not be an offering if such offer states that the time-share program is in compliance with the law of the jurisdiction in which the time-share interval is located;
- (8) Person means one or more natural persons, corporation, partnerships, associations, trusts, other entities or any combination thereof;
- (9) Project Instrument means one or more recordable documents applicable to the whole project by whatever name denominated, containing restrictions or covenants regulating the use, occupancy or disposition of an entire project, including any amendments to the document, but, excluding any law or governmental regulation;
- (10) Public Offering Statement means that statement required by Section 1362 of this Title;

- (11) Purchaser means any person other than a developer or lender who acquires an interest in a time-share interval;
- (12) Sales Agent means a person who sells or offers to sell Time-Share Program Intervals in a Time-Share Program to a purchaser;
- (13) Time-Share Estate means an ownership or leasehold estate in real property devoted to a time-share fee (tenants in common, time-span ownership, interval ownership) and a time-share lease;
- (14) Time-Share Instrument means any document by whatever denominated, creating or regulating time-share programs, but, excluding any law or governmental regulation;
- (15) Time-Share Interval means a time-share estate or a time-share use;
- (16) Time-Share Program means any arrangement for time-share intervals whereby the use, occupancy or possession of real property has been made subject to either a time-share estate or time-share use whereby such use, occupancy or possession circulates among purchasers of the time-share intervals according to a fixed or floating time schedule on a periodic basis occurring annually over any period of time excess of three (3) years in duration;
- (17) Time-Share Project means any real property that is subject to a time-share program;
- (18) Time-Share Use means any contractual right to exclusive occupancy which is not a time-share estate including, without limitation, a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond; and
- (19) Unit means the real property or real property improvement in a project (which is divided into time-share intervals).

Section 1351. Status of Time-Share Estates With Respect to Real Property Interests. (a) A time-share estate is an estate in real property and has the character and incidents of an estate in fee simple at common law or estate for years, if a leasehold, except as expressly modified by this Title. The provisions of this Title shall supercede any contrary rule at common law.

- (b) A document transferring or encumbering a time-share estate in real property shall not be rejected for recordation because of the nature or duration of the estate or interest.

Section 1352. Separate Titles. Each time-share estate constitutes for purpose of title a separate or interest in property except for real property tax purpose.

Section 1353. Time of Taking Effect. The provisions of this Title shall take effect sixty (60) days after its approval as to any time-share program hereafter created or commenced and sixty (60) days after its approval as to any time-share program heretofore created or commenced with respect to the requirements of Chapters 3 and 4.

Section 1354. Severability. If any provision of this Title or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Title which can be given effect without the invalid provisions of application, and to this end the provision of this Title are severable.

Chapter 11

Creation, Termination and Management

Section 1355. Time-Share Intervals in Units. A time-share program may be created.

Section 1356. Instruments for Time-Share Estates. Project instruments and time-share instruments creating time-share estates shall contain the following:

- (1) the name of the village in which the property is situated;
- (2) the legal description, street address and other description sufficient to identify the property;
- (3) identification of time periods by letter, name, number or combination thereof;
- (4) identification of time-share estates and where applicable, the method whereby additional time-share estates may be created;
- (5) the formula, fraction or percentage of the common expenses and voting rights assigned to each time-share estates and where applicable, to each unit in a project that is not subject to the time-share program;
- (6) any restrictions on the use, occupancy, alteration or alienation of time-share intervals;
- (7) the ownership interest, if any, in personal property and provisions for care and replacement; and
- (8) any other matters the developer deems appropriate.

Section 1357. Time-Share Estate Management. The time-share instruments for a time-share estate program shall prescribe reasonable arrangements for management and operation of the time-share program and for the maintenance, repair and furnishing of units, which shall include, but need not be limited to provisions for the following:

- (1) creation of an association of time-share estate owners;
- (2) adoption of by-laws for organizing and operating the association;
- (3) payment of costs and expenses of operating the time-share program and owning and maintaining the units;
- (4) employment and termination of employment of the managing agent for the association;
- (5) preparation and dissemination to owners of an annual budget and of operating statements and other financial information concerning the time-share program;
- (6) adoption of standards and rules of conduct for the use and occupancy of units by owners;
- (7) collection of assessments from owners to defray the expense of management of the time-share program and maintenance of the units;
- (8) comprehensive general liability insurance for death, bodily injury and property damage arising out of, or in connection with the use of units by owners, their guests and other users;
- (9) methods for providing compensating use periods or monetary compensation to an owner if a unit cannot be made available for the period to which the owner is entitled by schedule or by confirmed reservation;
- (10) procedures for imposing a monetary penalty or suspension of an owner's rights and privileges in the time-share program for failure of the owner to comply with provisions of the time-share instruments or the rules of the association with respect to the use of the units. Under these procedures, an owner must be given notice and the opportunity to refute or explain the charges against him in person or in writing to the governing body of the association before a decision to impose discipline is rendered; and
- (11) employment of attorneys, accountants and other professional persons as necessary to assist in the management of the time-share program and the units.

Section 1358. Developer Control. (a) The time-share instruments for a time-share estate program may provide for a period of time, hereafter referred to as 'developer control period', during which the developer or a managing agent selected by the developer may manage the time-share program and the units in the time-share program. (b) If the time-share instruments for a time-share estate program provide for the establishment of a developer control period, they shall include provisions for:

- (1) termination of the developer control period by action of the association;

- (2) termination of contracts for goods and services for the time-share program or for units in the time-share program entered into during the developer control period; and
- (3) a regular accounting by the developer to the association as to all matters that significantly affect the interests of owners in the time-share program.

Section 1359. Instruments for Time-Share Use. Project instruments and time-share instruments creating time-share uses shall contain:

- (1) identification by name of the time-share project and street address where the time-share project is situated;
- (2) identification of the time periods, type of units and the units that are in the time-share program and the length of time that the units are committed to the time-share program;
- (3) in case of a time-share project, identification of which units are in the time-share program and the method whereby any other units may be added, deleted or substituted; and
- (4) any other matters that the developer deems appropriate.

Section 1360. Time-Share Use Management. The time-share instruments for a time-share program shall prescribe reasonable arrangements for management and operation of the time-share program and for the maintenance, repair and furnishing of units which shall ordinarily include, but need not be limited to provisions for the following:

- (1) standards and procedures for upkeep, repair and interior furnishing of units and for providing of maid, cleaning, linen and similar services to the units during use periods;
- (2) adoption of standards and rules of conduct governing the use and occupancy of units by owners;
- (3) payment of the costs and expenses of operating the time-share program and owning and maintaining the units;
- (4) selection of a managing agent to act on behalf of the developer;
- (5) preparation and dissemination to owners of an annual budget and of operating statements and other financial information concerning the time-share program;
- (6) procedures for establishing the rights of owners to the use of Units by prearrangement or under a first-reserved, first-served priority system;

- (7) organization of a management advisory board consisting of time-share use owners including an enumeration of rights and responsibilities of the board;
- (8) procedures for imposing and collecting assessments or use fees from time-share use owners as necessary to defray costs of management of the time-share program and in providing materials and services to the units;
- (9) comprehensive general liability insurance for death, bodily injury and property damage arising out of, or in connection with, the use of units by time-share use owners, their guests and other users;
- (10) methods for providing compensating use periods or monetary compensation to an owner if a unit cannot be made available for the period to which the owner is entitled by schedule or by a confirmed reservation;
- (11) procedures for imposing a monetary penalty or suspension of an owner's rights and privileges in the time-share program for failure of the owner to comply with the provisions of the time-share instruments or the rules established by the developer with respect to the use of the units. The owner shall be given notice and the opportunity to refute or explain the charges in person or in writing to the management advisory board before a decision to impose discipline is rendered; and
- (12) annual dissemination to all time-share use owners by the developer, or by the managing agent of a list of the names and mailing addresses of all current time-share owners in the time-share program.

Section 1361. Partition. No action for partition of a unit may be maintained except as permitted by the time-share instrument.

Chapter III

Protection of Purchasers

Section 1362. Public Offering Statement: General Provisions.

(a) A public offering statement shall be provided to each purchaser of a time-share interval. The statement shall fully and accurately disclose:

- (1) the name of the developer and the principal address of the developer and the time-share intervals offered in the statement;

- (2) a general description of the units including, without limitation, the developer's schedule of commencement and completion of all buildings, units, and amenities or if completed that they have been completed;
- (3) as to all units offered by the developer in the same time-share project:
 - (i) the types and number of units;
 - (ii) identification of units that may become subject to time-share intervals; and
 - (iii) the estimated number of units that may become subject to time-share intervals;
- (4) a brief description of the project;
- (5) if applicable, any current budget and a projected budget for the time-share intervals for one (1) year after the date of the first transfer to a purchaser. The budget shall include, without limitation:
 - (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;
 - (ii) the projected common expense liability, if any, by category of expenditures for the time-share intervals;
 - (iii) the projected common expense liability for all time-share intervals; and
 - (iv) a statement of any services not reflected in the budget that the developer provides, or expenses that it pays;
- (6) any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;
- (7) a description of any liens, defects, or encumbrances on or affecting the title to the time-share intervals;
- (8) a description of any financing offered by the developer;
- (9) a statement that within three (3) days after receipt of a public offering statement prominently displayed in at least ten-point type, a purchaser may cancel any contract for purchase of a time-share interval from a developer;
- (10) a statement of any pending suits material to the time-share intervals of which a developer has actual knowledge;

- (11) any restraints on alienation of any number or portion of any time-share intervals;
 - (12) a description of the insurance coverage, or a statement that there is no insurance coverage, provided for the benefit of time-share interval owners;
 - (13) any current or expected fees or charges to be paid by time-share interval owners for the use of any facilities related to the property;
 - (14) the extent to which financial arrangements have been provided for completion of all promised improvements; and
 - (15) the extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit.
- (b) If the owners of time-share intervals are to be permitted or required to become members of or to participate in any program for the exchange of occupancy rights among themselves or with the owners of time-share intervals of other time-share projects or both, the public offering statement or a supplement delivered therewith shall fully and accurately disclose:
- (1) the identity of the person operating the exchange program and whether that person is an affiliate of the developer;
 - (2) a general description of the procedures to qualify for and effectuate exchanges, including any stated or practiced priorities and restrictions, and the extent to which changes thereof may be made, whether membership or participation in the exchange program, or both, are voluntary or mandatory, and a statement of the disposition, if any, of the unused exchange time-share interval, of the exchange agent;
 - (3) the expenses, or ranges of expenses, to the time-share interval owners of membership in the exchange program including the expenses, if any, of exchanging as of a date not more than one (1) year before the public offering statement is delivered to the purchaser, and the person to whom those expenses are payable;
 - (4) whether and how any of the expenses specified in item (3) of this subsection may be altered and, if any of them are to be fixed on a case-by-case basis, the manner in which they are to be fixed in each case;
 - (5) with respect to the owners of time-share intervals in the exchange program, the geographical location of each time-share project and the minimum duration of time-share intervals and number of time-share interval owners in the exchange program at each project during a calendar year ending not more than fifteen (15) months before the public offering statement is delivered to the purchasers;

- (6) the percentage of exchanges properly applied for by members of participants in the exchange program that were fulfilled during a calendar year ending not more than fifteen (15) months before the date of the public offering statement is delivered to the purchaser, together with a statement of the criteria used to determine whether an exchange was properly applied for and fulfilled;
- (7) the number of persons applying for an exchange as a percentage of the number of members in the exchange program as a whole during the calendar year ending not more than fifteen (15) months before the public offering statement is delivered to the purchaser; and
- (8) in those cases where the exchange agent is not an affiliate of the developer, the exchange agent shall provide the developer with all of the information contained in items (2) through (7) of this Subsection which it shall certify as being true, accurate and complete in all particulars. The developer shall include the certified information in the public offering statement as replacement for the developer's disclosures required by this subsection.

Section 1363. Escrow of Deposits. Any deposit made in connection with the purchase or reservation of a time-share interval from a developer must be placed in escrow and held in this territory in an account designated solely for the purpose, in an institution whose accounts are insured by a governmental agency or instrumentality until (1) delivered to the developer at the expiration of the time for rescission or any later time specified in any contract of sale; (2) delivered to the developer because of the purchaser's default under a contract to purchase the time-share interval; or (3) refunded to the purchaser.

Section 1364. Mutual Rights of Cancellation. (a) Before transfer of a time-share interval and no later than the date of any sales contract, the developer shall provide the intended transferee with a copy of the public offering statement and any amendments and supplements thereto. The contract is voidable by the purchaser until he has received the public offering statement and for three (3) calendar days thereafter. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded within thirty (30) days after receipt of the notice of cancellation as provided in Subsection (c) of this Section.

- (b) Up to three (3) days after the receipt by the purchaser of the public offering statement, developer may cancel the contract of purchase without penalty to either party. The developer shall return all payments made, the purchaser shall return all materials received in good condition, reasonable wear and tear expected. If such materials are not returned, the developer may deduct the cost of the same and return the balance to the purchaser.

- (c) If either party elects to cancel a contract pursuant to subsection (a) or (b) of this Section, he may do so by hand-delivering notice thereof to the other party or by mailing notice thereof by prepaid United States mail to the other party or to his agent for service of process.

Section 1365. Other Filing not Required. (a) Any time-share program in which a public offering statement has been prepared does not require registration under the following:

- (1) The Uniform Securities Act of Guam (Title XLI of the Government Code): or
- (2) Any other territorial law which required the preparation of a public offering statement or substantially similar document for distribution to purchaser.
- (b) Any time-share program that fails to restrict the price at which an owner may sell or exchange his time-share interval shall not be virtue of such failure cause the time-share interval to become a security under the provisions of the Uniform Securities Act nor shall an exchange agent offering such a time-share interval for exchange be construed to be offering a security under such Act.

Section 1366. Exemptions. (a) The developer shall not be required to prepare and distribute a public offering statement if the developer has registered and there has been issued a public offering statement or similar disclosure document which is provided to purchasers under the following:

- (1) Securities and Exchange Act of 1933;
- (2) Federal Interstate Land Sales Full Disclosure Act in which the time-share program is made a part of the subdivision that is being registered; or
- (3) Any other federal or local act which requires a federal or local public offering statement or similar disclosure document to be prepared and provided to purchasers.
- (b) A public offering statement need not be prepared or delivered in the case of:
 - (1) any transfer of a time-share interval by any time-share interval owner other than the developer or his agent;
 - (2) any disposition pursuant to court order;
 - (3) a disposition by a government or governmental agency;
 - (4) a disposition by foreclosure or deed in lieu of foreclosure;

- (5) a disposition of a time-share interval in a time-share project situated wholly outside this territory provided that all solicitations, negotiations and contracts took place wholly outside this territory and the contract was executed wholly outside this territory;
- (6) a gratuitous transfer of a time-share interval; or
- (7) group reservations made for fifteen (15) or more people as a single transaction between a hotel and travel agent or travel groups for hotel accommodations, where deposits are made and held for more than three (3) years in advance.

Section 1367. Material Change. The Developer shall amend or supplement the public offering statement to report any material change in the information required by Section 1362 of this Title. As to any exchange program, the developer shall use the current written materials that are supplied to it for distribution to the time-share interval owners as it is received.

Section 1368. Liens. (a) Unless the purchaser expressly agrees to take subject to or assume a lien prior to transferring a time-share interval other than by deed in lieu of foreclosure, the developer shall record or furnish to the purchaser releases of all liens affecting that time-share interval, or shall provide a surety bond or insurance against the lien.

- (b) Unless a time-share interval owner or his predecessor in title agrees otherwise with the lien or, if a lien other than an underlying mortgage or deed of trust becomes effective against more than one (1) time-share interval in a time-share project, any time-share interval owner is entitled to a release of his time-share interval from the lien upon payment of the amount of the lien attributable to his time-share interval. The amount of the payment shall be proportionate to the ratio that the time-share interval owner's liability bears to the liabilities of all time-share interval owners whose interests are subject to the lien. Upon receipt of payment, the lienholder shall promptly deliver to the time-share interval owner a release of the lien covering that Time-Share Interval. After payment, the managing entity may not assess or have a lien against that time-share interval for any portion of the expenses incurred in connection with that lien.

Section 1369. Effect of Violations on Rights of Action; Attorney's Fees and Criminal Penalties. If a developer or any other person subject to the provisions of this Title violates any provision thereof or any provision of the project instruments, any person or class of persons adversely affected by the violation has a claim for appropriate relief. Punitive damages may be awarded for a willful violation of this Title. The court may also award reasonable attorney's fees. Any developer or any other person subject to this Title who offers or disposes of a time-share interval without having complied with this Title or who violates any provision of this Title shall be guilty of a misdemeanor punishable by a fine not exceeding Five Thousand Dollars (\$5,000) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

Section 1370. Statute of Limitations. A judicial proceeding where the accuracy of the public offering statement or validity of any contract of purchase is in issue and a rescission of the contract or damages is sought must be commenced within four (4) years after the date of the contract of purchase, notwithstanding that the purchaser's terms of payments may extend beyond the period of limitation. However, with respect to the enforcement of provisions in the contract of purchase which require the continued furnishing of services and the reciprocal payments to be made by the purchaser, the period of bringing a judicial proceeding will continue for a period of four (4) years for each breach, but the parties may agree to reduce the period of limitation to not less than two (2) years.

Section 1371. Financial Records. The person or entity responsible for making or collecting common expense assessments or maintenance assessments shall keep detailed financial records. All financial and other records shall be made reasonably available for examinations by any time-share interval owner or his authorized agents.

Chapter IV

Administrative and Registration

Section 1372. General Powers and Duties of Agency. (a) The agency may adopt, amend and repeal rules or regulations and issue orders consistent with, and in furtherance of the objectives of this Title. The agency may prescribe forms and procedures for submitting information to the agency.

- (b) The agency may accept grants-in-aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions, in furtherance of the objectives of this Title.
- (c) The agency may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the agency's duties.
- (d) The agency may initiate private investigations within or outside this territory.
- (e) The agency after notice and hearing, may issue a notice of suspension if any of the following conditions exist:
 - (1) any representation in any document or information filed with the agency is false or misleading;
 - (2) any developer or agent of developer has engaged or is engaging in any unlawful act or practice;

- (3) any developer or agent of developer has disseminated or caused to be disseminated orally, or in writing, any false or misleading promotional materials in connection with a time-share program;
- (4) any developer or agent of developer has concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of time-share intervals in the time-share program;
- (5) any developer or agent of developer has failed to perform any stipulation or agreement made to induce the agency to issue an order relating to that time-share program; or
- (6) any developer or agent of developer has otherwise violated any provision of this Title or the agency's rules, regulations or orders.
- (f) The agency may issue a cease and desist order if the developer has not registered the time-share program as required by this Title.
- (g) The agency, after notice and hearing, may issue an order revoking the registration of a time-share program upon determination that a developer or agent of developer has failed to comply with a notice of suspension issued by the agency affecting the time-share program.

Section 1373. Registration Required. (a) Unless exempted by Section 1378 of this Chapter, a developer may not offer or dispose of a time-share interval unless the time-share program is registered with the agency; provided, however, that a developer may accept a reservation together with a deposit if the deposit is placed in an escrow account with an institution having trust powers and is refundable at any time at the purchaser's option. In all cases, a reservation shall require a subsequent affirmative act by the purchaser via a separate instrument to create a binding obligation. A developer may not dispose of or transfer a time-share interval while an order revoking or suspending the registration of the time-share program is in effect.

- (b) An acquisition agent including the developer if it is also the acquisition agent shall register with the agency the time-share program or programs that it is providing prospective purchasers for, its principal office address and telephone number and designate who its responsible managing employee is. The acquisition agent shall furnish evidence that a bond of Five Thousand Dollars (\$5,000) has been placed with a surety company or a cash bond with the agency to cover any violations of any solicitation law, zoning law, building codes or other regulations governing the use of the premise or premises in which the time-share program is promoted.

- (c) A sales agent including the developer if it is also the sales agent, shall register with the agency the time-share program or programs that it is selling, its principal office address and telephone number and designate who its responsible managing employee is and any special escrow accounts set up for the deposit and collection of purchaser's funds. The sales agent shall furnish evidence that a bond of Five Thousand Dollars (\$5,000) has been placed with a surety company or a cash bond with the agency to cover any defalcations of the sales agent.
- (d) A managing agent including the developer if it is also the managing agent, shall register with the agency the time-share program or programs that it is managing, its principal office address and telephone number and designate who is responsible managing employee is. The managing agent shall furnish evidence that a bond of Five Thousand Dollars (\$5,000) has been placed with a surety company or a cash bond with the agency to cover any default of the managing agent of his duties and responsibilities.
- (e) In the event that the acquisition agent, sales agent and management agent are under the control of, subsidiary of, or affiliate of the developer or any person, the bond can be consolidated and reduced to Ten Thousand Dollars (\$10,000) provided that there is a disclosure of the affiliation and the disclosure as provided above.
- (f) An exchange agent including the developer if it is also the exchange agent, shall file a statement with the agency containing a list of the time-share program or programs that it is offering exchange services for, its principal office address and telephone number and designate who its responsible managing employee is or the person to whom any contact is to be made.
- (g) The acquisition agent and sales agent shall each maintain their respective records of any independent contractors employed by them, their addresses and commissions paid for the immediately preceeding two (2) calendar years.

Section 1324. Application for Registration. An application for registration shall contain the public offering statement, a brief description of the property, copies of time-share instruments and any documents referred to therein (other than tract maps, plats and plans), and such other information required by the agency's rules and regulations and be accompanied by any reasonable fees required by agency.

Section 1375. Agency Regulation of Public Offering Statement. (a) The agency, at any time, may require a developer to alter or supplement the form or substance of a public offering statement to assure adequate and accurate disclosure to prospective purchasers.

- (b) The public offering statement may not be used for any promotional purposes before registration and afterwards only if it is used in its entirety. No person may advertise or represent that the

agency has approved or recommended the time-share program, the disclosure statement, or any of the documents contained in the application for registration.

Section 1376. Receipt of Application; Effectiveness of Registration.

- (a) Except as hereinafter provided, the effective date of the registration, or any amendment thereto, shall be the 45th day after the filing thereof or such earlier date as the purchasers. If any amendment to any such registration is filed prior to the effective date, the registration shall be deemed to have been filed when such amendment was filed.

- (b) If it appears to the agency that the application for registration, or any amendment thereto, is on its face incomplete or inaccurate in any material respect, the agency shall so advise the developer prior to the date the registration would otherwise be effective. Such notification shall serve to suspend the effective date of the filing until the 45th day after the developer files such additional information as the agency shall require. Any developer, upon receipt of such notice of suspension may request a hearing, and such hearing shall be held within thirty (30) days of receipt of such request.

Section 1377. Amendment. A developer shall amend or supplement its registration to report any material change in the information required by Section 1374 of this Chapter.

Section 1378. Exemptions. (a) No registration with the agency shall be required if the developer is registered and there has been a public offering statement of similar disclosure which is provided to purchasers under the following:

- (1) Securities and Exchange Act of 1933;
- (2) Federal Interstate Land Sales Full Disclosure Act in which the time-share program is made a part of the subdivision that is being registered; or
- (3) any other federal or territorial act which requires a federal or territorial agency to review a public offering statement or similar disclosure document which is required to be distributed to purchasers.
- (b) No registration with the agency shall be required in the case of:
 - (1) any transfer of a time-share interval by any time-share interval owner other than the developer or his agent;
 - (2) any disposition pursuant to court order;
 - (3) a disposition by a government or governmental agency;
 - (4) a disposition by foreclosure or deed in lieu of foreclosure;

- (5) a disposition of a time-share interval in a time-share project situated wholly outside this territory provided that all solicitations, negotiations, and contracts took place wholly outside this territory and the contract was executed wholly outside this territory;
- (6) a gratuitous transfer of a time-share interval; and
- (7) group reservations made for fifteen (15) or more people as a single transaction between a hotel and travel agent or travel groups for hotel accommodations, where deposits are made and held for more than three (3) years in advance.

Chapter V

Financing

Section 1379. Financing of Time-Share Program. In the financing of a time-share program, the developer shall retain financial records of the schedule of payments required to be made and the payment made to any person or entity which is the holder of an underlying blanket mortgage, deed of trust, contract of sale or other lien or encumbrance ('lien holder'). Any transfer of the developer's interest in the time-share program to any third person shall be subject to the obligations of the developer.

Section 1380. Rights Under Foreclosure. The developer whose project is subject to an underlying blanket lien or encumbrance shall protect non-defaulting purchasers from foreclosure by the lien holder by obtaining from the lien holder a non-disturbance clause, subordination agreement or partial release of the lien as the time-share intervals are sold. In the alternative, the developer may obtain the agreement of the lien holder to take the project in the event of default by the developer subject to the rights of the non-defaulting purchasers by posting a bond, equal to fifty percent (50%) of the amount owed to the lien holder, making an assignment of receivables equal to one hundred twenty-five percent (125%) of the principal amounts due from purchasers, pledging collateral security equal to one hundred percent (100%) of the amount owed to the lien holder or entering into any other financing plan or escrow agreement acceptable to the lien holder.

Section 1381. Protection of Lien Holder. The lien holder in any time-share program shall have the following rights:

- (1) A lien holder shall have his lien rights preserved as against any purchaser of time-share interval claiming that the time-share instrument is invalid, void or voidable, thirty (30) days after written notice by certified mail or personal delivery has been given by the developer to the purchaser. Said notice shall state that developer has assigned the receivables to the lien holder and that purchaser has thirty (30) days within which to object and specify the invalidity or defect contained within such instrument; and

- (2) Any purchaser who fails to indicate the "invalidity, void or voidableness as provided in Subparagraph (1) of this Section waives or is stopped to raise, the same in any subsequent enforcement of the collection of the receivable by the lien holder."

Section 2. This act shall become effective one hundred twenty (120) days after enactment.